Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 51 of 2024

In the matter of:

Petition seeking prior approval of the Commission for Advance & Return Energy Banking to M/s Haryana Power Purchase Centre under an Energy Banking Agreement with Uttarakhand Power Corporation Ltd.

In the matter of:

Uttarakhand Power Corporation Ltd. … Petitioner

AND

In the matter of:

M/s Haryana Power Purchase Centre … Respondent

CORAM

Shri M.L. Prasad	**Member (Technical) -Chairman (I/c)**
Shri Anurag Sharma	**Member (Law)**

Date of Order: November 22, 2024

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 Energy Banking Agreement (hereinafter referred to as "EBA") with M/s Haryana Power Purchase Centre (hereinafter referred to as "M/s HPPC" or "Respondent") for advance and return energy banking.

1. Petitioner's Submissions

1.1 The Licensee under Section 63 and 86(1)(b) of the Electricity Act, 2003 and in accordance with Regulation 81(1) and 82 of the UERC (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2021, filed a Petition dated 25.09.2024 seeking approval of the Commission for advance (receive) banking of 618.00 MU (under "Firm Basis" arrangement) during the months from December, 2024 (00:00 to 24:00) to March, 2025 (00:00 to 24:00), which shall be returned back during the months from July, 2025 to September, 2025, under an Energy Banking Agreement to be executed with M/s HPPC.

1.2 UPCL in the Petition submitted that as per the demand and availability projection for the upcoming months in the State, it will have an overall deficit of around 800 MW to 900 MW. UPCL submitted that to mitigate the deficit, it has given consent to the State based gas generators for the supply of 321 MW (maximum) for a period of December, 2023 to July, 2024, however, inspite of the above arrangement, UPCL is expected to have a short fall of approx. 300 MW to 600 MW RTC power in coming winter season, i.e. from December, 2024 to March, 2025.

The Commission sought clarification from UPCL on the aforesaid submission made in the Petition, as UPCL had made reference to the availability from the gas-based plants in the months of December, 2023 to July, 2024, whereas, the proposed banking arrangement was towards meeting the deficit in the winter months of FY 2024-25, i.e. December, 2024 to March 2025. In this regard, UPCL through a separate submission dated 30.10.2024 submitted that the deficits of 578 MW - 863 MW projected by UPCL in its letter dated 05.07.2024 while seeking in-principle approval for M/s HPPC banking arrangements were based upon not considering State Gas Power in the period December, 2024 to February, 2025, however, 100 MW of State Gas Power was considered in the month of March, 2025 as per UPCL's current contractual arrangements. UPCL further submitted that, it planned to procure RLNG gas for upcoming winter month of FY 2024-25, and accordingly, projected final deficit around 300 MW to 600 MW after procuring power from DEEP portal and arranging gas for winter month. UPCL submitted that it is in talks with the state-based gas power plants to discover the price and send a proposal w.r.t gas rates etc. for the next 3 years up to FY 2027-28. UPCL submitted that earlier in the previous year State based gas plants were given consent for 321 MW of power for the months of December, 2023 to July, 2024, and approximately the same quantum was considered for calculating final deficit around 300 to 600 MW in the upcoming winter months, i.e. December, 2024 to March, 2025.

UPCL further submitted that presently, it has arranged power quantum of 145 MW (December, 2024 to January, 2025) and 120 MW (February, 2025) through DEEP short term tender. Further, UPCL has also issued LoI for banking with M/s HPPC (200 MW in December, 2024, 300 MW in January, 2025, 200 MW in February, 2025 and 150 MW in March, 2025), which shall be returned in the months of July, 2025 to September, 2025. Further, UPCL has also issued LOI to Uttar Pradesh Power Corporation (M/s UPPCL) for the period of 01.01.2025 to 15.02.2025 (peak hours), and the banked energy will be returned in the period of July, 2025 to August, 2025. Further, Central Government on 24.09.2024 has also declared provision of RTC Power from Telangana STPP (180 MW) from unallocated quota to the State of Uttarakhand for the period of 16.10.2024 to 30.06.2025, and in addition, again on 27.09.2024, Central Government has provided 261 MW to 326 MW power to the State for the period from October, 2024 to March, 2025. Further, an arrangement of 132 MW has also been done for the month of December, 2024 through Long Duration Contract (LDC) driven by energy exchanges.

1.3 UPCL submitted that it is putting its sincere effort to secure power at reasonable rates and, accordingly, has explored the option of reverse banking, i.e. UPCL will take power in advance in the months from December, 2024 to March, 2025 and return the same with some premium between July 2025 to September 2025, wherein UPCL may return the power after arrangement.

1.4 UPCL submitted that for securing and better management of power, UPCL had approach with the neighboring States/utilities for exploring of energy banking transaction through the following letters:

(a) BSES Yamuna Power Limited vide letter no. 2809 dated 06.06.2024.

(b) SE, SPATC, UPPCL vide letter no.2814 dated 06.06.2024.

(c) Chief Engineer, HPPC vide letter no. 2815 dated 06.06.2024.

1.5 UPCL submitted that in response to the same BSES vide letter no. BYPL/PMG/24-25/2561 dated 20.06.2024 had provided its proposal against banking of 150 MW RTC power from 01.12.2024 to 31.03.2025 with an additional 5% extra power of banked power along with the return period of banking from 01.07.2025 to 30.09.2025. UPCL, through a separate submission dated 19.07.2024, had submitted before the Commission that proposal for banking transaction of BSES was not suitable to UPCL as full requirement of power from December, 2024 to March, 2025 could not be catered to meet out the deficit.

1.6 UPCL submitted that proposal had also been received from SE, SAPTC, UPPCL wherein only peak hours' transaction was proposed, which was not feasible to UPCL to return energy during peak hours.

1.7 UPCL further submitted that Proposal from Chief Engineer, HPPC was received, with an additional 5% extra power of banked power, vide email dated 18.06.2024, which was viable to UPCL wherein the following banking arrangements was proposed:

Supply of Power by HPPC to UPCL

Month	Duration (Hours)	Quantum (MW)	Total Quantum (LU)	Delivery Point
Dec- 24	00:00- 24:00	200	1488.00	Regional Periphery in Northern Region
Jan-25	00:00- 24:00	300	2232.00	
Feb-25	00:00- 24:00	200	1344.00	
Mar-25	00:00- 24:00	150	1116.00	
Total			**6180.00**	

Return of 105% of Banked Power by UPCL to HPPC

Month	Duration Hours)	Quantum (MW)	Total Quantum (LU)	Delivery Point
Jul-25	00:00- 24:00	280	2083.20	Regional Periphery in Northern Region
Aug-25	00:00- 24:00	350	2604.00	
Sept-25 (1-29th Sept)	00:00- 24:00	250	1740.00	
30th Sept.	00:00- 24:00	257.50	61.80	
Total			**6489.00**	

1.8 UPCL submitted that in reply of CE, HPPC offer, UPCL vide its e-mail dated 26.06.2024 requested to consider the 104% of banked power and arrange to provide the revised proposal, and in response to the same, CE, HPPC had provided the revised proposal with the return premium of 104% of banked power vide Memo no. Ch-07/CE/HPPC/STP/24-04 dated 02.07.2024 as per request of UPCL as follows:

Month	Duration (Hours)	Quantum (MW)	Total Quantum (LU)	Delivery Point
Jul-25	00:00- 24:00	280	2083.20	Regional Periphery in Northern Region
Aug-25	00:00- 24:00	350	2604.00	
Sept-25(1-29th Sept)	00:00- 24:00	245	1740.00	
30th Sept.	00:00- 24:00	145	34.80	
Total			**6427.20**	

1.9 UPCL submitted that M/s Manikaran Power Limited has also submitted its proposal for banking transaction wherein 103.90 percent return premium has been mentioned by them excluding trading margin i.e. 1.75 paisa/kWh due to which overall return premium percentage will come approx. 104.31% which is more than the return premium percentage of M/s HPPC.

1.10 UPCL submitted that an energy banking transaction is already in existence with M/s HPPC and the banked power is being returned by UPCL which is to be finalized in the month of September, 2024. UPCL submitted that after evaluating the proposals, it has proposed to enter into an Energy Banking Agreement with M/s Haryana Power Purchase Centre.

1.11 UPCL submitted that the Commission in its various orders has laid down that banking of power will be the most cost-effective arrangement, and, accordingly, UPCL will take power in advance in the months of December, 2024 to March, 2025 and return the same with some premium between July, 2025 to September, 2025. UPCL submitted that, if the said arrangement is not considered then the Petitioner will have to either procure power from the power exchange or go for short term power procurement which may be an expensive proposition and may consequently & unnecessarily burden the consumers.

1.12 UPCL submitted that considering the above, the Commission may like to approve the draft Energy Banking Agreement and allow Advance & Return banking of energy with M/s Haryana Power Purchase Centre so that the necessary Energy Banking Agreement in this regard may be signed.

1.13 Further, the Petitioner under the cause of action submitted that it had through analysis anticipated a deficit of 618.00 MUs (under "Firm Basis" Arrangement) for the period from December, 2024 to March, 2025, which shall be returned back by UPCL during the months from July, 2025 to September, 2025 to ensure consistent availability of power to its consumer in best possible cost effective arrangement. Further Regulation 81(1) of Uttarakhand Electricity Regulatory Commission (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2021, in short, UERC Tariff Regulations, 2021 lays down that the power purchase/banking/trading agreement as approved by the Commission shall be considered to determine the power purchase cost of the distribution licensee and Regulation 82 of Uttarakhand Electricity Regulatory Commission (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2021, lays down that any power purchased by distribution licensee over and above the requirement of power approved by the Commission or variation in the mix of power purchased in any year shall be considered by the Commission if it is for reasons beyond the reasonable control of the Distribution Licensee and the resultant financial loss or gain shall be adjusted in next years' tariff. UPCL further submitted that the Tariff Order lays down that any variation during any quarter of a financial year in excess of 5 percent of the quantum or cost of power procurement for such quarter, as approved by the Commission in the power procurement plan of the distribution licensee, shall be done only with the prior approval of the Commission. Accordingly, in compliance to the above provisions, the Petitioner is filing the present petition for approval of the Commission.

1.14 The copy of the Petition was forwarded to M/s HPPC for comments. In the matter, M/s HPPC vide its submission dated 09.10.2024 submitted that it has been observed that the reference of 'clause no. 6', which pertains to billing cycle, as given in the Termination clause (12.2) should be replaced with 'clause 5'which pertains to Penalty for Less Scheduling of Banked Power as per Agreement (Settlement Rate) "Firm basis".

In response to the same, the Petitioner vide its submission dated 15.10.2024 accepted the proposed corrections.

2. Commission's Views & Decisions

2.1 Legal Requirement for approval of EBA

2.1.1 A power banking agreement is a legal document incorporating operational, technical & commercial provisions to be complied in accordance with the relevant rules & regulations.

2.1.2 Regulation 81(1) of the UERC Tariff Regulations, 2021 provides that power purchase/ banking/trading agreements as approved by the Commission shall be considered to determine the power purchase cost of the distribution licensee. Further, 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 The Commission in its Tariff Orders has been directing UPCL to bank the surplus energy and withdraw the same during the peak period as it is the most cost-effective arrangement. The Petitioner considering the demand and availability projection for the winter months of FY 2024-25 in the State of Uttarakhand approached neighboring States/Utilities for exploring the energy banking transactions.

Accordingly, in accordance with the requirement of the Act, Regulations and Orders passed by the Commission, UPCL is required to seek approval of the draft EBA, proposed to be entered by it, from the Commission. In the matter, UPCL vide its letter dated 05.07.2024 had apprised the Commission about the power situation and its proposal to enter into an EBA with M/s HPPC and further requested the Commission to accord the in-principle approval for advance banking of power with M/s HPPC, and the Commission vide letter dated 31.07.2024 had accorded the in-principle approval for the Banking of Power.

2.1.6 UPCL had submitted that, it planned to procure RLNG gas for upcoming winter months of FY 2024-25, and accordingly, projected final deficit around 300 MW to 600 MW after procuring power from DEEP portal and arranging gas for winter month. In this regard, the Commission was dismayed at the improper planning by UPCL and extensive reliance placed on short term procurement of power and has issued a show cause notice to UPCL, requiring it to show as to why action should not be taken against it for non-compliance of Commission's directions given in the Order dated December 06, 2017. In this regard, since final view of the Commission is pending, the Commission is not deliberating on the issue.

2.2 Commission's Analysis of the PBA and Order on the same

2.2.1 The Energy Banking Agreements is to be entered into between UPCL and M/s HPPC for supply of 618.00 MUs of power from 01.12.2024 to 31.03.2025, which will be returned @ 104% during the months of July, 2025 to September, 2025 on the terms and conditions as described in the EBA.

2.2.2 The draft EBA submitted by UPCL has been examined in light of the relevant rules & regulations. The Commission observed that M/s HPPC has raised an objection regarding typographical error in Clause 12.2 related to termination wherein the reference of Clause 6 of the EBA has been given instead of Clause 5 of the said EBA. UPCL has accepted to modify the same accordingly. In this regard, the Commission approves the proposed modification.

2.2.3 The Commission observed that Para 1 of the draft EBA provides the day on which EBA is brought into effect. The place for dates has been left blank. The above-mentioned Para needs to be corrected and completed before signing the final EBA.

2.2.4 The other provisions of the draft EBA have been examined which are in accordance with the Regulations.

2.2.5 Ordered accordingly.

Anurag Sharma **Member (Law)**	**M.L. Prasad** **Member (Technical) -Chairman (I/c)**