

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 20 of 2017

In the matter of:

Petition to extend the benchmark capital cost & generic tariff as declared by UERC vide its Order dated 16.06.2016, i.e. upto 31.07.2017 for Grid Interactive Rooftop and Small Solar Power Plants.

In the matter of:

Uttarakhand Renewable Energy Development Agency ...Petitioner

AND

In the matter of:

Uttarakhand Power Corporation Ltd. ...Respondent

CORAM

Shri Subhash Kumar Chairman

Date of Hearing : May 02, 2017

Date of Order : May 16, 2017

The Order relates to the Petition filed by Uttarakhand Renewable Energy Development Agency (hereinafter referred to as "the Petitioner" or "UREDA" or "State Nodal Agency") seeking approval to extend the benchmark capital cost and generic tariff as determined by the Commission vide its Order dated June 16, 2016 upto 31.07.2017 for Grid Interactive Rooftop and Small Solar Power Plants.

1. Background & Submissions

- 1.1 The Petitioner filed a Petition dated 09.03.2017 seeking extension of the benchmark capital cost & generic tariff as determined by the Commission vide its Order dated 16.06.2016 up to 31.07.2017 in respect of for Grid Interactive Rooftop and Small Solar Power Plants in the State of Uttarakhand.

- 1.2 The Petitioner is the implementing agency of “Scheme for Development of Grid Interactive Rooftop and Small Solar PV Power Plant (upto 5 kW capacity) called as “Suryodaya Swarozgar Yozna” with 90% subsidy (70% subsidy from MNRE and 20% subsidy from GoUK) in the State of Uttarakhand. The scheme was announced in the month of March 2016, specifically for hilly regions of Uttarakhand for approximately 10 MW capacity.
- 1.3 The Petitioner submitted that Govt. of Uttarakhand vide its order no. 229/I/2016-03/02/2016 dated 14.03.2016 sanctioned the scheme and selection of applicants was started by UREDA through wide publicity in newspaper. Under the scheme 2000 nos. applicants for projects having 4/5 kW capacity have been selected by UREDA on First Come First Serve Basis to create opportunities for income generation for financially weaker section of the society. Further, 30% of the target nos. was reserved for people who were below poverty line.
- 1.4 The Petitioner submitted that an MoU was signed with Punjab National Bank to provide loan to beneficiaries of the scheme with 10% share of beneficiary.
- 1.5 Thereafter, Ministry of New & Renewable Energy (MNRE), GoI sanctioned 70% CFA for “Suryodaya Swarozgar Yozna” vide no. 03/106/2015-16/GCRT dated 09.08.2016 in the month of August, 2016.
- 1.6 The Petitioner submitted that the empanelment of the Channel Partner & New Entrepreneur of MNRE for “Design, manufacture, supply, erection, testing and commissioning of Grid Interactive Rooftop and Small Solar PV Power Plants (up to 5 kWp capacity) including warranty & maintenance for 5 years” was done in the month of Sep-Oct, 2016 and 6 firms were empanelled through national level competitive bidding process. In the month of Oct, 2016 work orders were issued to the empanelled firms for installation of these plants by 15.02.2017.
- 1.7 The Petitioner submitted that the proposed installation of these 2000 nos. plants were scattered in 11 hilly districts of Uttarakhand creating a challenge for approach to sites, material supply and early installation at these scattered sites. Inspection of proposed sites for verifying its suitability for solar power generation and Grid feasibility for evacuation of power has taken excessive time.

- 1.8 The Petitioner submitted that due to demonetisation in the month of Nov, 2016, preparation for material procurement, supply and payments to different vendors by installation firm got affected and delayed. Snowfall in winters also hampered site verification, site suitability for installation of solar power plants and supply of material.
- 1.9 Due to announcement of elections in the State in the month of January, 2017, officers of UREDA and UPCL got engaged in election duty, due to which coordination between installation firms and UREDA/UPCL officials got affected and speedy implementation of the scheme got delayed.
- 1.10 Meter procurement & testing of electrical meters and delay in approval from MNRE for Excise & Custom duty exemption for solar power plant materials also delayed the speedy implementation of the scheme. The custom/ Excise duty exemption from MNRE is yet to be issued.
- 1.11 The Petitioner submitted that prior to commissioning of plants installation & meter sealing by UPCL and NOC of Electrical Inspector at the premises of 2000 nos. beneficiary scattered in hilly districts of Uttarakhand will also take sufficient time, which is yet to be started by the DISCOM & installation firm jointly.
- 1.12 The Petitioner submitted that in view of the above circumstances the commissioning of these plants may take nearly 4-5 months. The Petitioner submitted the status of the scheme as follows:

S. N.	Task (target of 2000 nos.)	Status
1	Registration of 2000 nos. applicant	2000 nos. registered
2	Grid Feasibility by UPCL	1908 nos. completed
3	Signing of PPA with beneficiary	1668 nos. completed
4	Installation of Solar Power Plant	320 nos. installed
5	Meter installation & sealing	Nil

- 1.13 UREDA submitted that the prevailing benchmark capital cost and levelised tariff of Rs. 3.95/kWh for excess energy fed into the grid for the plants under Suryodya Swarozgar Yozna is admissible till 31.03.2017 as per the Commission's order dated 16.06.2016. The installation of plants under this scheme would take time and will be commissioned after March 31, 2017 due to which the basic objective of the scheme to provide employment and generate basic earning to the people living below poverty

line in hilly regions of the Uttarakhand will get affected and reduced. Accordingly, the Petitioner requested that the validity of applicable tariff as per order dated 16.06.2016 (Rs. 3.95 per kWh for 90% subsidy) may be extended till 31.07.2017 for these 2000 nos. of Rooftop Solar Power Plant, as delay was not on the part of the beneficiary and was beyond the control of UREDA.

- 1.14 The Respondent vide its letter dated 01.05.2017 submitted that the Regulation 54 of CBR, 2014 under which the said petition has been filed, pertains to review of certain order but the same regulation allows the same within 60 days from the date of Order. Further, there are no grounds of review given in the petition and hence present petition under the aforesaid stated Regulation is not maintainable both on lack of ground and also lapse of defined time limits. Further that the relief sought by the Petitioner in Order dated 16.06.2016 is only for a special category and this cannot be permitted as the Order can be modified either wholly or not.
- 1.15 UPCL further submitted that the reasons for delay in implementation of the project as mentioned by the Petitioner in the petition is almost foreseen at the time of allotment of the project like snowfall, elections and it is best if the projects would be allotted taking all the aspects in consideration for implementation. UPCL has contended that the petition is not maintainable since the reliefs sought by the Petitioner and the nature of relief cannot be legally granted.
- 1.16 The hearing on the Petition was held on 02.05.2017. During the hearing, the Petitioner reiterated its submissions and added that the requisite approval for Excise & Custom Duty exemption for solar power plant materials has recently been granted by MNRE. Further, transportation of these materials to project site would take additional time. The Petitioner submitted that all the projects would be commissioned by September, 2017 and requested the Commission for allowing applicability of tariff for such projects as determined by the Commission's order dated 16.06.2017.

2. Commission's View and Decisions

- 2.1 Regulation 11 of the RE Regulations, 2013 specifies as under:

"11. Control Period or Review Period

- (1) *The Control Period or Review Period under these Regulations shall be of five years, of which the first year shall be the financial year 2013-14.*

Provided that the benchmark capital cost of Solar PV, Canal Bank & Canal Top Solar PV, Solar Thermal, Municipal solid waste based power projects, Refuse Derived Fuel based power projects and Grid interactive Roof Top and Small Solar PV projects may be reviewed annually by the Commission.

Provided further that the tariff determined as per these Regulations for the RE projects commissioned during the Control Period, shall continue to be applicable for the entire Tariff Period (Useful life of the plant) as specified under Regulation 3(1)(nn). “

(Emphasis added)

- 2.2 In view of the above provision of the Regulation, benchmark capital cost of Solar based projects had been reviewed by the Commission vide its Order dated 16.06.2016 and the generic tariff was determined based on the benchmark capital cost applicable till 31.03.2017. Tariffs for Grid Interactive Small Solar PV Rooftop Plants with 90% level of subsidy had also been specified vide the aforesaid order. Accordingly, tariff for the projects under “Suryodaya Swarozgar Yozna” was applicable for the projects commissioned upto 31.03.2017 or till further review of the benchmark capital cost for Solar based plants in accordance with the Regulations.
- 2.3 The Commission noted that based on the Government’s policy “Suryodaya Swarozgar Yozna” issued in March, 2016 for implementation of Grid Interactive Rooftop and Small Solar Power Plants for Hilly Region of Uttarakhand, UPCL (The Respondent) had filed a petition seeking approval of PPA under the Scheme. The Commission had vide its Order dated 13.07.2016 approved the same with certain modifications.
- 2.4 The Petitioner, being a responsible agency for coordination and implementation of solar PV plants and other RE based power plant under various Schemes notified by the government, initiated implementation of “Suryodaya Swarozgar Yozna” w.e.f. March, 2016. The Petitioner was aware of the fact that for availing the benefits of the tariffs determined by the Commission, all the projects ought to have been commissioned latest by 31.03.2017. In accordance with provisions of RE Regulations, 2013 review of capital cost of solar PV based plants and revision of corresponding tariffs was carried out vide the Commission’s Order dated 16.06.2016. The Petitioner is well aware of these provisions. Since the Scheme had been conceived and implemented based on the specific Policies of both State Government as well as

Central Government, hence, procedural delay, if any, for obtaining sanction(s) from respective department/ ministry of government cannot be considered by the Commission. It is the responsibility of the Petitioner to make due follow up with the respective authority expeditiously for timely completion of projects keeping in view of provisions of the Regulations.

- 2.5 The Petitioner has submitted that due to snowfall in winters and announcement of assembly elections in January, 2017 implementation of projects got delayed. In this regard, the Commission agrees with the contention of the Respondent that such eventualities were perceptible and the same could be considered beforehand during the planning for projects execution within timeframe. Further, the Petitioner's submission regarding delay was also on account of demonetisation drive during the month of November, 2016 is also not tenable.
- 2.6 The Petitioner submitted that it had empanelled certain firms in the month of October, 2016 for implementation of these 2000 projects by 15.02.2017. In this regard, the Commission observed that none of authority has mandated implementation of solar PV plants by the empanelled vendors/firms only. The Petitioner itself delayed the commissioning of the projects by almost 6 precious months on the pretext of empanelling the vendors. The Petitioner failed to mend its affairs despite the clear-cut direction issued to it vide the Commission's Order dated 23.07.2015. Relevant extract of the Para 7.1.2 of the Order dated 23.07.2016 is as follows:

"It has also come to the notice of the Commission that project developers are being compelled for implementation of their projects from the above mentioned empanelled vendors only, else, they may lose central subsidy. In this regard, the Commission observes that in accordance with the above mentioned sanction letter dated 31.12.2013 of MNRE, cost of such project was required to be firmed up through competitive biddings and 30% of cost arrived through competitive bidding or the cost as proposed (benchmark cost of MNRE for the purpose of Central Finance Assistance (CFA), whichever is lower, would be considered as CFA for such projects and necessary releases would be made as per scheme norms. However, at no place requirement of implementation of projects only from vendors empanelled by UREDA was mandated by MNRE for the purpose of release of CFA. It appears that UREDA, being the nodal agency in the State, has transgressed its authority in this regard. The rates at which the suppliers have been empanelled by it also appear high considering the cost at which solar

projects are being commissioned across the country. Still the small project developers are being forced to get their project implemented by certain vendors even if they do not desire to do so and have the wherewithal to install their projects at a lower cost than that quoted by the empanelled suppliers. The Commission is of the view that such practices are unethical & inappropriate in the eyes of law and cannot be allowed to continue. Hence, officials responsible for implementation of such projects are, hereby, cautioned to refrain themselves from any such undue activity, failing which they may be liable for appropriate punitive action under the Act. It is made abundantly clear that project developers are free to source their plant and machinery from anywhere so long as they meet the required technical specification. UREDA is directed to communicate this to each developer separately within 7 days of this order."

(emphasis added)

The Petitioner for the unknown reasons could not resist from indulging itself into such an unwarranted act for which it was already cautioned to desist as above by the Commission. **The Petitioner is once again cautioned for the last time not to repeat such an unethical act failing which individual responsible for the same would be liable to face proceedings under the provisions of the Electricity Act, 2003.**

- 2.7 Notwithstanding the failure to comprehend the provisions of the Regulations as well as specific directions of the Commission w.r.t. empanelment of the vendors, the Commission is of the view that the repercussions of misdeed of the Petitioner should not be passed on to the small project owner under the Scheme. In addition to promotion of solar plants in the State, one of the objective of the Scheme is to provide employment and in turn financial benefits to the residents of hilly region residing at rural far flunged area of the State. Moreover, the Scheme is intended to benefit weaker section of the State. Hence, to allow benefits to the intended beneficiaries under the Scheme as discussed above, the Commission in exercise of its powers to relax and remove difficulties as specified in RE Regulations, 2013, hereby allows completion of all the projects latest by September, 2017 for applicability of tariffs as specified by the Commission's Order dated 16.06.2016. Further, in accordance with the RE Regulations, 2013 proceedings for review of benchmark capital for FY 2017-18

is likely to be completed before the September, 2017. In this regard, it is hereby clarified that tariff approved vide the Commission's Order dated 16.06.2016 shall continue to remain applicable for all such projects under the Scheme "Suryodaya Swarozgar Yozna" commissioned on or before 30.09.2017. However, in case of failure to achieve commissioning of the projects by September, 2017 the tariff for such projects shall be as determined by the Commission for FY 2017-18 based on the revised benchmark capital cost. Accordingly, the Petitioner is required to ensure necessary corrections in the respective PPA for projects likely to get commissioned after September, 2017 with the intimation to the Commission.

2.8 The Petitioner is cautioned to ensure completion of all the projects in future within the stipulated timeframe. Any delay beyond the specified timeline shall not be considered by the Commission and tariffs for such projects shall be based on the applicable tariff orders.

2.9 With this, Petition no. 20 of 2017 stands disposed.

2.10 Ordered accordingly.

(Subhash Kumar)
Chairman