

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 29 of 2025

In the matter of:

Application seeking approval of the Commission on the Draft Power Purchase Agreement for short term between Uttarakhand Power Corp. Ltd. and M/s Arunachal Pradesh Power Corporation Pvt. Ltd. (APPC Pvt. Ltd.) under a Short-Term Power Purchase Agreement with Uttarakhand Power Corporation Ltd.

Petition No. 30 of 2025

In the matter of:

Application seeking approval of the Commission on the Draft Power Purchase Agreement for short term between Uttarakhand Power Corp. Ltd. and M/s Tata Power Trading Company Ltd. (TPTC Ltd.) under a Short-Term Power Purchase Agreement with Uttarakhand Power Corporation Ltd.

Petition No. 31 of 2025

In the matter of:

Application seeking approval of the Commission on the Draft Power Purchase Agreement for short term between Uttarakhand Power Corp. Ltd. and M/s Powerpulse Trading Solutions Ltd. (PTS Ltd.) under a Short-Term Power Purchase Agreement with Uttarakhand Power Corporation Ltd.

Petition No. 32 of 2025

In the matter of:

Application seeking approval of the Commission on the Draft Power Purchase Agreement for short term between Uttarakhand Power Corp. Ltd. and M/s Manikaran Power Ltd. (MP Ltd.) under a Short-Term Power Purchase Agreement with Uttarakhand Power Corporation Ltd.

In the matter of:

Uttarakhand Power Corporation Ltd.

... Petitioner

AND

In the matter of:

M/s Arunachal Pradesh Power Corporation Pvt. Ltd.

M/s Tata Power Trading Company Ltd.

M/s Powerpulse Trading Solutions Ltd.

M/s Manikaran Power Ltd.

... Respondents

CORAM

Shri M.L. Prasad

Chairman

Shri Anurag Sharma

Member (Law)

Date of Order: May 20, 2025

This Order relates to the Petition filed by Uttarakhand Power Corporation Ltd. (hereinafter referred to as "UPCL" or "Petitioner" or "Licensee") seeking approval of the draft Power Purchase Agreement for short term power purchase from M/s Arunachal Pradesh Power Corporation Pvt. Ltd. (hereinafter referred to as "M/s APPCPL"), from M/s Tata Power Trading Company Ltd. (hereinafter referred to as "M/s TPTCL"), from M/s Powerpulse Trading Solutions Ltd. (hereinafter referred to as "M/s PTSL"), and from M/s Manikaran Power Ltd. (hereinafter referred to as "M/s MPL") respectively (hereinafter collectively referred to as "Respondents").

As the nature of the Petitions are similar, the Commission has decided to merge all the four Petitions.

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, 2021, Regulation 39(3) of the UERC (Conduct of Business) Regulations, 2014 & Chapter-II of the Uttarakhand Electricity Regulatory Commission (Conduct of Business) Regulations, 2014 filed four Petition dated 24.02.2025 seeking approval of the Commission on the draft Power Purchase Agreements with respective bidders.
- 1.2 The Petitioner submitted that it had from time to time informed the Commission regarding the power demand & availability position in the State. UPCL submitted that in FY 2024-25, the overall demand & availability scenario of Uttarakhand changed substantially. Moreover, the generation from hydro plants of UJVNL/IPPs of the State remained at lower side during the winter season in comparison to the summer season which created substantial difference in demand and availability of power in the State.

- 1.3 The Petitioner submitted that, in view of the power demand and availability position in the State, UPCL has been floating back-to-back tenders for securing power, and in lieu of the same, UPCL floated a tender for procurement of power on short term basis for the months from January-25 to March-25.
- 1.4 UPCL submitted that in ongoing and upcoming months of FY 2024-25, the power shortage will persist and even may create a mean deficit of around 250 MW to 350 MW and UPCL will be left with no other option but to procure power through power exchanges to supply 24x7 power to the consumers of the State that may have a possibility of un-cleared power and even power cleared may cause excessive financial burden on UPCL and the APPC of UPCL will also increase which will affect the financial health of UPCL.
- 1.5 UPCL submitted that in view of the tight situation of power availability and to secure power on economical rates, UPCL had floated a short-term tender for RTC power through DEEP Portal for aforesaid months, vide Tender Specification no. 20/CE (COMM)/UPCL-20/2024, as summarized in the Table given below:

Month	Timings		Quantum of Power (MW)	Minimum Bid Quantity (MW)	Delivery Point
	From	To			
Jan-25	00:00	24:00	290	20	CTU Periphery
Feb-25	00:00	24:00	230	20	
Mar-25	00:00	24:00	220	20	

- 1.6 UPCL submitted that the technical part of the tender was opened on 11.12.2024 and after evaluation of Part-I, all participated bidders qualified in technical evaluation, thereafter initial price offers (IPO) was opened on dated 19.12.2024 and e-Reverse Auction (e-RA) was also conducted on dated 19.12.2024 itself. UPCL submitted that M/s Power Finance Corporation Consulting Limited (M/s PFCCL) provided the results of e-RA (DEEP Portal) after carrying out bucket filling procedure. UPCL submitted that it had apprised the Commission about the power situation and further requested to accord in-principle approval for procurement, in response to which the Commission vide letter no. UERC/6/TF-533(B)/2024-25/2024/1293 dated 31.12.2024 had accorded the in-principle approval for procurement of above said short term power.
- 1.7 UPCL submitted that subsequent to the in-principle approval accorded by the Commission and detailed consideration on the matter, Letter of Intent (LoI) were issued based on tariff

and quantum of power, to M/s Arunachal Pradesh Power Corporation Pvt. Limited vide letter no. 182/UPCL/Comm)/Tender-20/SE dated 10.01.2025, M/s Tata Power Trading Company Limited vide letter no. 180/UPCL/Comm)/Tender-20/SE dated 10.01.2025, M/s Powerpulse Trading Solutions Limited vide letter no. 179/UPCL/Comm)/Tender-20/SE dated 10.01.2025 and M/s Manikaran Power Limited vide letter no. 181/UPCL/Comm)/Tender-20/SE dated 10.01.2025 respectively.

- 1.8 UPCL submitted that while taking cognizance of the facts mentioned above & in-principle approval accorded by the Commission, applicant company was desirous of purchasing the entire energy on the terms and conditions as agreed between the parties as per the terms and conditions laid down in the draft Power Purchase Agreements. In this regard, UPCL also submitted a copy of the draft Power Purchase Agreement to be entered with M/s APPCPL, M/s TPTCL, M/s PTSL, and M/s MPL respectively.
- 1.9 UPCL submitted that, as per the provisions of the Electricity Act, 2003 read with the provisions of Uttarakhand Electricity Regulatory Commission (Conduct of Business) Regulations, 2014, Uttarakhand Electricity Regulatory Commission (Terms and Conditions for Determination of Multi Year Tariff) Regulation, 2015 and Distribution & Retail Supply Licensee, the applicant is required to seek approval on the Power Purchase Agreements to be entered into with the generating company. The Petitioner, accordingly, requested the Commission to grant approval on the draft PPA's to be executed with aforesaid bidders respectively with the Applicant Company for purchase of electricity as per the terms and conditions laid down in the draft PPA's and for the quantum and rate as summarized in the Table given below:

Month	Bidder	Quantum of Power (MW)	Rate at Delivery Point (Rs./kWh)	Delivery Point
January- 2025	M/s PTSL	290	4.74	CTU Periphery
February - 2025	M/s TPTCL	40	4.81	
	M/s PTSL	140	4.81	
	M/s MPL	50	4.81	
March - 2025	M/s APPCPL	50	5.14	
	M/s TPTCL	70	5.14	
	M/s MPL	75	5.14	

- 1.10 The Commission forwarded the copy of the Petition to the respective Respondents to seek their comments on the Petition filed by UPCL. Respondent's submission, Petitioner's

response and the Commission's view on the same are dealt with in the subsequent paras of this Order.

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 functions 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 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, 2021 also provides for preparation of power procurement plan and approval of the same by the Commission.

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 takes cognizance of the fact that while approving the cost of power purchase for FY 2024-25 in the tariff Order dated 28.03.2024, the Commission had approved power purchase rate of Rs. 5.62/kWh, at State periphery, to meet the deficit power purchase. The Petitioner has issued LOA’s to the respective bidders for deficit power purchase in FY 2024-25, in few months, at the rate and quantum summarized in the Table given below:

Month / Period	Quantum of Power (MW)	Bidder	Registration No. in MSTC for source of power of supply along with name of source/region	Rate at Delivery Point (Rs./kWh)	Delivery Point
Jan-25	290	M/s PTSL	MSTC REGN NO 336452, ADANI POWER LIMITED RAIPUR TPP WR,CTU	4.74	CTU Periphery
Feb-25	20	M/s TPTCL	MSTC REGN NO 74244, JINDAL INDIA POWER LIMITED (JIPL) CONNECTED TO 400KV, ANGUL, S/S OF PGCIL, CTU	4.81	
	20		MSTC REGN NO 74242, PRAYAGRAJ POWER GENERATION COMPANY LIMITED (PPGCL)	4.81	
	50	M/s MPL	MSTC REGN NO 79173, BLA Power Private Limited Village Niwari, PO Khursipar, Tehsil Gadarwara, Narsinghpur, Madhya Pradesh-487551	4.81	
	140	M/s PTSL	MSTC REGN NO 336452,ADANI POWER LIMITED RAIPUR TPP WR,CTU	4.81	
Mar-25	50	M/s TPTCL	MSTC REGN NO 74244, JINDAL INDIA POWER LIMITED (JIPL) CONNECTED TO 400KV, ANGUL, S/S OF PGCIL, CTU	5.14	
	20		MSTC REGN NO 74242, PRAYAGRAJ POWER GENERATION COMPANY LIMITED (PPGCL)	5.14	
	50	M/s APPCPL	MSTC REGN NO 191170, ACB INDIA LIMITED, Generator in WR, Connected with CTU	5.14	
	25	M/s MPL	MSTC REGN. NO. 74144, Maruti Clean Coal and Power Limited Korba,Chhattisgarh	5.14	
	50		MSTC REGN NO 79173, BLA Power Private Limited Village Niwari, PO Khursipar, Tehsil Gadarwara, Narsinghpur, Madhya Pradesh-487551	5.14	

In this regard, as also submitted by the Petitioner, the Commission vide its letter dated 31.12.2024 on the request made by UPCL, owing to the expected shortage of power in the months of January-March, 2025, as projected by UPCL, had accorded the in-principle approval to UPCL for procurement of power during the aforesaid months at the rates and quantum summarized in the Table given below:

Month	Quantum of Power (MW)	Rate of power @ Rs./kWh at CTU periphery
Jan-25	290	4.74
Feb-25	230	4.81
Mar-25	220	5.20

Since the LoI's have been issued by UPCL within the rates and quantum approved by the Commission vide its letter dated 31.12.2024, as aforesaid, accordingly, the same is being considered and adopted by the Commission.

2.1.7 However, since the term of the PPA's are over, the Commission would still like to point out some issues observed in the draft PPA, which may be used in future PPAs and also in resolving disputes, if any, in the current PPAs. Hence, the draft PPA's submitted by UPCL have been examined in light of the relevant rules & regulations.

2.1.8 The Respondent, M/s APPCPL submitted that the following line be added after sub-clause (ii) of Clause 11: Payment term and payment security to be made available by the procurer, of the draft PPA to be executed with the bidder.

"if the application is process under T-GNA, then the T-GNA charges shall be reimbursed by UPCL within 5 working days."

In this regard, UPCL submitted that the said modification in the draft PPA is acceptable to it.

The Commission analyzed the submission made by the Petitioner and the Respondent and observed that the draft PPA contains a note after clause 15, as reproduced below:

"Note: The T-GNA charges shall be reimbursed by UPCL within 05 working days of production of proof of payment of T-GNA charges through email and intimation of bill production via telephonically to concerned officer/official of UPCL."

In this regard, the Commission is of the view that as the clause already exists in the PPA document w.r.t the T-GNA charges, therefore, modification as proposed by M/s APPCPL is not required.

2.1.9 The Respondent, M/s TPTCL submitted that the delivery point has been wrongly mentioned as Uttarakhand State periphery instead of CTU periphery in Table given under Clause no.1 of the draft PPA.

UPCL accepted the same and agreed to align the same as per the bid document.

The Commission analyzed the submissions made by the Petitioner and the Respondent and observed that in the bid document the delivery point has been

mentioned as CTU periphery. The Commission, accordingly, directs UPCL to take note of the same and incorporate necessary corrections in the draft PPA while executing the PPA with the respective bidder.

- 2.1.10 Further, the other two Respondent, i.e., M/s PTSL and M/s MPL did not have any comments/objections on the Petition filed by UPCL. The same was also confirmed by UPCL.
- 2.1.11 The Commission observed that the other clauses in the draft PPA's submitted by UPCL are in accordance with the provisions of the Act/Regulations and, hence, the Commission approves the draft PPA's submitted by UPCL.
- 2.1.12 Further, Para 1 of the draft PPA's provides the day on which the PPA is brought into effect. The place for dates has been left blank. The above-mentioned Para needs to be completed while signing the final PPA's.
- 2.1.13 UPCL is directed to amend the draft PPA's in accordance with the observations of the Commission in this Order and sign the PPA's with the respective bidder namely, M/s APPCPL, M/s TPTCL, M/s PTSL and M/s MPL respectively, after incorporating the same and submit the same to the Commission within fifteen working days of signing of the PPA.
- 2.1.14 In this regard, the Commission would like to advise UPCL that it should plan its power procurement planning well in advance so as to discover best rates from the market. Resorting to last minute purchase would lead to distress procurement as in the instant case. UPCL was aware of the winter deficit well in advance, still it waited till December to issue tenders for short term procurement. The Commission would like to caution UPCL to refrain itself from such adventurism in future failing which the consequences of the same would entirely lie with UPCL.
- 2.1.15 Further, the Commission observed that the clause related Dispute Resolution/Arbitration as appearing in the bid documents as well as draft PPA's does not seem to be conceptually in agreement with the Section 86(1)(f) of the Electricity Act, 2003, where the Commission has sole jurisdiction to adjudicate upon any dispute between the licensees and generating companies and to refer any dispute for

arbitration. However, as per the aforesaid clause of the bid document and the draft PPA's the jurisdiction of the Commission appears to be restricted only to the extent of matters related to tariff, which is definitely not the intent of the policy maker. Moreover, the reference of Conciliation Act, 2015 in the said clause is not correct as the parent Act is Arbitration and Conciliation Act, 1996, which has been subsequently amended from time to time. UPCL should take note of the aforesaid observation of the Commission while floating the bid documents/executing PPA's in future for procurement on short term basis.

2.1.16 Furthermore, the Commission directs UPCL to ensure that the bids for short term procurement are called upon by UPCL considering the delivery point as Uttarakhand State Periphery which will enable the transparent and competitive assessment of the bidders thus eliminating the uncertainty w.r.t the transmission charges based on the location of the bidder or source from which power is being delivered.

2.1.17 Ordered accordingly.

(Anurag Sharma)
Member (Law)

(M.L. Prasad)
Chairman