

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 45 of 2024 (Suo-Motu)

In the matter of:

Suo-moto proceeding in the matter of tariff of RE Component in addition to the tariff applicable for Rajwakti Small Hydro Plant of M/s Him Urja Pvt. Ltd.

In the matter of:

M/s Him Urja Pvt. Ltd. (“**Generator**”)

Uttarakhand Power Corporation Ltd. (“**UPCL**”)

... Respondents

CORAM

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

Shri Anurag Sharma **Member (Law)**

Date of Hearing: September 30, 2024

Date of Order: October 16, 2024

The Order relates to the Suo-moto proceedings initiated by the Commission in the matter of request made by Uttarakhand Power Corporation Ltd. (hereinafter referred to as ‘UPCL’) to accord approval to the procedure for calculation of floor price of RE component being carried out by UPCL for Rajwakti SHP one of the projects of M/s Him Urja Pvt. Ltd. (hereinafter referred to as ‘Generator’) located on the river Nandakini, a tributary of the river Alaknanda near Nandprayag in the Chamoli District of Uttarakhand.

1. Background

- 1.1 M/s Him Urja Pvt. Ltd. established its Rajwakti SHP having capacity of 4.4 MW on the river Nandakini in the year 2002 which is connected to 66 kV Srinagar-Joshimath transmission line at Mangrauli Sub-station.
- 1.2 The Generator had applied for accreditation under REC mechanism before Uttarkhand Renewable Energy Development Agency (hereinafter referred to as “UREDA”) on

22.06.2012 as the selling price of power from its Rajwakti SHP was lower than the Average Pooled Cost of Power Purchase (APPC) determined by the Commission. However, UREDA had rejected its request for accreditation for RECs as according to them the RE Project was not eligible under REC mechanism as UPCL was also considering power purchased from Rajwakti SHP towards compliance of its RPO.

- 1.3 The Generator then had filed a Petition before the Commission seeking relief against UREDA's rejection for REC accreditation. The Commission vide its Order dated 28.05.2014 had upheld the contentions advanced by both UREDA and UPCL that Rajwakti SHP of the Generator did not meet the eligibility criteria for accreditation under REC mechanism and, hence, was not entitled for RECs.
- 1.4 The Petitioner had filed an Appeal in Hon'ble APTEL against the Order of the Commission for not allowing accreditation to it for Renewable Energy Certificates. Hon'ble APTEL vide its Judgment dated 20.11.2015 while allowing the Appeal set aside the Order of the Commission and had directed the Commission to grant accreditation and consequent registration for issuance of REC to the Generator. Accordingly, the Commission vide its Suo-moto Order dated 07.01.2016 in compliance of the Order issued by Hon'ble APTEL had directed UREDA to grant accreditation to the Generator based on its application dated 22.06.2012 in accordance with the UERC (Compliance of Renewable Purchase Obligation) Regulation, 2010 and procedures issued therein.
- 1.5 Subsequently, UPCL vide its Petition dated 23.02.2016 approached the Commission seeking clarification/elucidation of the Commission's Order dated 07.01.2016 directing UREDA to grant accreditation to the Generator on their application. UPCL submitted in that Petition that the generator had expressed willingness to forego the issuance of RECs if UPCL agreed to pay it the Floor Price of RECs over and above the rate of Rs. 2.50/kWh, i.e. the energy charge w.e.f. 22.06.2012. UPCL had submitted that while analysing the effects of the Commission's Order dated 07.01.2016 it could not be ascertained that once the Accreditation is given to the Generator, in such case whether or not the RE content of power already supplied to UPCL will be counted towards its RPO. In addition, UPCL had submitted that in case the rights of RE content of the power already received by UPCL, be transferred to the generator then in order to keep intact the already claimed RPO compliance, UPCL would have to pay an additional amount of Rs. 9.31 Crore

approximately. UPCL had further submitted that the generator had represented that the Commission had allowed Accreditation w.e.f. the date of original application and that the supply of electricity which was entitled to REC shall not be accounted for RPO and thus the power which was supplied from 22.06.2012 till date would not be counted towards RPO and UPCL would be in further deficit in fulfilling its RE Obligation. The generator had further expressed its willingness to forego the likely upside of the REC market and offer RE power @ Rs. 2.50/unit as per the existing PPA plus Rs. 1.45/unit for RE component for the period from 22.6.2012 till 31.01.2016 and after which supply electricity @ Rs. 2.50 as per existing PPA plus floor price of REC as determined by the CERC.

- 1.6 The Commission after hearing the parties in the matter, vide its Order dated 17.03.2016 had directed UPCL to make payments in lieu of the rights of RECs surrendered by the generator, due to it, from the date of Accreditation, i.e. 05.10.2012 and upto 31.03.2016 @ Rs. 1.45 per unit of energy received by the utility during the period. Further, with regard to the offer made by the generator to UPCL, the Commission had stated that it would be UPCL's discretion to accept or forego the generator's offer having regard to its RPO compliance and the manner in which it opts to ensure compliance of the same and had directed UPCL to execute supplementary PPA with the generator and inform the Commission if it desires to accept the offer of the generator.
- 1.7 In accordance with the directions of the Commission, UPCL executed a supplementary PPA with the generator for a period of 5 years w.e.f. 01.04.2016 stating that UPCL shall pay the generator the amount for RE component at the floor price of REC as determined by CERC from time to time. Further, the generator shall inform the revised rate or any other notification of CERC in this regard within one month of the publication of such notification. Subsequently, on the expiry of the above-mentioned period, UPCL once again executed a supplementary PPA with the generator for a period of 4 years w.e.f. 01.04.2021 with the same terms and condition as specified under previous supplementary PPA.

2. Submissions of UPCL and the Generator

- 2.1 UPCL vide its letter dated 11.07.2024 approached the Commission stating that a supplementary PPA was executed with the generator procurement of RE component based on the floor price of REC as determined by CERC from time to time. UPCL also submitted that CERC vide its CERC (Terms and Conditions for Renewable Energy Certificates for

Renewable energy Generation) Regulations, 2022 (CERC REC Regulations, 2022), effective from 05.12.2022, has specified that the price of the Certificate shall be as discovered in the Power Exchange. Accordingly, in this regard, UPCL informed the revision of floor price to the generator and, accordingly, the later had informed UPCL the month wise revised floor price from December 2022 on account of RE component on the basis of price of REC discovered in a trading session for calculation of amount to be paid against RE component.

- 2.2 UPCL submitted that it has considered the lowest discovered value in the month in case the RECs are traded multiple times in a month as floor price for that particular month. UPCL through the same letter also requested the Commission to accord approval to the procedure for calculation of floor price of RE component being carried out by UPCL in order to avoid litigation between UPCL and the generator.
- 2.3 The copy of the letter of UPCL was forwarded to the generator for comments. In the matter, the generator vide its email dated 20.08.2024 submitted that as per the revised regulations of CERC, the existing system of floor price has been replaced with the exchange determined price, therefore, finding lower price in a month would be rewriting of the regulations. Hence, it requested the Commission that the price as determined by exchange for the part of the month also be accepted as such, in accordance with the regulations of CERC.

3. Commission's views and decision

- 3.1 The Commission analyzed the submissions of both the parties and the CERC REC Regulations, 2022 regarding pricing of RECs. It is worth mentioning that the floor price determined by CERC, prior to the notification of CERC REC Regulations, 2022, was the minimum ceiling that the REC traders would get on trading RECs. UPCL in the instant matter has also adopted the same methodology by applying the minimum REC rate discovered in a month in Power Exchange against the corresponding RE component. However, before taking any decision in the matter, the Commission decided to conduct a hearing and gave an opportunity to the parties to allow them to make their submission before the Commission.
- 3.2 During the hearing, UPCL reiterated its submission before the Commission. Further, the generator submitted that Regulation 13(1) of CERC REC Regulations, 2022 states that the

price of RECs shall be discovered in the Power Exchange(s) or as mutually agreed between parties and submitted that he agrees with the methodology proposed by UPCL to consider the tariff for RE component equivalent to the lowest discovered value of REC in case the RECs are traded multiple times in a particular month.

3.3 With regard to pricing of certificates, Regulation 13 of CERC REC Regulations, 2022 specifies as follows:

“(1) The price of Certificates shall be as discovered in the Power Exchange(s) or as mutually agreed between eligible entities and the electricity traders:

Provided that the Power Exchange(s) and the electricity traders shall report all transactions with details including but not limited to volume, price, buyers and sellers to the Central Agency on a monthly basis.”

It is explicitly clear from the above provision that the prices of the RECs shall either be discovered through Power Exchange(s) or shall be mutually agreed between the eligible entities. In the present case, the generator has agreed with the methodology proposed by UPCL for considering the lowest price of REC discovered in Power Exchange in case RECs are traded multiple times in a month.

Accordingly, the Commission approves the methodology for calculation of the rate of RE component as proposed by UPCL vide its letter dated 11.07.2024 as the lowest discovered rate of REC where RECs are traded multiple times for RE component of Rajwakti SHP. The parties are directed to execute a supplementary PPA incorporating the following para and submit the same to the Commission within 15 days from the date of issue of this Order:

“In accordance with CERC (Terms and Conditions for Renewable Energy Certificates for Renewable energy Generation) Regulations, 2022, payment towards RE component shall be equivalent to the lowest determined price of RECs in the Power Exchange(s) in a month as agreed by both the parties till such time the REC price determination methodology is changed by CERC.”

4. Ordered accordingly.

(Anurag Sharma)
Member (Law)

(M.L. Prasad)
Member (Technical)- Chairman (I/c)