

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Misc. Application No. 32 of 2025

In the matter of:

Application seeking approval of the Commission on Draft Power Purchase Agreement between Uttarakhand Power Corporation Ltd. and M/s Rai Bahadur Narain Singh Sugar Mills Ltd. – 30 MW (Surplus 19.1 MW to UPCL).

In the matter of:

Uttarakhand Power Corporation Ltd.

... Petitioner

AND

In the matter of:

M/s Rai Bahadur Narain Singh Sugar Mills Ltd

... Respondent

CORAM

Shri M.L. Prasad

Chairman

Shri Anurag Sharma

Member (Law)

Date of Hearing: April 29, 2025

Date of Order: April 30, 2025

1. Heard both Petitioner and the Respondent in the matter.
2. During the hearing reference was drawn by the Petitioner towards the Commission's Order dated 07.11.2014 and subsequently the supplementary PPA executed by UPCL with the Respondent on 01.04.2015. The Commission noticed that as per the terms of the aforesaid Order, extension was given for life of the project, therefore, the Supplementary PPA should have been executed till 17.12.2029, i.e. 20 years from the date of CoD of the plant, however, the parties executed the same till 15.09.2025, i.e. 20 years from the date of original PPA dated 16.09.2025 which appeared to be an error on the part of both the parties in interpreting the Commission's Order dated 07.11.2014. The parties accepted the mistake and requested to permit them to move an application in this regard.

3. Subsequently, UPCL vide its letter no. 3166/CE(Comml.)/UPCL dated 29.04.2025 while referring to the Commission's Order dated 07.11.2014 submitted that in the Commission's Order dated 07.11.2014 it has been mentioned that the useful life of the plant is 20 years from the date of CoD, i.e. till 17.12.2029, and, therefore, the PPA may be extended for a period till the useful life of the plant, i.e. till 17.12.2029. UPCL further submitted the consent of M/s RBNS Sugar Mill Limited for the extension of the PPA till 17.12.2029.
4. The Commission analyzed the submission made by the Petitioner and the Respondent in this regard, and is of the view that in line with the Commission's Order dated 07.11.2014 UPCL was to execute the supplementary PPA dated 01.04.2015 till the end of useful life of the project, i.e. 20 years from the date of CoD, and, accordingly, the same should have been executed till 17.12.2029.

The relevant para of the Commission's Order dated 07.11.2014 are reiterated hereunder:

"2.3.2.6 ...

- a. Clause 1.6 of the PPA defines "CoD" as date from which supply of energy is commercially commenced by Mill to UPCL. However, sub-Regulation 3(1)(i) of the RE Regulations, 2010 specifies that:*

"(l) "Date of commercial operation or Commissioning (CoD)" in relation to a unit means the date declared by the generator on achieving maximum continuous rating through a successful trial run and in relation to the generating station, the date of commercial operation means the date of commercial operation of the last unit or block of generating station and expression "commissioning" shall be construed accordingly. In case of Small Hydro Plants the date of commissioning shall, however, not be linked to achieving maximum continuous rating, but the generator will have to demonstrate the same within three years of commissioning."

Accordingly, CoD should be considered in view of the above regulation.

...

- e. Clause 24.0.0 provides for duration of PPA for 10 years, however, in accordance with the RE Regulations, 2010 it should be for life of the project, i.e. 20 years. Accordingly, UPCL is required to make necessary corrections in the aforesaid PPA.*

..."

5. In view of the above-mentioned paras of the Commission's Order dated 07.11.2014, the Commission had already allowed UPCL to execute the PPA with M/s RBNS Sugar Mills

Limited till the end of life of the project, i.e. 20 years from the date of CoD. The CoD of the Respondent's plant as per the provisions of the applicable RE Regulations was 18.12.2009, and, therefore, the PPA should have been executed by UPCL till 17.12.2029 in view of the aforesaid Order of the Commission.

6. Notwithstanding the above, the Commission, now accepts the request made by UPCL in the Petition and directs it to modify clause 8 of the Supplementary PPA dated 01.04.2015 as follows:

“8. The Clause 21.0 of the Original Power Purchase Agreement shall be substituted by the following:-

“Except where terminated by default, this agreement shall be valid for twenty (20) years **from the date of CoD of the plant, i.e. till 17.12.2029**, provided that on expiry of the twenty (20) years tenure, UPCL has the first right to renew this agreement for a further period of twenty (20) years.””

7. The Petitioner and the Respondent are directed to execute a supplementary PPA amongst themselves to include the modification approved by the Commission as above, and submit a copy of the same to the Commission within 10 days from the date of this Order
8. In view of the above, the Miscellaneous Application No. 32 of 2025 is hereby disposed off.

(Anurag Sharma)
Member (Law)

(M.L. Prasad)
Chairman