Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 28 of 2026

In the matter of:

Application seeking approval of the Commission for deviation/modification and/or clarification in specific clauses of the RFP and PSA issued for procurement of 1320 MW RTC coal-based power under long-term procurement, and for in-principle approval of the proposed quantum of 1320 MW RTC coal-based power to be procured under Section 86(1)(b) of the Electricity Act, 2003.

In the matter of:

Uttarakhand Power Corporation Ltd. … Petitioner

CORAM

Shri M.L. Prasad	**Chairman**
Shri Anurag Sharma	**Member (Law)**
Shri Prabhat Kishor Dimri	**Member (Technical)**

Date of Order: June 17, 2026

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 Commission for deviation/modification and/or clarification in specific clauses of the Request for Proposal (RFP) and Power Supply Agreement (PSA) issued for procurement of 1320 MW RTC coal-based power under long-term procurement, and for in-principle approval of the proposed quantum of 1320 MW RTC coal-based power to be procured under Section 86(1)(b) of the Electricity Act, 2003.

1. Petitioner's Submissions

1.1 The Licensee under Section 86(1)(b) read with Section 63 of the Electricity Act, 2003, Clause 4 of the Guidelines for Procurement of Electricity for Long Term, and in accordance with Regulation 59(1) of the UERC (Conduct of Business) Regulations, 2014 filed a Petition dated 13.01.2026 seeking approval of the Commission for deviation/modification and/ or clarification in specific clauses of the RFP and PSA document issued for procurement of 1320 MW RTC (Round The Clock) coal-based power under long-term procurement, and for in-principle approval of the proposed quantum of 1320 MW RTC (Round The Clock) coal-based power to be procured under Section 86(1)(b) of the Electricity Act, 2003.

1.2 The Petitioner submitted that the jurisdiction of the Commission to consider the present Petition arises from the statutory mandate under Section 86(1)(b) of the Electricity Act, 2003, and is further reinforced by the applicable guidelines issued by the Ministry of Power (MoP), Government of India, governing the procurement of electricity by distribution licensees under long-term arrangements, subject to approval of the Commission due to any deviation/modification/ clarification in the bidding document. UPCL further submitted that, as per the provisions of the Electricity Act, 2003, any power procurement process undertaken by the distribution licensee, including the pricing, and terms of the agreement with the power supplier, requires the scrutiny and approval of the Commission.

1.3 The Petitioner submitted that, the Ministry of Power (MoP) has issued Revised Guidelines on 06.03.2019 for Guidelines for Procurement of Electricity for Long Term, which govern the process for long-term procurement and expressly empowers the Appropriate Commission to approve any deviations from the standard bidding framework.

1.4 The Petitioner submitted that, under the provisions of the Electricity Act, 2003 and the procedural framework established by the MoP Guidelines, the Electricity Regulatory Commission of Uttarakhand is the Appropriate Authority for considering and approving any modifications or deviations sought by the Petitioner in relation to the Model Bidding Documents issued for procurement of long-term power, and the Petitioner, being a distribution licensee, is fully within its rights to approach the Commission for seeking such approval, and the present Petition is, therefore, fully maintainable before the Commission.

1.5 The Petitioner submitted that a Resource Adequacy Study was conducted by CEA, wherein it was recommended that State of Uttarakhand should augment its energy mix with an additional 1181 MW thermal capacity by the financial year 2029-30. The

Petitioner submitted that, pursuant to this study by the CEA, a letter, bearing no. 1550/MD/UPCL/P-16 dated 07.03.2024 was issued by UPCL to UJVN Ltd. for setting up a coal-based power plant. Subsequently, a meeting was convened on 16.01.2025 under the chairmanship of Secretary (Energy), Government of Uttarakhand, wherein it was observed that the 1181 MW Thermal Power Project, proposed through a Joint Venture between THDC India Limited and UJVN Ltd., would not be commissioned within the required timeline to meet the anticipated power demand of the State.

1.6 The Petitioner submitted that in the view of the emergent power deficit and the delay in commissioning of the aforesaid project, it was resolved that a fresh tender for 1320 MW of coal-based power be floated under the State Coal Allocation Policy (Shakti-B), through the Tariff Based Competitive Bidding Process, and the letter dated 07.03.2024 issued by UPCL to UJVNL for setting up a coal-based power plant was taken back. The Petitioner further submitted that power from long-term tender is expected to be scheduled only from FY 2029-30 onwards.

1.7 The Petitioner submitted that, it floated a long-term tender through M/s PFCCL, which was uploaded on the DEEP Portal on 03.02.2025. Further, the public notice of the tender was also published in leading national and regional newspapers, namely The Hindu, Indian Express, Dainik Jagran – UK on 05.02.2025 and Hindustan (Hindi) on 04.02.2025.

1.8 The Petitioner submitted that after the publication and issuance of the bidding documents, several bidders submitted queries and sought clarifications in respect of various clauses of the RFQ, regarding which it filed a Petition No. 41 of 2025 before the Commission seeking approval for deviation/modifications/clarification in specific clauses of RFQ and the Commission passed the order in the Petition on 09.05.2025. The Petitioner submitted that in furtherance of the aforesaid Order of the Commission, UPCL continued with the tender process and uploaded RFP and PSA documents, on which the qualified bidders submitted queries and sought clarifications in respect of various clauses of the RFP and PSA.

1.9 The Petitioner submitted that it has filed the present Petition for seeking approval for deviation/modifications/clarification which are necessary for wider participation and increasing the competitiveness of the bid.

1.10 The Petitioner under the cause of action, submitted that the same arose upon the issuance of queries by bidders and the Petitioner's subsequent identification of certain deviations from the Model Bidding Documents which are necessary to ensure transparency and competitiveness in the bidding process. Further, the Commission has also time and again placed emphasis to procure the deficit power through medium/long term tender.

1.11 The Petitioner under the grounds of relief, submitted that the present Petition deserves to be admitted by the Commission on the following grounds:

i. The Petitioner being a distribution licensee within the State of Uttarakhand, is statutorily obligated to ensure reliable, adequate, and cost-effective supply of electricity to the consumers within its license area. In furtherance of this statutory duty, and deficit in power, the Petitioner has initiated a transparent long-term procurement process in accordance with the guidelines issued by the Ministry of Power (MoP), Government of India.

ii. The procurement of 1320 MW Round-The-Clock (RTC) coal-based thermal power is not only imperative to meet the immediate and projected power deficit in the State but also aligned with the objective of ensuring continuous and uninterrupted power supply to the consumers. Given the current energy scenario and the absence of operational long-term assets to meet base load requirements, any delay in the long-term procurement would affect consumer interest, and grid reliability.

iii. The bidding documents, namely the RFP and PSA have been prepared based on the Model Bidding Documents notified by the Ministry of Power. However, in light of competitiveness, transparency, specific stakeholder comments, certain deviations and clarifications have become necessary to derive and discover the competitive lowest tariff in the competitive bidding process. These deviations are essential to foster competition and facilitate a successful and fair bidding process.

iv. Clause 4 of the Guidelines for Procurement of Electricity for Long Term expressly mandates that any deviation from the Model Bidding Documents shall be made only with the prior approval of the Appropriate Commission. As such, in strict adherence to the regulatory framework and in keeping with the principles of transparency, legal sanctity, and consumer protection, the Petitioner has approached the Commission by way of the present Petition.

v. In addition to the approval of deviations/modifications/clarifications in the RFP and PSA, the Petitioner seeks the Commission's in-principle approval for the quantum of 1320 MW RTC coal-based power proposed to be procured under the ongoing long-term tender.

vi. The Petitioner's request is in line with the Commission's consistent directives emphasizing long-term/medium-term tie-ups and restricting short-term purchase to 5% of total availability. The proposed 1320 MW quantum is based on the Resource Adequacy Study of CEA and duly considers the State's projected demand-supply scenario and the requirement of firm, round-the-clock power to ensure reliability and consumer interest.

vii. The instant Petition is in continuation of the procedural steps required to obtain statutory approval.

The Petitioner submitted that in the view of the foregoing, the present Petition squarely falls within the scope of functions assigned to the Commission under Section 86(1)(b) of the Electricity Act, 2003, and is a matter fit for adjudication and admission.

1.12 UPCL submitted that, in view of the persistent power deficit and the Commission's own directives to minimize short-term dependence, the approval of the proposed quantum of 1320 MW RTC coal-based power under Section 86(1)(b) is necessary to give full effect to the Commission's regulatory intent and ensure long-term energy security for the State.

1.13 The Petitioner submitted that it has received queries from qualified bidders regarding RFP and PSA. The deviations/modifications/clarifications, based on comments and suggestions, have been compiled, for which approval is sought on account of long-term power procurement under the present Petition. UPCL submitted that based on the evaluation of the queries, it has prepared a detailed consolidated deviations/modifications list in which the initial deviations/modifications done in RFP and PSA and deviations/modifications done on the basis of request and suggestions from the bidders have been listed and a detailed reply has been prepared for each query, comprising of the existing clause, the proposed deviation/modification or clarification, and the justification therefore.

1.14 UPCL submitted that the present Petition pertains to deviations/modifications in regard to RFP and PSA only and after approval by the Commission same shall be uploaded on the DEEP portal, in accordance with the procedure.

1.15 The Petitioner, accordingly, submitted that the Commission may admit the Petition and approve the quantum of 1320 MW RTC coal-based power proposed to be procured through the long-term tender, and also approve the deviations/modifications and clarifications proposed in the RFP and PSA documents for procurement of 1320 MW RTC coal-based thermal power under long-term arrangement.

1.16 The Commission vide its letter no. UERC/6/TF-825/2025-26/2026/1809 dated 06.03.2026 asked UPCL to submit information/justification for certain modifications proposed by it in the Model Bidding Document w.r.t. the RFP and PSA, in response to which the Petitioner vide its letter no. 1852/UPCL/CE(COMM)/UERC/LTPP dated 04.04.2026 submitted the requisite information.

1.17 The Petitioner's submission and the Commission's view on the same have been dealt in subsequent paras of this Order.

2. Commission's Views & Decisions

2.1 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.

2.2 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)

2.3 Regulation 59 (1) of UERC (Conduct of Business) Regulations, 2014 specifies as under:

"59. Inherent power of the Commission

(1) Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such Orders as may be necessary for ends of justice or to prevent the abuse of the process of the Commission."

2.4 Clause 4 of the Guidelines for Procurement of Electricity for Long-Term reads as under:

"Any deviation from the Model Bidding Documents shall be made only with the prior approval of the Appropriate Commission. Provided, however, that any project specific modifications expressly permitted in the Model Bidding Documents shall not be construed as deviations from the Model Bidding Documents."

The intention of the same is that the Commission evaluates whether the deviations are justified, protect consumer interests and promote a fair and transparent competitive process,.

2.5 The modifications proposed by UPCL in the RFP and PSA documents for procurement of power for long-term were examined by the Commission and the same are dealt with in the subsequent paras of this Order.

2.6 UPCL has proposed modifications to 23 clauses of the RFP and 63 clauses of the PSA, totaling to 86 clauses. The Commission while dealing with the modifications/deviations proposed by UPCL has taken reference of the clause numbers as per the RFP and PSA documents published by UPCL.

2.7 The Petitioner has proposed procurement of power from a coal-based generating station under a long-term arrangement and has placed before the Commission a set of clause-wise deviations from the standard bidding framework. The proposed modifications majorly relate, inter alia, to bidder eligibility, bid structure, online tender process, fuel arrangement, transmission risk allocation, phased commissioning, billing and payment, change in law, milestone monitoring, and related contractual definitions.

2.8 The Commission observes that the standard bidding documents are intended to preserve competitive neutrality, ensure transparency, and safeguard consumer interest, while at the same time permitting limited deviations where a cogent and project-specific justification is established. The Commission has examined the proposed changes keeping in view the objective of ensuring that the bidding process remains fair, transparent, and competitive, while also allowing such procedural or project-specific departures as are reasonably justified by the Petitioner. Where a deviation is merely clarificatory or consequential to an online / updated regulatory framework, the same may merit approval. However, where a proposed change tends to unduly restrict participation, dilute competition, create ambiguity, or materially alter the balance of rights and obligations without sufficient justification, the same cannot be approved.

2.9 **At the outset, the Commission also considers it appropriate to clarify that the present Order is confined to the examination of the proposed deviations/modifications in the RFP and the PSA document. UPCL has filed a separate Petition seeking approval of the procurement of 1320 MW RTC coal-based power under long-term procurement on which the proceedings is ongoing. Further, in the said Petition it has been observed that the BoD of UPCL has directed that the matter of the proposed PPA of 1320 MW Power for a term of 25 years must be referred to Govt. of Uttarakhand for consideration and approval of the same,which is also pending. Hence, the Commission, at this stage, is not rendering any final finding on the quantum/quantity proposed to be procured. Any such determination and the consequential prayer for approval, to the extent required, shall remain subject to a separate and subsequent order of the Commission to be passed in the other Petition concerning the said issue. Thus, any reference to the quantity as occurring in the RFP and PSA is subject to the final approval by the Commission. Further, UPCL is required to incorporate appropriate clause in respect of this aspect in the Bid document, so as to bring clarity for bidders and also to avoid future complications.**

2.10 The Commission would like to state here that scope of the present proceedings pertains to the deviations sought by the Petitioner in its Petition from the Model Bidding Guidelines issued by the MoP and the order is based on the information and facts placed before the Commission during the course of proceedings in the matter. However, it seems that there could be various other circumstances and instances which might materially affect the essential terms and conditions of the bidding document, therefore, UPCL must ensure that a condition is incorporated in the bidding document clearly stating that UPCL shall have complete and sole discretion to accept or reject the bid and may also reconsider the bids including its terms and conditions without incurring any adverse implications, so that necessary protection remains with the Petitioner in case any such eventuality may arise.

2.11 Clauses related to RFP documents floated by UPCL.

i. Clause no. 1.1.1:

Clause in MBD:

"....Utility has decided to procure electricity on a long term basis from Power Station (the "Project") through Public-Private Partnership (the "PPP") on Design, Build, Finance, Own and Operate (the "DBFOO") basis by sourcing fuel [from the options given in clause 1.2.8] and has, therefore decided to carry out the Bidding Process ...."

Modified Clause as proposed by UPCL:

"......Utility has decided to procure electricity on a long term basis from a New Power Station of 1,320 MW Capacity located anywhere in India, (the "Project") through Public-Private Partnership (the "PPP") on Design, Build, Finance, Own and Operate (the "DBFOO") basis by sourcing fuel from the Allocated Coal Linkage arranged by the Utility as per Para B (iv) of the SHAKTI Policy, and has, therefore decided to carry out the Bidding Process......."

Justification submitted by UPCL:

UPCL submitted that it intends to procure power from new power station considering the fact that the PPA shall be for a period of 25 years. Contracting power from new super critical units would result in efficient operations while also meeting stipulated operating parameters thereby resulting in competitive tariffs. Existing plants may not have adequate residual operating life to ensure supply over entire PPA tenure. Newer machines enable readiness for flexible operations of Thermal Power Plant, i.e. to ramp up and ramp down power as per requirement. It may also be noted that the coal allocation has been made on the basis of normative coal requirement norms whereby the allocated quantity is considering unit heat rate for supercritical units. Older units may have higher SHR leading to shortfall in coal for required generation. It may be noted that there is no restriction on existing under construction projects from participating, thereby enabling greater participation.

Commission's View:

The Commission has examined the proposed modification and the justification submitted by UPCL. Considering that the procurement is proposed for a long-term period of 25 years and that UPCL has sought to procure power from a new power station based on the allocated coal linkage arranged under Para B(iv) of the SHAKTI Policy, the Commission accepts the reasons/justifications given by the Petitioner and allows the proposed modification, except to the extent it specifies the quantum of 1320 MW, which shall, as discussed above, be subject to approval of the Commission through a separate proceeding regarding the same.

Accordingly, the Commission approves the proposed modification, except for the reference to the specific quantum of 1,320 MW.

ii. Clause no. 1.1.4:

Clause in MBD:

"Bidders may Bid for the capacity specified in Clause 1.1.1, or a part thereof, not being less than 25% (twenty five per cent) of such capacity at National e- Bidding Portal ("DEEP Portal") developed by PFC Consulting Ltd.. Provided, however, that the Utility may, in its sole discretion, accept only those Bids which match the lowest Bid."

Modified Clause as proposed by UPCL:

"Bidders may Bid for the capacity specified in Clause 1.1.1, ~~or a part thereof, not being less than 25% (twenty five per cent) of such capacity~~ at National e- Bidding Portal ("DEEP Portal") developed by PFC Consulting Ltd.. ~~Provided, however, that the Utility may, in its sole discretion, accept only those Bids which match the lowest Bid.~~"

Justification Submitted by UPCL:

UPCL submitted that single bid has been called for in view of the following key advantages:

1. Contracting entire capacity from one bidder is expected to enable discovery of optimized tariff considering the developer will be able to pass on the benefits of economies of scale.

2. Tie-up from single unit ensures operational efficiency and convenience for Utility as it avoids interface with multiple entities;

3. Single Bidder for the entire capacity will also lead to entire plant capacity being committed only to the Utility, thereby avoiding any complexities involved in utilisation of allocated coal.

UPCL further submitted that competitive fairness and transparency is preserved at the bidding stage as the complete bidding process including the publishing of the documents, its addendums and updates is been undertaken at National e-Bidding Portal ("DEEP Portal") developed by PFC Consulting Ltd. which is authorized bidding portal established by the Ministry of Power (MoP), Government of India and the tender is made available for participation of all. The same is also evident from the interest evinced by multiple developers in the proposed procurement tender.

Commission's View:

Nowadays new super critical thermal plants are being installed with a single unit having a capacity of 660 MW, hence, to meet the power procurement requirement as proposed by UPCL through bucket filling would entail procurement from multiple plants which at times could be running at lesser capacity vis-a-vis installed capacity, resulting in higher Station Heat Rate (SHR) since the plant would be operating at reduced load and thus requiring higher fuel consumption. To keep energy charges competitive, thermal power plants must operate at high Plant Load Factors (PLFs), running coal assets at lower PLFs decreases their operating efficiency, which inflates the Station Heat Rate (SHR), and increases Auxiliary Power Consumption leading to higher overall per-unit power procurement costs.

Further, to manage a single bidder is easier than managing multiple generators. The Commission also examined the RFP issued by other States like UP for procuring long term coal based power, where they have also issued RFP requiring a single bid. Hence, the deviation sought by UPCL is approved.

iii. **Clause no. 1.2.2:**

Clause in MBD:

"…....After the completion of the Bidding Process, only Selected Bidder(s) will have to pay these charges for the quantum allocated to each bidder. The balance amount will be refunded

by PFCCL within seven (7) working days of issuance of LOA without any interest. The fee deposited by non-Selected Bidder(s) will also be refunded by PFCCL within seven (7) working days of issuance of LOA without any interest."

Modified Clause as proposed by UPCL:

"…....After the completion of the Bidding Process, only Selected Bidder~~(s)~~ will have to pay these charges ~~for the quantum allocated to each bidder. The balance amount will be refunded by PFCCL within seven (7) working days of issuance of LOA without any interest~~. The fee deposited by non-Selected Bidder(s) will ~~also~~ be refunded by PFCCL within seven (7) working days of issuance of LOA without any interest."

Justification Submitted by UPCL:

UPCL submitted that awarding complete capacity to a single bidder ensures reliability and is operationally convenient for the Utility.

Commission's View:

This modification is consequential to the Petitioner's proposal for single-bidder procurement of the entire capacity. Since the Commission has approved the departure from part-capacity bidding, the related modification is approved.

iv. Clause no. 1.2.5:

Clause in MBD:

"A Bidder is required to deposit, along with its Bid, a bid security of [Rs 5 lakh (Rupees five lakh) per MW of capacity offered by the Bidder]5 (the "Bid Security"), refundable not later than 60 (sixty) days from the Bid Due Date, except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the PSA-DBFOO..."

Modified Clause as proposed by UPCL:

*"A Bidder is required to deposit, ~~along with its~~ at least seven (7) days prior to the Bid Due Date, a bid security of (Rupees 61.70 Crore (Rupees Sixty One Crore and Seventy Lakh only) ~~[Rs 5 lakh (Rupees five lakh) per MW of capacity offered by the Bidder]5~~ (the "**Bid Security**"), refundable not later than ~~60~~ 180 (~~Sixty~~One Hundred Eighty) days from the Bid Due Date, except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the PSA-DBFOO..."*

Justification Submitted by UPCL:

UPCL submitted that since the complete contracted capacity is proposed to be procured from a single bidder, each bid that shall be received shall be for complete contracted capacity. Further, as the capacity to be quoted by each bidder is fixed, for ease of reference, the total Bid-Security amount calculated on per MW basis has been provided. Moreover, entire capacity is proposed for bidding as the same ensures reliability and is operationally convenient for the Utility.

Commission's View:

The clause replaces the per-MW bid security framework with a fixed amount based on the assumption that all bids shall necessarily be for the entire contracted capacity. As the Commission has accepted the single-bidder approach, the linked bid security structure is hereby approved.

v. **Clause no. 1.2.8:**

Clause in MBD:

"Generally, the Lowest Bidder shall be the Selected Bidder. The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in the RFP-DBFOO, be invited to match the Bid submitted by the Lowest Bidder in case such Lowest Bidder withdraws or is not selected for any reason or in case the capacity required as per clause 1.1.1 is not fully met by the Lowest Bidder. It is hereby clarified that the Utility will not accept the entire capacity offered of the last Lowest Bidder in the order of progression, in the event the Capacity Required gets fulfilled by a part thereof. In the event that none of the other Bidders match the Bid of the Lowest Bidder, the Utility may, in its discretion , invite fresh Bids from the remaining Bidders or annul the Bidding Process, as the case may be. Further, it is clarified that any single Bidder cannot quote part capacity from different stations."

Modified Clause as proposed by UPCL:

"Generally, the Lowest Bidder shall be the Selected Bidder. The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in the RFP-DBFOO, be invited to match the Bid submitted by the Lowest Bidder in case such Lowest Bidder withdraws or is not selected for any reason~~or in case the capacity required as per clause 1.1.1 is not fully met by the Lowest Bidder. It is hereby clarified that the Utility will not accept the entire capacity offered of the last Lowest Bidder in the order of progression, in the event the Capacity Required gets~~

~~fulfilled by a part thereof~~. In the event that none of the other Bidders match the Bid of the Lowest Bidder, the Utility may, in its discretion , invite fresh Bids from the remaining Bidders or annul the Bidding Process. ~~Further, it is clarified that any single Bidder cannot quote part capacity from different stations.~~"

Justification Submitted by UPCL:

UPCL submitted that bucket filling is not applicable considering the tender structure wherein the entire capacity is being proposed to be tied up from single bidder due to reasons mentioned above. Notwithstanding the above, even if multiple bids were allowed, it is submitted that bucket filling may not result in discovery of competitive tariff considering 2nd lowest bidder where part capacity is available, shall be assured of quantum at quoted tariff despite the tariff being higher than L1. Hence, bucket filling is resorted normally where the primary objective is to tie up entire tender capacity. It is submitted that the proposed bidding structure is not eliminating L2 and below bidders, and enabling provision has been incorporated to invite such bidder to match L1 tariff in case Lowest Bidder withdraws/ is not selected for any reason.

Commission's View:

Since the Commission has already approved the scheme of single bidder offering the entire capacity, the Commission approves the proposed modification.

vi. Clause no. 2.11.1:

Clause in MBD:

"The Bidder shall submit the Bid in the format specified at Appendix-I, and seal it in an envelope and mark the envelope as "BID"."

Modified Clause as proposed by UPCL:

"The Bidder shall submit the Bid in the format specified at Appendix-I, and the format created online in the DEEP Portal, and seal it in an envelope and mark the envelope as "BID". The hardcopy envelope of the same is to be submitted to UPCL at the address provided in Clause 2.11.5 on or before the Bid Due Date and time."

Justification Submitted by UPCL:

UPCL submitted that to ensure transparent bidding process, submission on DEEP portal shall prevail as conclusive. This precedence if required will be explicitly stated.

Commission's View:

Where both online submission and physical hard copy are contemplated, there must be absolute clarity on which version shall prevail in case of discrepancy. The Petitioner has indicated that the portal submission shall be conclusive, but such precedence must be expressly stated in the tender documents to avoid disputes and ensure legal certainty.

Accordingly, the Commission approves the proposed modification subject to incorporation of an unambiguous clarification in the bid documents.

vii. **Clause no. 3.3.2:**

Clause in MBD:

"In the event that two or more Bidders quote the same amount of Tariff for (a) the full Capacity Required; (b) one full Capacity Required and other part of the Capacity Required; (c) Capacity totaling more than the Capacity Required and (d) Capacity totaling to the Capacity Required (the "Tie Bidders"), the Utility shall identify the Selected Bidder under (a) by draw of lots, which shall be conducted, with prior notice, in the presence of the Tie Bidders who choose to attend; under (b) by declaring the Bidder who has offered full Capacity Required as the Selected Bidder; under (c) by declaring the Bidder with maximum Capacity as first Selected Bidder and other Bidder as second Selected Bidder with remaining Capacity and under (d) by declaring both the Bidders as the Selected Bidder with respective Capacity."

Modified Clause as proposed by UPCL:

"In the event that two or more Bidders quote the same amount of Tariff for ~~(a)~~ the ~~full~~ Capacity Required; ~~(b) one full Capacity Required and other part of the Capacity Required; (c) Capacity totaling more than the Capacity Required and (d) Capacity totaling to the Capacity Required~~ (the "Tie Bidders"), the Utility shall identify the Selected Bidder ~~under (a)~~ by draw of lots, which shall be conducted, with prior notice, in the presence of the Tie Bidders who choose to attend~~; under (b) by declaring the Bidder who has offered full Capacity Required as the Selected Bidder; under (c) by declaring the Bidder with maximum Capacity as first Selected Bidder and other Bidder as second Selected Bidder with remaining Capacity and under (d) by declaring both the Bidders as the Selected Bidder with respective Capacity~~."

Justification Submitted by UPCL:

UPCL submitted that the clause has been suitably modified to retain only the applicable scenario considering the tender structure, wherein the entire capacity is being proposed to be tied up from single bidder.

Commission's View:

Since, the Commission has already approved the scheme of single bidder offering the entire capacity, the Commission approves the proposed modification.

viii. Clause no. 3.3.3:

Clause in MBD:

"In the event that the Lowest Bidder withdraws or is not selected for any reason in the first instance or the capacity required is not met by the Lowest Bidder (the "first round of bidding"), the Utility may invite all the remaining Bidders to revalidate or extend their respective Bid Security, as necessary, and match the Bid of the aforesaid Lowest Bidder (the "second round of bidding"). If in the second round of bidding, only one Bidder matches the Lowest Bidder, it shall be the Selected Bidder. If two or more Bidders match the said Lowest Bidder in the second round of bidding, then the Bidder whose Bid was lower as compared to other Bidder(s) in the first round of bidding shall be the Selected Bidder. For example, if the third and fifth lowest Bidders in the first round of bidding offer to match the said Lowest Bidder in the second round of bidding, the said third lowest Bidder shall be the Selected Bidder. It is hereby clarified that the Utility will not accept the entire capacity offered of the last Lowest Bidder in the order of progression, in the event the Capacity Required gets fulfilled by a part thereof."

Modified Clause as proposed by UPCL:

"In the event that the Lowest Bidder withdraws or is not selected for any reason in the first instance ~~or the capacity required is not met by the Lowest Bidder~~ (the "first round of bidding"), the Utility may invite all the remaining Bidders to revalidate or extend their respective Bid Security, as necessary, and match the Bid of the aforesaid Lowest Bidder (the "second round of bidding"). If in the second round of bidding, only one Bidder matches the Lowest Bidder, it shall be the Selected Bidder. If two or more Bidders match the said Lowest Bidder in the second round of bidding, then the Bidder whose Bid was lower as compared to other Bidder(s) in the first round of bidding shall be the Selected Bidder. For example, if the third and fifth lowest Bidders in the first round of bidding offer to match the said Lowest Bidder in the second round of bidding, the

said third lowest Bidder shall be the Selected Bidder.~~It is hereby clarified that the Utility will not accept the entire capacity offered of the last Lowest Bidder in the order of progression, in the event the Capacity Required gets fulfilled by a part thereof.~~"

Justification Submitted by UPCL:

UPCL submitted that the clause has been suitably modified to retain only the applicable scenario considering the tender structure, wherein the entire capacity is being proposed to be tied up from single bidder.

Commission's View:

Since the Commission has already approved the scheme of single bidder offering the entire capacity, the Commission approves the proposed modification.

ix. Clause no. 3.5.2 (a):

Clause in MBD:

"Since the Bidder is expected to source linkage coal from Coal India Limited (the "CIL") / Singareni Collieries Company Limited ("SCCL") or a subsidiary thereof] from the Allocated Coal Linkage and including Coal Limkage as per SHAKTI Policy [arranged by the Utility]11, the cost of Fuel which shall be included in the Fuel Charge shall be a „pass through" in accordance with the terms of the PSA-DBFOO. However, the element of coal transportation and transit losses may vary from case to case and shall affect the Fuel Charge offered by each Bidder. The Bid for the Project shall, therefore, comprise the Fixed Charge and Fuel Charge, which shall be specified separately, and the Bidder seeking the lowest Tariff shall be the Selected Bidder. The Base Fixed Charge shall not be more than 70% of the Tariff and the Base Fuel Charge shall not be more than 50% of the Tariff."

Modified Clause as proposed by UPCL:

"Since the Bidder is expected to source linkage coal from Coal India Limited (the "CIL") / Singareni Collieries Company Limited ("SCCL") or a subsidiary thereof from the Allocated Coal Linkage~~and including Coal Limkage~~ as per SHAKTI Policy arranged by the Utility, the cost of Fuel which shall be included in the Fuel Charge shall be a "pass through" in accordance with the terms of the PSA-DBFOO. However, the element of coal transportation and transit losses may vary from case to case and shall affect the Fuel Charge offered by each Bidder. The Bid for the Project shall, therefore, comprise the Fixed Charge and Fuel Charge, which shall be specified separately, and the Bidder seeking the lowest Tariff shall be the Selected Bidder. The Base Fixed

Charge shall not be more than ~~70%~~ 75% of the Tariff and the Base Fuel Charge shall not be more than 50% of the Tariff."

Justification Submitted by UPCL:

UPCL submitted that the existing condition as per MBD, that fixed charge shall not be more than 70%, effectively requires that the Fuel Charge quoted by Bidders must be at least 30% of the Total Tariff (considering the other component of fixed charge cannot be more than 70%). The same is a restrictive condition that prevents Bidders from quoting a lower fuel charge, even when it can, because adequate Fixed Charge to cover the fixed costs cannot be quoted due to such condition. The existing condition of fixed charge capped at 70% may result in the bidder being compelled to select a distant site from coal source to quote a higher fuel charge and may lead to higher tariff discovery. To avoid the above scenario relaxation in the said condition by changing the '70%' restriction on Fixed Charge to '75%' is being sought which may lead to flexibility of fuel charge going down up to 25% of total tariff and thereby leading to overall lower tariff. Evaluation of the "lowest Tariff" is based on the Total Lowest Tariff (Fixed cost + Variable cost).

UPCL further stated that, however, this suggested change may increase the percentage fixed cost of total energy tariff which has to be paid on monthly basis by UPCL but simultaneously it is also to mentioned that the bidders who can opt to locate their plants near the coal fields or at pit head may quote lower fuel charges which may ultimately lower the overall tariff.

Commission's View:

The Commission has considered the submission of the Petitioner and observes that the proposed modification seeks to enhance the ceiling of Base Fixed Charge from 70% to 75% of the Tariff, while retaining the overall competitive bidding framework and the evaluation of bids on the basis of the total Tariff. The Commission notes that in long-term coal-based procurement, particularly where linkage coal/allocated coal is available and fuel cost is largely treated as pass-through, a rigid 70% ceiling on Base Fixed Charge may constrain bidders having lower transportation cost, lower transit losses, or pit-head/near-coal-field advantages from reflecting such benefit through a lower Base Variable (Fuel) Charge. Permitting the Base Fixed Charge up to 75%

provides limited commercial flexibility to bidders and may enhance competition without altering the fundamental tariff-discovery principle, since the selected bidder would continue to be determined on the basis of the lowest total Tariff.

The Commission further observes that Regulatory practice in other States also recognises differentiated treatment of fixed and variable components in tariff design and power procurement, depending upon the nature of costs, pass-through mechanisms, and consumer interest. These frameworks indicate that regulatory design need not mechanically restrict the fixed component at a uniform level where the overall tariff remains competitively discovered and Variable (fuel) cost is generally pass-through.

The Commission is of the view that allowing Base Fixed Charge up to 75% would not, by itself, increase consumer liability unless the total Tariff discovered through competitive bidding is higher. On the contrary, the modification may allow bidders with locational or fuel-logistics advantage to quote lower fuel charge and thereby improve tariff discovery. The Commission, however, considers it necessary that the bid evaluation shall continue to be based on the total Tariff and that the tariff structure shall not permit any bidder to shift unreasonable commercial risk to consumers.

Accordingly, the Commission approves the proposed modification to enhance the ceiling of Base Fixed Charge from 70% to 75% of the Tariff, subject to bid evaluation continuing on the basis of the Total Tariff and subject to Variable (fuel) cost pass-through being governed by the PSA-DBFOO and the applicable regulatory framework.

x. Clause no. Appendix I – Sr. No.22:

Clause in MBD:

*"I/ We offer a Capacity of ***MW from (Capacity, Name and address of the Project) which conforms to clause 1.1.4 of the RFQ-DBFOO out of the Capacity Required of ***MW given under clause 1.1 of the RFQ-DBFOO."*

Modified Clause as proposed by UPCL:

*"I/ We offer a Capacity of ~~***~~1234 MW from ~~(Capacity, Name and address of the Project)~~ which conforms to clause 1.1.4 of the RFQ-DBFOO ~~out of the Capacity Required of ***MW given under~~*

~~*clause 1.1 of the RFQ-DBFOO*~~."

Justification Submitted by UPCL:

UPCL submitted that the plant Installed Capacity that will be committed to UPCL will be 1320 MW.

Further, as per CEA regulations:

Auxiliary Energy Consumption for 600 MW and above steam driven boiler feed pumps = 5.25%

Auxiliary Energy Consumption for FGD system = 1.2%

Total Auxiliary Energy Consumption =6.45%

Thus factoring Auxiliary Energy Consumption from the Capacity of 1320 MW plant, Contracted Capacity is derived as 1234 MW.

Commission's View:

The Commission is of the view that the clause enabling the bidder to indicate the capacity proposed to be offered at the CTU periphery may be retained in the bid documents. However, in the present proceedings the Commission does not approve specified quantum of 1234 MW proposed by the Petitioner. The admissibility and approval of the quantum proposed by UPCL is being examined by the Commission separately through a separate proceeding.

Moreover, the Commission observes that the Petitioner has considered the auxiliary consumption towards FGD consumption for computing the Contracted Capacity. The requirement of FGD system installation is no longer universally mandatory for every new coal-based thermal plant, rather it remains mandatory where it is required to meet applicable environmental norms/clearance conditions. Hence, the same cannot be anticipated in advance for determining the Contracted Capacity. Accordingly, each bidder has to assess its auxiliary consumption and bid accordingly for the quantum that would be delivered at the CTU periphery, and will be required to quote both the quantum to be delivered at CTU periphery and price for the same in the price bid, based on which the bids shall be evaluated. Furthermore, the bidder is also required to disclose the name and location of the plant as required under the SBD.

Accordingly, the proposed modification is approved only to the extent of permitting the aforesaid provision in the bid documents, without approval of the specific quantum of 1234 MW, which shall be considered by the Commission in separate proceedings.

xi. Clause no. Appendix I – Sr. No.31:

Clause in MBD:

"I/ We undertake to bear the transmission charges and transmission losses upto the point of delivery of electricity to the Utility from out of the Tariff offered below and in accordance with the terms to be set forth in the Power Supply Agreement."

Modified Clause as proposed by UPCL:

"I/ We undertake to bear the transmission charges and transmission losses, if applicable, upto the P~~p~~oint of Grid Connection~~delivery of electricity~~ to the Utility from out of the Tariff offered below and in accordance with the terms to be set forth in the Power Supply Agreement."

Justification Submitted by UPCL:

UPCL submitted that the modification has been proposed as Transmission Charges and Transmission Losses is in the scope of the utility beyond the point of grid connection.

Commission's View:

The Commission notes the submission made by UPCL and directs UPCL to incorporate the relevant Clause to the effect in the PSA document to be published by it, specifically clarifying that Transmission charges and Transmission losses, if applicable, upto the Point of Grid Connection shall be borne by the supplier from out of the Tariff offered in the bid without any additional financial liability on UPCL.

2.12 The modification proposed by the Petitioner w.r.t. the remaining clauses of the RFP, as summarized in the '**Annexure A**' annexed to this Order, are approved by the Commission based on the reasoning/justification supplied by the Petitioner. The Commission observes that the said proposed changes are procedural in nature, improves administrative efficiency, and are consistent with modern procurement practice, and no prejudice to bidders is caused by the said clarifications/modifications. However, as stated earlier, the Commission has reserved its opinion on the quantum of power to be procured through long term source as proposed by UPCL, and reference of quantum of power in any clause of the RFP shall not be deemed to be approved by the Commission, and the same has been left to be decided by the Petitioner at its own discretion based on its own evaluation and analysis of the requirement of power in the coming future. The same shall, however, be subject to final approval of the Commission through a separate proceeding being carried on for the purpose based on the Petition filed by UPCL.

2.13 Clauses related to PSA document floated by UPCL.

i. Clause no. Part I – Preliminary - A:

Clause in MBD:

*"The Utility had resolved to procure electricity from a power generating station that would dedicate a contracted capacity of *** MW for production of electricity and supply thereof to the Utility on design, build, finance, own and operate (the "DBFOO") basis by sourcing fuel [from the options given in clause 1.2.8 of RFQ-DBFOO & Clause 3.5.2 of RFP-DBFOO] in accordance with the terms and conditions to be set forth in a power supply agreement to be entered into under and in accordance with the provisions of the Electricity Act, 2003."*

Modified Clause as proposed by UPCL:

"The Utility had resolved to procure electricity from a power generating station that would dedicate a contracted capacity of 1234 MW for production of electricity and supply thereof to the Utility on design, build, finance, own and operate (the "DBFOO") basis by sourcing fuel ~~[from the options given in clause 1.2.8 of RFQ-DBFOO & Clause 3.5.2 of RFP-DBFOO]2~~the allocated Coal Linkage arranged by the Utility as per SHAKTI Scheme in accordance with the terms and conditions to be set forth in a power supply agreement to be entered into under and in accordance with the provisions of the Electricity Act, 2003."

Justification Submitted by UPCL:

UPCL submitted that the plant Installed Capacity that will be committed to UPCL will be 1320 MW.

Further, as per CEA regulations:

Auxiliary Energy Consumption for 600 MW and above steam driven boiler feed pumps = 5.25%

Auxiliary Energy Consumption for FGD system = 1.2%

Total Auxiliary Energy Consumption =6.45%

Thus factoring Auxiliary Energy Consumption from the Capacity of 1320 MW plant, Contracted Capacity is derived as 1234 MW

Commission's View:

The Commission is of the view that the clause enabling the bidder to indicate the capacity proposed to be offered at the CTU periphery may be retained in the bid documents. However, in the present proceedings the Commission does not approve specified quantum of 1234 MW proposed by the Petitioner. The admissibility and approval of the quantum proposed by UPCL is being examined by the Commission separately through a separate proceeding.

Further, as discussed above under the '**Clause no. Appendix I – Sr. No.22' of the RFP,** the Commission observed that the Petitioner has considered the auxiliary consumption towards FGD consumption for computing the Contracted Capacity. The requirement of FGD system installation is no longer universally mandatory for every new coal-based thermal plant, rather it remains mandatory where it is required to meet applicable environmental norms/clearance conditions. Hence, the same cannot be anticipated in advance for determining the Contracted Capacity. Further, each bidder has to assess its auxiliary consumption and bid accordingly for the quantum that would be delivered at the CTU periphery, and will be required to quote both the quantum to be delivered at CTU periphery and price for the same in the price bid, based on which the bids shall be evaluated. Furthermore, the bidder is also required to disclose the name and location of the plant as required under the SBD.

Accordingly, the provision is being allowed without approval of the proposed quantum, which shall be examined in separate proceedings. Further, the SHAKTI-based sourcing clarification may be incorporated, subject to consistency with the approved bidding documents and applicable framework.

ii. **Clause no. 4.1.2 (e):**

Clause in MBD:

Not available in MBD.

Modified Clause as proposed by UPCL:

"(e) executed and procured execution of the Substitution Agreement."

Justification Submitted by UPCL:

UPCL submitted that the same has been added in the Condition Precedents of the Utility as Substitution agreement is to be signed by utility as well as per 33.3.1 of PSA & Schedule P.

Commission's View:

The has noted the submission made by UPCL and directs UPCL to modify the said clause as follows:

"(e) executed the Substitution Agreement."

iii. **Clause no. 4.3:**

Clause in MBD:

"Damages for delay by the Supplier

In the event that (i) the Supplier does not procure fulfilment or waiver of any or all of the Conditions Precedent set forth in Clause 4.1.3 within the period specified in that Clause, and (ii) the delay has not occurred as a result of failure to fulfil the obligations under Clause 4.1.2 or other breach of this Agreement by the Utility or due to Force Majeure, the Supplier shall pay to the Utility Damages in an amount calculated at the rate of 0.3% (zero point three per cent) of the Performance Security for each day'"s delay until the fulfilment of such Conditions Precedent, subject to a maximum amount equal to the Bid Security, and upon reaching such maximum, the Utility may, in its sole discretion and subject to the provisions of Clause 9.2, terminate the Agreement. Provided that in the event of delay by the Utility in procuring fulfilment of the Conditions Precedent specified in Clause 4.1.2, no Damages shall be due or payable by the Supplier under this Clause 4.3 until the date on which the Utility shall have procured fulfilment of the Conditions Precedent specified in Clause 4.1.2."

Modified Clause as proposed by UPCL:

"Damages for delay by the Supplier

In the event that (i) the Supplier does not procure fulfilment or waiver of any or all of the Conditions Precedent set forth in Clause 4.1.3 within the period specified in that Clause, and (ii) the delay has *not occurred as a result of failure to fulfil the obligations under Clause 4.1.2 or other breach of this Agreement by the Utility or due to Force Majeure, the Supplier shall pay to the Utility Damages in an amount calculated at the rate of 0.3% (zero point three per cent) of the Performance Security for each day'"s delay until the fulfilment of such Conditions Precedent, subject to a maximum amount equal to the Bid Security, and upon reaching such maximum, the Utility may, in its sole discretion and subject to the provisions of Clause 9.2, terminate the Agreement. Provided that in the event of delay by the Utility in procuring fulfilment of the Conditions Precedent specified in Clause 4.1.2, no Damages shall be due or payable by the Supplier under this Clause 4.3 until the date on which the Utility shall have procured fulfilment of the Conditions Precedent specified in Clause 4.1.2. Provided further that in the event COD is achieved on or before the Scheduled Completion Date, the Damages paid under this Clause shall be refunded by the Utility to the Supplier, but without any interest thereon."*

Justification Submitted by UPCL:

UPCL submitted that it has proposed the refund of penalty levied due to delay in Condition Precedents if the COD is achieved in time, in line with the penalty reversal clause as already stated for delay in milestone if the COD is achieved in time.

Commission's View:

The Commission analysed the submission made by UPCL, and did not found the same to be reasonable, and therefore, the proposed modification is rejected by the Commission.

iv. Clause no. 18.3:

Clause in MBD:

"18.3 Committed Capacity

The Parties expressly acknowledge and undertake that the Contracted Capacity hereunder along with similar capacity contracted between the Supplier and other Distribution Licensees for supply of electricity in accordance with the provisions of Section 63 of the Act shall at all times be dedicated for production of electricity and supply thereof to the Utility and/or other Distribution Licensees with whom such agreements have been signed (the "Committed Capacity") and shall be utilised in accordance with the instructions of the Utility and/or such Distribution Licensees, save and except as provided in this Agreement."

Modified Clause as proposed by UPCL:

"18.3 Committed Capacity

<Omitted>"

Justification Submitted by UPCL:

UPCL submitted that the clause allows the supplier to treat the contracted capacity together with capacity contracted with other Distribution Licensees as a common "Committed Capacity" and to operate it as per the instructions of multiple utilities. Further, as the proposed tender requires entire capacity to be bid and supplied by a single bidder exclusively for UPCL, retaining this clause would have been redundant. Therefore, deletion of this clause ensures that the entire contracted capacity remains exclusively dedicated to UPCL under this agreement.

Commission's View:

Since the Commission has already approved the scheme of single bidder offering the entire capacity, the Commission approves the proposed modification.

v. Clause no. 18.4:

Clause in MBD:

"18.4 Open Capacity

18.4.1 The Parties expressly acknowledge and agree that save and except as provided in Clause 18.4.2, 20% (twenty per cent) of the Contracted Capacity and the Committed Capacity, as the case may be, shall be available to the Supplier for production and supply of electricity to any person, in accordance with Applicable Laws and this Agreement (the "Open Capacity") and the terms of such sale may, save and except as provided in this Agreement, be determined by the Supplier at its discretion.

18.4.2 Notwithstanding anything to the contrary contained in this Agreement, the provisions for and in respect of Open Capacity shall not apply to any agreement for supply of electricity to a Distribution Licensee if such agreement has been signed on or before December 31, 2014."

Modified Clause as proposed by UPCL:

"18.4 Open Capacity

<Omitted>"

Justification Submitted by UPCL:

UPCL submitted that the modification is in line with the provision that the complete capacity needs to be bided by a single bidder.

Commission's View:

Since the Commission has already approved the scheme of single bidder offering the entire capacity, the Commission approves the proposed modification.

vi. Clause no. 18.5:

Clause in MBD:

"18.5 Sale of unutilised Committed Capacity

18.5.1 In the event that any part of the entitlement of the Utility to the Contracted Capacity is not utilised by the Utility or its nominees, the same shall be deemed to be Committed Capacity, but only for the period when it is not being utilised or is not scheduled for utilisation by the Utility. If any Contracted Capacity, deemed as Committee Capacity hereunder, is utilised for production of electricity and sale thereof to any other Distribution Licensee specified in Clause 18.3, the Fixed Charge due and payable for and in respect of such Contracted Capacity shall, subject to the provisions of Clause 18.5.2, be recovered by the Supplier from such Distribution Licensee as if the electricity has been supplied to the Utility. If such Contracted Capacity is not utilised for any Distribution Licensee hereunder, the Supplier may use the whole or part thereof as Open Capacity, provided that the use of Allocated Coal, if any, for production of electricity from such Open Capacity shall be governed by the provisions of Clause 22.6. For the avoidance of doubt, the Parties agree that supply of electricity to a nominee of the Utility shall be subject to provision of adequate payment security either by the nominee or by the Utility. The Parties further agree that in the event any such Contracted Capacity remains unsold hereunder, the Fixed Charge in respect thereof shall be due and payable by the Utility to the Supplier.

18.5.2 Without prejudice to the provisions of Clause 18.5.1, the Fixed Charge due and payable by the Utility to the Supplier, for and in respect of the Contracted Capacity utilised for production of electricity and sale thereof to other Distribution Licensees or Buyers, as the case may be, shall be deemed to be waived and no Fixed Charge shall, therefore, be due or payable by the Utility in respect thereof; provided that the Utility may, in its sole discretion, agree to pay to the Supplier such proportion of the waived Fixed Charge, and in such manner, as it may determine from time to time. For the avoidance of doubt, the Parties agree that that the Supplier may, at its own risk and cost, give such discount as it deems fit on the Fixed Charge payable by the Distribution Licensees or Buyers, as the case may be.

18.5.3 In the event that any part of the Committed Capacity is not utilised by the Distribution Licensees specified in Clause 18.3, the Supplier shall offer the same, with a notice of at least 3 *(three) working days, to the Utility and other such Distribution Licensees upon payment of Tariff, and only upon failure of the Utility and the other Distribution Licensees to communicate acceptance of such supply within such 3 (three) working days, the Supplier may sell the same to Buyers in accordance with the provisions of this Agreement."*

Modified Clause as proposed by UPCL:

"18.5 Sale of unutilised ~~Committed~~ Contracted Capacity

18.5.1 In the event that any part of the entitlement of the Utility to the Contracted Capacity is not utilised by the Utility or its nominees, and such unutilized ~~the same shall be deemed to be Committed Capacity, but only for the period when it is not being utilised or is not scheduled for utilisation by the Utility. If any~~ Contracted Capacity, ~~deemed as CommitteCapacity hereunder,~~ is utilised for production of electricity and sale thereof to any other Buyer(s), ~~Distribution Licensee specified in Clause 18.3,~~ the Fixed Charge due and payable for and in respect of such Contracted Capacity shall~~, subject to the provisions of Clause 18.5.2,~~ be recovered by the Supplier from such Buyers(s) ~~Distribution Licensee as if the electricity has been supplied to the Utility. If such Contracted Capacity is not utilised for any Distribution Licensee hereunder, the Supplier may use the whole or part thereof as Open Capacity, p~~Provided that the use of Allocated Coal, if any, for production of electricity from such ~~Open~~ Capacity shall be governed by the provisions of Clause 22.6. For the avoidance of doubt, the Parties agree that supply of electricity to a nominee of the Utility shall be subject to provision of adequate payment security either by the nominee or by the Utility. The Parties further agree that in the event any such Contracted Capacity remains unsold hereunder, the Fixed Charge in respect thereof shall be due and payable by the Utility to the Supplier.

18.5.2 <Omitted>

18.5.3 <Omitted>"

Justification Submitted by UPCL:

UPCL submitted that the modification is in line with the provision that the complete capacity needs to be bided by a single bidder.

Commission's View:

The Commission has examined the proposed modification submitted by UPCL. It is noted that the proposed changes are intended to align Clause 18.5 with the requirement that the complete capacity is to be bid by a single bidder and to avoid ambiguity regarding the sale and treatment of unutilised Contracted Capacity. The substitution of "Committed Capacity" with "Contracted Capacity" and the consequential omission of sub-clauses 18.5.2 and 18.5.3 are considered consistent with the proposed contractual framework, provided that the rights and obligations relating to payment security, use of allocated coal, recovery of applicable charges, and liability for unsold capacity remain duly protected under the modified clause and other applicable provisions of the Agreement.

Accordingly, the Commission approves the proposed modification to Clause 18.5 as submitted by UPCL.

vii. Clause no. 24.1.2:

Clause in MBD:

"Pursuant to the provisions of Clause 24.1.1, the Supplier shall plan the production and Despatch of electricity and convey its availability for scheduling thereof by the SLDC or RLDC, as the case may be, and shall supply electricity in accordance with the provisions of the Grid Code and the Act."

Modified Clause as proposed by UPCL:

"Pursuant to the provisions of Clause 24.1.1, the Supplier shall plan the production and Despatch of electricity and convey its availability for scheduling thereof by the SLDC or RLDC, as the case may be, and shall supply electricity in accordance with the provisions of the Grid Code, applicable regulations in respect of deviation settlement (UI Regulation) and the Act."

Justification Submitted by UPCL:

UPCL submitted that the modification has been proposed to bring in more clarity.

Commission's View:

The Commission has noted the submission made by UPCL and directs UPCL to modify the said clause as follows:

"Pursuant to the provisions of Clause 24.1.1, the Supplier shall plan the production and Despatch of electricity and convey its availability for scheduling thereof by the SLDC or RLDC, as the case may be, and shall supply electricity in accordance with the provisions of the Grid Code, applicable Regulations and the Act."

viii. Clause no. 24.1.3:

Clause in MBD:

"Scheduling and supply of electricity from Open Capacity may be undertaken by the Supplier in such manner as it may determine in conformity with the Grid Code."

Modified Clause as proposed by UPCL:

"<Omitted>"

Justification Submitted by UPCL:

UPCL submitted that the modification is in line with the provision that the complete capacity needs to be bided by a single bidder.

Commission's View:

Since, the Commission has already approved the scheme of single bidder offering the entire capacity, the Commission approves the proposed modification.

ix. Clause no. Article 39 – Definitions

Clause in MBD:

"Grid Code" means the Indian Electricity Grid Code 2010 or any substitute thereof;"

Modified Clause as proposed by UPCL:

""Grid Code" means the Central Electricity Regulatory Commission (Indian Electricity Grid Code) ~~2010~~ Regulations or any substitute thereof;"

Justification Submitted by UPCL:

UPCL submitted that the modification has been proposed based on latest Rules.

Commission's View:

The Commission analysed the submissions made by UPCL and directs it to modify the clause as follows:

""Grid Code" means the Central Electricity Regulatory Commission (Indian Electricity Grid Code) 2023-Regulations or any substitute thereof;

x. Clause no. Annexure I - Schedule B:

Clause in MBD:

"All Units of the Power Station shall be capable of increasing or decreasing their output (generation level) by not less than 3% (three per cent) per minute. Such capability shall at all times be demonstrated during the Unit load of 50% (fifty per cent) or more. Each Unit of the Power Station shall have the capacity to ramp up from a cold start and reach full capacity within a period of 8 (eight) hours from the time of each start."

Modified Clause as proposed by UPCL:

"All Units of the Power Station shall be capable of increasing or decreasing their output (generation level) by not less than 3% (three per cent) per minute. Such capability shall at all times be demonstrated during the Unit load of 50% (fifty per cent) or more. Each Unit of the Power Station shall have the capacity to ramp up from a cold start and reach full capacity within a period of ~~8 (eight)~~ 12 (Twelve) hours from the time of each start ."

Justification Submitted by UPCL:

UPCL submitted that as submitted by the bidders, all OEM's currently are not able to offer the required ramp-rate of 8 hours and only provide ramp-rate for 12 hours. Further, in order to accommodate the request of bidders in their pre-bid queries, the same has been incorporated in the tender document.

Commission's View:

The Commission observes that the proposed modification relates only to the time required by each Unit to ramp up from cold start to full capacity, while retaining the requirement that all Units shall be capable of increasing or decreasing output by not less than 3% per minute when operating at 50% load or above. The Commission further notes that the CEA framework for flexible operation of coal-based thermal generating units recognises ramping capability, technical minimum operation, start-up/shutdown capability, OEM design limitations, unit-specific technical assessment, and system security as relevant considerations for determining operational flexibility. Similarly, the CERC framework under the Indian Electricity Grid Code emphasises secure and reliable grid operation, scheduling and despatch in accordance with grid requirements, and compliance with directions of the appropriate load despatch centre. In this context, relaxation of the cold-start ramp-up period from 8 hours to 12 hours does not dilute the continuing ramp-rate obligation during normal operation and is consistent with a technically feasible start-up trajectory for coal-based thermal generating units, subject to adherence to applicable CEA/CERC norms and directions of the concerned load despatch centre.

Accordingly, the Commission approves the proposed modification of the cold-start ramp-up period upto 12 hours, subject to the generating station meeting the prescribed ramp-rate requirement during operation, maintaining technical and operational parameters in accordance with applicable CEA/CERC norms, and complying with scheduling/despatch instructions issued by the appropriate load despatch centre.

xi. Clause no. Annex-III - Schedule C

Clause in MBD:

"Subject to the provisions of Paragraph 2 of this Annex-III, in the event the Utility Dispatches the Power Station at a level lower than 85% (eighty five per cent) of its entitlement in the Contracted Capacity, the SHR shall be deemed to be increased as specified below.

...

...

Notwithstanding anything to the contrary contained in this Annex-III, the benefit of an increase in SHR shall at all times be subject to an actual reduction in generation of electricity and in the event any reduction in Dispatch by the Utility is off-set by Dispatch to any other buyer, the benefit of an increase in SHR shall be computed only in respect of the remaining shortfall, if any."

Modified Clause as proposed by UPCL:

"Subject to the provisions of Paragraph 2 of this Annex-III, in the event the Utility Dispatches the Power Station at a level lower than 85% (eighty five per cent) on a 15 (fifteen) minute time block basis of its entitlement in the Contracted Capacity, the SHR shall be deemed to be increased as specified below.

...

...

Notwithstanding anything to the contrary contained in this Annex-III, the benefit of an increase in SHR shall at all times be subject to an actual reduction in generation of electricity and in the event any reduction in Dispatch by the Utility is off-set by Dispatch to any other buyer, the benefit of an increase in SHR shall be computed only in respect of the remaining shortfall, if any.

For the avoidance of doubt, it is clarified that any adjustment in SHR as per above shall be applied on a 15 minute time block basis."

Justification Submitted by UPCL:

UPCL submitted that the bidders in their prebid queries submitted that the calculation of dispatch of power is provided in 15 min time block basis, and accordingly, computation of compensation for increased SHR due to lower dispatch, should also be made on a 15-minute time block basis. UPCL further submitted that on the basis of scheduling and dispatch of power in 15 min time block, the SHR shall also be adjusted on a 15 min time block basis.

Commission's View:

The introduction of 15-minute time block treatment for SHR adjustment is consistent with the scheduling and despatch framework under which power is scheduled in similar time blocks. Such clarification brings consistency between the operational framework governing dispatch and the compensation mechanism applicable for increased SHR, thereby reducing ambiguity in implementation and ensuring parity in treatment of both parties. At the same time, the existing proviso that the benefit of an increase in SHR shall remain subject to an actual reduction in generation, and shall stand limited to the net shortfall after accounting for dispatch to any other buyer, continues to operate as an adequate safeguard against unwarranted claims. In these circumstances, the proposed modification is found to be clarificatory in nature and commercially balanced.

Since the modification improves operational symmetry between despatch instructions and heat rate adjustment, therefore the Commission allows the same.

However, the Commission directs the Petitioner to undertake the necessary upgradation of its scheduling, metering, accounting and settlement systems, including the associated software and operational processes, so as to enable accurate computation and implementation of SHR adjustment on a 15-minute time block basis. To carryout such contractual obligation, requisite timely steps required to be taken shall be ensured and such upgradation shall be carried out expeditiously and in any event before the amended provision is operationalized, so that the revised mechanism is administered in a transparent, verifiable and dispute-free manner.

xii. Clause no. Schedule D – Performance Security:

Clause in MBD:

"(A) ….(the "Supplier") and [the …. Distribution Company] represented by and having its principal offices at …. ("Utility") have entered into a Power Supply Agreement dated … (the "Agreement") whereby the Utility has agreed to the Supplier undertaking the construction and operation of the Power Station with a generating capacity of ….. MW in the State of …. on design, build, finance, own and operate (the "DBFOO") basis, subject to and in accordance with the provisions of the Agreement."

Modified Clause as proposed by UPCL:

"(A) ….(the "Supplier") and [the …. Distribution Company] represented by and having its principal offices at …. ("Utility") have entered into a Power Supply Agreement dated … (the "Agreement") whereby the Utility has agreed to the Supplier undertaking the construction and operation of the Power Station with a generating capacity of ….. MW ~~in the State of ….~~ anywhere in India on design, build, finance, own and operate (the "DBFOO") basis, subject to and in accordance with the provisions of the Agreement."

Justification Submitted by UPCL:

UPCL submitted that the bidders are free to locate the thermal power plant at any location within India, hence, the requirement of the State in the PBG format is removed.

Commission's View:

The proposed deletion of the location-specific reference in the performance security format reduces clarity regarding the power station to which the guarantee relates. Even if the plant may be located anywhere in India, the format should still identify the location once finalized rather than omit the place reference altogether. Further, the change of location of the Plant shall not be allowed to the bidder during the entire tenure of the agreement.

The modification, as proposed, is therefore not approved. Further, UPCL is directed to include clarification that the 'bidder shall not be allowed to change the location of the Plant during the entire tenure of the PSA, i.e., 25 years'.

2.14 The Commission also directs UPCL to modify the Clause No. Annexure-I – Schedule C as appearing at S.No. 46 of Annexure- B of this Order to modify the reference to "Central Electricity Authority Technical Standards for construction of Electrical Plants and Electrical Lines) Regulations 2010" as "Central Electricity Authority Technical Standards for construction of Electrical Plants and Electrical Lines) Regulations 2022".

2.15 The modification proposed by the Petitioner in the remaining clauses of the PSA, as summarized in the '**Annexure B**' annexed to this Order, are approved by the Commission based on the reasoning/justification supplied by the Petitioner. The Commission observes that the said proposed changes are procedural in nature, improves administrative efficiency, and are consistent with modern procurement practice, and no prejudice to bidders is caused by the said clarifications/modifications. However, as stated earlier, the Commission has reserved its opinion on the quantum of power to be procured through long term source as proposed by UPCL, and reference of quantum of power in any clause of the PSA shall not be deemed to be approved by the Commission, and the same has been left to be decided by the Petitioner at its own discretion based on its own evaluation and analysis of the requirement of power in the coming future. The same shall, however, be subject to final approval of the Commission through a separate proceeding being carried on for the purpose based on the Petition filed by UPCL.

2.16 The Commission would like to further clarify that the deviations approved by the Commission shall be read in consonance to the provisions of applicable Rules and Regulations and the provisions of the Electricity Act, 2003. Consequently, if required, UPCL shall incorporate the necessary changes to that extent.

2.17 In view of the foregoing clause-wise examination, the Commission's views are recorded as above. The Petitioner shall revise the bidding documents and PSA strictly in accordance with the above findings, incorporate all required clarifications, and ensure that the final documents are internally consistent before further processing.

2.18 **The Commission would like to once again clarify that this Order is only limited to the extent of approval for modification/deviation sought by UPCL in the RFP and PSA documents and should not be construed, in any way, to be approval for quantum of power projection made by UPCL, which shall be dealt separately by the Commission while dealing with the Petition filed by UPCL seeking approval of procurement quantum of 1320 MW RTC Coal based power on long term basis.**

2.19 Ordered accordingly.

(Prabhat Kishor Dimri) **Member (Technical)**	**(Anurag Sharma)** **Member (Law)**	**(M.L. Prasad)** **Chairman**

Annexure A

Clauses related to RFP Document floated by UPCL

Sr No	Clause No. (MBD)	Clause No. in Document	Clause in MBD	Modified Clause as proposed by UPCL	UPCL Response
1.	2.1.5	2.1.5	The Bid should be furnished in the format at Appendix–I, clearly indicating the Bid amount in both figures and words, in Indian Rupees, and signed by the Bidder's authorised signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.	The Bid should be ~~furnished~~ uploaded on the portal in the format at Appendix–I, clearly indicating the Bid amount in both figures and words, in Indian Rupees, and signed by the Bidder's authorised signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.	Modification for Online Process
2.	NA	2.10.3	NA	New Clause:The Applicant shall submit their Bid online on the DEEP portal, signed by a valid digital signature of the authorized signatory of the Applicant.	Modification for Online Process. "DEEP Portal" developed by PFC Consulting Ltd.is authorized bidding portal established by the Ministry of Power (MoP), Government of India. Bidders are generally aware about the requirements as in the DEEP portal.
3.	2.11.2	2.11.2	(a) Bid Security in the format at Appendix–II; . ….	(a) Original Bid Security in the format at Appendix–II, atleast seven days prior to the Bid Due Date; . …...	Modification to ensure early submission of Bid Security amount to ensure serious participation. As per the current tender provision, Bidders will have an option to provide Bid Security only in the form of a demand draft or a bank guarantee acceptable to the Utility.
4.	2.11.4	2.11.4	The three envelopes specified in Clauses 2.11.1, 2.11.2 and 2.11.3 shall be placed in an outer envelope, which shall be sealed. Each of the four envelopes shall clearly bear the following identification: ….	The ~~three~~ two envelopes specified in Clauses ~~2.11.1,~~ 2.11.2 and 2.11.3 shall be placed in an outer envelope, which shall be sealed and submitted to UPCL at the address provided in Clause 2.11.5 at least 7(seven) days prior to the bid due date, failing which bid submitted by such bidder shall be summarily rejected	All other documents other than the price bid hardcopy submission is taken 7 days in advance for ease of evaluation of documents.

Sr No	Clause No. (MBD)	Clause No. in Document	Clause in MBD	Modified Clause as proposed by UPCL	UPCL Response
				by the Utility as non-responsive.. Each of the ~~four~~ envelopes shall clearly bear the following identification:	
5.	2.12.1	2.12.1	Bids should be submitted latest by *** hours IST on the Bid Due Date at the address provided in Clause 2.11.5 in the manner and form as detailed in this RFP-DBFOO. A receipt thereof should be obtained from the person specified at Clause 2.11.5.	Bids should be submitted latest by ~~***~~14:00 hours IST on the Bid Due Date at the address provided in Clause 2.11.5 and on the portal in the manner and form as detailed in this RFP-DBFOO. Hardcopy documents to be submitted at the address provided in Clause 2.11.5 as per timelines as specified in Clause 2.11.1 and 2.11.4. A receipt thereof should be obtained from the person specified at Clause 2.11.5.	Modification for Online Process
6.	2.15.2	2.15.2	The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.11, with the envelopes being additionally marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL", as appropriate.	Omitted ~~The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.11, with the envelopes being additionally marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL", as appropriate.~~	Modification for Online Process
7.	3.1.1	3.1.1	The Utility shall open the Bids at *** hours on the Bid Due Date, at the place specified in Clause 2.11.5 and in the presence of the Bidders who choose to attend.	The Utility shall open the Bids at ~~***~~17:00 hours IST on the Bid Due Date~~, at the place specified in Clause 2.11.5 and in the presence of the Bidders who choose to attend~~.	Modification for Online Process
8.	3.2.1	3.2.1	Prior to evaluation of Bids, the Utility shall determine whether each Bid is responsive to the requirements of this RFP-DBFOO. A Bid shall be considered responsive only if: (a) it is received as per the format at Appendix–I; (b) it is received by the Bid Due Date including any extension thereof pursuant	Prior to evaluation of Bids, the Utility shall determine whether each Bid is responsive to the requirements of this RFP-DBFOO. A Bid shall be considered responsive only if: (a) it is received and submitted online on the Portal as per the format at Appendix–I; (b) it is received and submitted online on the Portal by the Bid Due Date including any extension thereof	Modification for Online Process

Sr No	Clause No. (MBD)	Clause No. in Document	Clause in MBD	Modified Clause as proposed by UPCL	UPCL Response
			to Clause 2.12.2; (c) it is signed, sealed, bound together in hard cover and marked as stipulated in Clauses 2.10 and 2.11; (d)..... . . .	pursuant to Clause 2.12.2; (c) it is duly signed by the authorized signatory of the bidder, sealed, bound together in hard cover and marked as stipulated in Clauses 2.10 and 2.11; (d)..... . . .	
9.	Appendix I Sr No.25	Appendix I Sr No.25	The documents accompanying the Bid, as specified in Clause 2.11.2 of the RFP-DBFOO, have been submitted in a separate envelope and marked as "Enclosures of the Bid".	The documents accompanying the Bid, as specified in Clause 2.11.2 of the RFP-DBFOO, have been submitted online on the Portal and also in a separate envelope and marked as "Enclosures of the Bid".	Modification for Online Process
10.	Appendix I Sr No.33	Appendix I Sr No.33	I/ We hereby submit the following Bid and offer, as on the Bid Due Date, in accordance with the provisions of the Power Supply Agreement and Clause 3.5 of this RFP-DBFOO- [A tariff comprising a Fixed Charge of Rs.… and paise …. $ per kWh (Rupees.… and paise.…) and a Fuel Charge comprising of (a) Rs. .... and paise …. $ per kWh (Rupees .... and paise ….) per kWh on account of cost of Fuel, (b) Rs and paise …. $ per kWh (Rupees.... and paise ….) per kWh on account of transportation, (c) Rs. .... and paise …. $ (Rupees .... and paise ….) per kWh on account of washing, (d) Rs. .... and paise …. $ (Rupees .... and paise ….) per kWh on account of crushing charges, and (e) Rs. .... and paise ….$ (Rupees and paise) per kWh on account	I/ We hereby submit the following Bid and offer, as on the Bid Due Date, in accordance with the provisions of the Power Supply Agreement and Clause 3.5 of this RFP-DBFOO- ~~[~~A tariff comprising a Fixed Charge of Rs.… and paise …. $ per kWh (Rupees.… and paise.…) and a Fuel Charge comprising of (a) Rs. .... and paise …. $ per kWh (Rupees .... and paise ….) per kWh on account of cost of Fuel, (b) Rs and paise …. $ per kWh (Rupees.... and paise ….) per kWh on account of transportation, (c) Rs. .... and paise …. $ (Rupees .... and paise ….) per kWh on account of washing, ~~(d) Rs. .... and paise …. $ (Rupees .... and paise ….) per kWh on account of crushing charges, and (e) Rs. .... and paise ….$ (Rupees and paise) per kWh on account of Other Charges][23]~~	Modification to simplify the bid format

<table>
<tr><th>Sr No</th><th>Clause No. (MBD)</th><th>Clause No. in Document</th><th>Clause in MBD</th><th>Modified Clause as proposed by UPCL</th><th>UPCL Response</th></tr>
<tr><td></td><td></td><td></td><td>of Other Charges][23]</td><td>Bid Format:
<table>
<tr><th>Bid Parameters</th><th>Unit</th><th>Rs and paise (in three decimals)</th></tr>
<tr><td></td><td></td><td></td></tr>
<tr><td>(1) Fixed Charge as on Bid Due Date</td><td>per kWh</td><td></td></tr>
<tr><td></td><td></td><td></td></tr>
<tr><td>(2) Fuel Charge = Sum of (a)+(b)+(c)</td><td>per kWh</td><td></td></tr>
<tr><td>(a) Weighted Average Cost of Fuel</td><td>per kWh</td><td></td></tr>
<tr><td>(b) Weighted Average Cost of transportation</td><td>per kWh</td><td></td></tr>
<tr><td>(c) Weighted Average Cost of Washing</td><td>per kWh</td><td></td></tr>
<tr><td></td><td></td><td></td></tr>
<tr><td>basis</td><td></td><td></td></tr>
<tr><td>Weighted Average As Delivered Price of Coal at loading point of mines</td><td>INR/T</td><td><To be provided by the Utility></td></tr>
<tr><td>Weighted Average GCV of Coal as delivered at the loading point of the mines as per Appendix VI</td><td>kCal/kg</td><td><To be provided by the Utility></td></tr>
<tr><td>Weighted Average Distance from loading point of mines from proposed plant location</td><td>km</td><td><To be provided by the Bidder></td></tr>
<tr><td>Weighted Average Freight (inclusive of applicable taxes) payable to Railways for transportation (applicable for full rake load)</td><td>INR/T</td><td><To be provided by the Bidder></td></tr>
<tr><td>Weighted Average CIL cost of Washing (inclusive of applicable taxes)</td><td>INR/T</td><td><To be provided by the Bidder></td></tr>
<tr><td>Total Tariff = Sum of (1) + (2)</td><td>per kWh</td><td></td></tr>
</table>
For the above purpose "As Delivered Price" means the price of CIL or its Subsidiaries at the loading point of the mine with all applicable taxes, levies and add-ons (surface transportation charges, sizing/crushing charges, rapid loading charges, and any other applicable charges of CIL/Subsidiaries) and shall not include any compensation for Short-delivery/short lifting and penalty/interest for delayed payments by the Supplier to Fuel Supplier.</td><td></td></tr>
<tr><td>11.</td><td>Appendix I Footnote</td><td>Appendix I Footnote</td><td>$ Paise may be quoted only in whole numbers.</td><td>~~$ Paise may be quoted only in whole numbers.~~</td><td>Deleted since as per bid format tariff is being quoted upto three decimal places</td></tr>
<tr><td>12.</td><td>Appendix III Power of Attorney for signing of Bid</td><td>Appendix III

Power of Attorney for signing of Bid</td><td>Know all men by these presents, We, … (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr./Ms(Name), son/daughter/ wife of … and presently residing at…, who is presently employed with us/ the Lead Member of our Consortium and</td><td>Know all men by these presents, We, … (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr. / Ms (Name), son/daughter/wife of … and presently residing at…, who is presently employed with us/ the Lead Member of our Consortium and holding the position of …, as our true and lawful attorney (hereinafter referred to as the</td><td>Power Project is being developed by the bidder and not the Utility</td></tr>
</table>

Sr No	Clause No. (MBD)	Clause No. in Document	Clause in MBD	Modified Clause as proposed by UPCL	UPCL Response
			holding the position of …, as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Bid for the *** Power Project proposed or being developed by the *** (the "Bidder") including but not limited to signing and submission of all applications, Bids and other documents and writings, participate in Bidders' and other conferences and providing information / responses to the Utility, representing us in all matters before the Utility, signing and execution of all contracts including the Power Supply Agreement and undertakings consequent to acceptance of our Bid, and generally dealing with the Utility in all matters in connection with or relating to or arising out of our Bid for the said Project and/or upon award thereof to us and/or till the entering into of the Power Supply Agreement with the Utility……..	"Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Bid for the ~~***~~ 1320 MW Power Project proposed or being developed by the ~~***~~ (the "~~Utility~~Bidder") including but not limited to signing and submission of all applications, Bids and other documents and writings, participate in Bidders' and other conferences and providing information / responses to the Utility, representing us in all matters before the Utility, signing and execution of all contracts including the Power Supply Agreement and undertakings consequent to acceptance of our Bid, and generally dealing with the Utility in all matters in connection with or relating to or arising out of our Bid for the said Project and/or upon award thereof to us and/or till the entering into of the Power Supply Agreement with the Utility………	

<u>Annexure B</u>

Clauses related to PSA Document floated by UPCL

Sr No	Clause No. (MBD)	Clause No. in Document	Clause in MBD	Modified Clause as proposed by UPCL	UPCL Response
1.	4.1.3 C	4.1.3 C	C. executed the Fuel Supply Agreement	C.-<Omitted>	Modification as the tender is based SHAKTI Scheme
2.	5.1.4	5.1.4	The Supplier shall install, operate and maintain the Power Station in accordance with the Specifications and Standards and the Maintenance Requirements such that the Availability of the Contracted Capacity of the Power Station is at least 90% (ninety per cent) thereof during each year of the Operation Period (the "Normative Availability"). Explanation: Availability of the Power Station to its full capacity shall, in respect of any hour, mean the capacity of the Power Station to the extent it is offered by the Supplier for producing and supplying electrical energy equal to [950 (nine hundred and fifty)][14] kWh per mega watt of Contracted Capacity over a period of one hour, after accounting for auxiliary consumption, and transmission losses upto the Point of Grid Connection, and for any month or year, as the case may be, the hours during that month or year when the Contracted Capacity of the Power Station is fully available for production of electricity shall be expressed as a percentage of total hours in that month or year, as the	The Supplier shall install, operate and maintain the Power Station in accordance with the Specifications and Standards and the Maintenance Requirements such that the Availability of the Contracted Capacity of the Power Station is at least 90% (ninety per cent) thereof during each year of the Operation Period (the "Normative Availability"). Explanation: Availability of the Power Station to its full capacity shall, in respect of any hour, mean the capacity of the Power Station to the extent it is offered by the Supplier for producing and supplying electrical energy ~~equal to [950 (nine hundred and fifty)][14] kWh per mega watt of~~ equivalent to Contracted Capacity over a period of one hour, after accounting for auxiliary consumption, and transmission losses upto the Point of Grid Connection, and for any month or year, as the case may be, the hours during that month or year when the Contracted Capacity of the	The provision has been modified to clarify that the availability of the power station should be equivalent to the Contracted Capacity.

Sr No	Clause No. (MBD)	Clause No. in Document	Clause in MBD	Modified Clause as proposed by UPCL	UPCL Response
			case may be, and shall include the deemed availability for and in respect of the events described in Clause 15.8 (the "Availability"). For the avoidance of doubt, the Parties agree that Availability shall, during the months when COD or the Transfer Date occurs, be determined with reference to the number of days when the Power Station was in operation, and shall be determined likewise for any single day of operation. The Parties further agree that if the Contracted Capacity of the Power Station is not Available for production of electricity to its full capacity during any hour, or part thereof, not being less than a quarter of an hour, such hour or part thereof shall, in the computation of Availability, be reduced proportionate to the Non-Availability during that hour. The Parties also agree that the determination of Availability hereunder shall be solely for the purposes of this Agreement and shall not in any manner affect the rights and obligations of the Supplier for and in respect of scheduling and despatch of electricity under Applicable Laws and the rules and regulations thereunder.	Power Station is fully available for production of electricity shall be expressed as a percentage of total hours in that month or year, as the case may be, and shall include the deemed availability for and in respect of the events described in Clause 15.8 (the "Availability"). For the avoidance of doubt, the Parties agree that Availability shall, during the months when COD or the Transfer Date occurs, be determined with reference to the number of days when the Power Station was in operation, and shall be determined likewise for any single day of operation. The Parties further agree that if the Contracted Capacity of the Power Station is not Available for production of electricity to its full capacity during any hour, or part thereof, not being less than a quarter of an hour, such hour or part thereof shall, in the computation of Availability, be reduced proportionate to the Non-Availability during that hour. The Parties also agree that the determination of Availability hereunder shall be solely for the purposes of this Agreement and shall not in any manner affect the rights and obligations of the Supplier for and in respect of scheduling and despatch of electricity under Applicable Laws and the rules and regulations thereunder.	

Sr No	Clause No. (MBD)	Clause No. in Document	Clause in MBD	Modified Clause as proposed by UPCL	UPCL Response
3.	5.5	5.5	**5.5 Obligations relating to transmission charges** The Supplier shall be liable for payment of all charges, due and payable under Applicable Laws, for inter-state and intra-state transmission of electricity from the Point of Grid Connection to the Delivery Point. For the avoidance of doubt, the Parties expressly agree that inter-state and intra-state transmission of electricity shall be undertaken solely at the risk and cost of the Supplier and all liabilities arising out of any failure of inter-state and intra-state transmission shall, subject to the provisions of Clause 21.4.3, be borne by the Supplier. The Parties further agree that the obligation of the Supplier to pay the regulated charges for transmission of electricity shall be restricted to the tariffs and rates applicable on the Bid Date for and in respect of 80% (eighty per cent) of Contracted Capacity and any differential arising from revision of the regulated tariffs and rates thereafter shall be payable or recoverable, as the case may be, by the Utility. The Parties also agree that the regulated charges applicable for transmission of electricity referred to hereinabove as on the Bid Date shall be deemed to be Rs. ... (Rupees ...) for and in respect of 80% (eighty per cent) of the Contracted Capacity£, which charges shall at all times be due and payable by the Supplier.	**5.5 Obligations relating to transmission charges** <Omitted>	Modification as Transmission Charges and Transmission Losses is in the scope of the utility beyond the point of grid connection.
4.	5.6	5.6	**5.6 Obligations relating to transmission**	**5.6 Obligations relating to**	Modification as Transmission

Sr No	Clause No. (MBD)	Clause No. in Document	Clause in MBD	Modified Clause as proposed by UPCL	UPCL Response
			losses 5.6.1 The Supplier shall be liable for the transmission losses in all inter-state and intra- state transmission of electricity from the Point of Grid Connection to the Delivery Point. For the avoidance of doubt, the Parties expressly agree that transmission of electricity shall be undertaken solely at the risk and cost of the Supplier and all liabilities arising out of any transmission losses on inter-state and intra-state transmission lines shall be borne by the Supplier. The Parties further agree that the obligation of the Supplier to bear the transmission losses shall be restricted to the level of losses determined by the Central Commission as on the Bid Date for this Project and any differential (higher or lower) arising from revision in the level of losses thereafter by the Central Commission shall be borne by the Utility. 5.6.2 The Supplier represents and warrants that it has ascertained and assessed the applicable transmission losses from the Point of Grid Connection to the Delivery Point as determined by the Appropriate Commission for and in respect of the Bid Date, and expressed in the form of their proportion to the electricity supplied hereunder at the Point of Grid Connection. The Supplier acknowledges, agrees and undertakes that the product of such transmission losses (expressed in kWh) and the Tariff shall be due and payable by the	**transmission losses** 5.6.1 <Omitted> 5.6.2 <Omitted>	Charges and Transmission Losses is in the scope of the utility beyond the point of grid connection.

Sr No	Clause No. (MBD)	Clause No. in Document	Clause in MBD	Modified Clause as proposed by UPCL	UPCL Response
			Supplier to the Utility and shall be adjusted in the relevant Monthly Invoice. For the avoidance of doubt and by way of illustration, the Parties agree that if the transmission losses in any month are equivalent to 1(one) lakh units and the Tariff payable for that month is Rs. 3 (Rupees three) per kWh, an amount of Rs. 3,00,000 (Rupees three lakh) shall be due and payable by the Supplier to the Utility and shall be adjusted in the Monthly Invoice for that month.		
5.	9.3	9.3	**9.3 Release of Performance Security** The Performance Security shall remain in force and effect until expiry of 3 (three) months after COD, and shall be released upon the Performance Guarantee taking effect in accordance with the provisions of Clause 9.4. Until such time the Performance Guarantee comes into effect, the Performance Security shall remain in force and effect, and upon the Performance Guarantee coming into effect pursuant hereto, the Utility shall release the Performance Security to the Supplier.	**9.3 Release of Performance Security** The Performance Security shall remain in force and effect until expiry of 3 (three) months after COD of the last unit, and shall be released upon the Performance Guarantee taking effect in accordance with the provisions of Clause 9.4. Until such time the Performance Guarantee comes into effect, the Performance Security shall remain in force and effect, and upon the Performance Guarantee coming into effect pursuant hereto, the Utility shall release the Performance Security to the Supplier.	Modification as the project involves multiple units. The new station is envisaged in configuration of two units (660 MW each). Performance Security has been stipulated to remain valid till COD of the last unit to ensure performance security is available till 3 months from commissioning of full contracted capacity. It is submitted that as per the Model PSA, Commercial Operations Date ("COD") has been defined as commercial operation date of the Power Station or any Unit, as the case may be.. In view of the above, for clarity, it is explicitly specified as COD of the last unit.
6.	9.4.1	9.4.1	The Supplier shall, for the performance of its obligations hereunder during the Operation Period, be deemed to provide to the Utility upon occurrence of COD, an irrevocable and unconditional guarantee pursuant to the	The Supplier shall, for the performance of its obligations hereunder during the Operation Period, be deemed to provide to the Utility upon occurrence of COD of the last unit, an irrevocable	Modification as the project involves multiple units. The new station is envisaged in configuration of two units (660 MW each). Performance Security has been stipulated to remain

Sr No	Clause No. (MBD)	Clause No. in Document	Clause in MBD	Modified Clause as proposed by UPCL	UPCL Response
			provisions of this Clause 9.4 (the "Performance Guarantee"), for a sum equivalent to the Fixed Charge due and payable by the Utility to the Supplier for Normative Availability in respect of a period of 15 (fifteen) days in accordance with the provisions of this Agreement.................	and unconditional guarantee pursuant to the provisions of this Clause 9.4 (the "Performance Guarantee"), for a sum equivalent to the Fixed Charge due and payable by the Utility to the Supplier for Normative Availability in respect of a period of 15 (fifteen) days in accordance with the provisions of this Agreement..................	valid till COD of the last unit to ensure performance security is available till 3 months from commissioning of full contracted capacity. It is submitted that as per the Model PSA, Commercial Operations Date ("COD") has been defined as commercial operation date of the Power Station or any Unit, as the case may be. In view of the above, for clarity, it is explicitly specified as COD of the last unit.
7.	11.2.1	11.2.1	The Supplier shall complete construction of the Power Station as specified in Schedule-B, and in conformity with the Specifications and Standards set forth in Schedule-C. The [1,050th (one thousand and fiftieth)][17] day from the Appointed Date shall be the scheduled date for completion of the Power Station (the **"Scheduled Completion Date"**) and the Supplier agrees and undertakes that construction of the Power Station shall be completed on or before the Scheduled Completion Date. For the avoidance of doubt, the Parties agree that the construction of Power Station hereunder shall include construction of a dedicated transmission system for point to point transmission of electricity from the generating station to the Point of Grid Connection, as specified in Schedule-B, and in conformity with the Specifications and Standards set forth in	The Supplier shall complete construction of the Power Station as specified in Schedule-B, and in conformity with the Specifications and Standards set forth in Schedule-C. The ~~[1,050th (one thousand and fiftieth)][17]day~~ 42 (Fourty Two) months and 48 (Fourty Eight) months from the Appointed Date shall be the scheduled date for completion of Unit #1 & Unit #2 of the Power Station respectively (the "**Scheduled Completion Date**") and the Supplier agrees and undertakes that construction of the Power Station shall be completed on or before the Scheduled Completion Date. For the avoidance of doubt, the Parties agree that the construction of Power Station hereunder shall include construction of a dedicated transmission system for	Changes with respect to Scheduled Completion Date of Unit 1 and Unit 2. As per the Resource Adequacy Plan of Uttarakhand, the additional coal-based power requirement is projected at 500 MW in 2029–30, 1000 MW in 2030–31, and 1309 MW in 2031–32. A 500 MW medium-term contract has already been executed for 4 years (2026–27 to 2029–30) with a provision for 1-year extension in 2030–31.Considering that the PSA under the long-term tender is likely to be executed in May/June 2026, it is proposed to revise the indicative commissioning timeline of 36 months (1050 days) as per MBD to 42 months for Unit-1 and 48 months for Unit-2 from the Appointed Date, in order to avoid overlap with the medium-term

Sr No	Clause No. (MBD)	Clause No. in Document	Clause in MBD	Modified Clause as proposed by UPCL	UPCL Response
			Schedule-C (the **"Dedicated Transmission System"**).	point to point transmission of electricity from the generating station to the Point of Grid Connection, as specified in Schedule-B, and in conformity with the Specifications and Standards set forth in Schedule-C (the "**Dedicated Transmission System**").	contracted power and prevent surplus availability. Accordingly, the long-term tender is expected to provide 617 MW in 2030–31 and 1234 MW in 2031–32, resulting in total contracted capacity of 500 MW in 2029–30, 617 MW (+ optional 500 MW medium-term) in 2030–31, and 1234 MW in 2031–32, broadly aligning with the projected requirement of the State.
8.	13.4.1	13.4.1	At least 30 (thirty) days prior to the likely synchronisation of the Power Station to the Grid, the Supplier shall notify the [Utility/Utility‟s Engineer][19] and the RLDC or SLDC, as the case may be, of its intent to undertake such synchronisation.	At least 30 (thirty) days prior to the likely synchronisation of any unit of the Power Station to the Grid, the Supplier shall notify the [Utility/Utility‟s Engineer][19] and the RLDC or SLDC, as the case may be, of its intent to undertake such synchronisation.	Before 30 days of synchronisation of any unit of the power plant the SLDC and RLDC is to be informed. Unit wise synchronization has been envisaged by the utility as Scheduled Completion Date (SCD) of the two units are separated by a period of 6 months and thus the grid synchronization of each of the units can occur independently. Also the same is detailed in the clause 13.6 of the PSA.
9.	13.6	13.6	**13.6 Phased completion of Power Station** The Power Station may, for the purposes of completion, be divided into [3 (three) distinct Units, namely, Unit A comprising about *** MW; Unit B comprising about *** MW; and Unit C comprising about *** MW,][20] and the Provisional Certificate may be issued separately for each of the Units, whereupon the Tariff based on the Availability of such Unit shall become	**13.6 Phased completion of Power Station** The Power Station may, for the purposes of completion, be divided into ~~[3~~ 2(~~three~~ two) distinct Units, namely, Unit A comprising about 660~~***~~ MW; Unit B comprising about 660~~***~~ MW;~~ and Unit C comprising about *** MW,][20]~~ and the Provisional Certificate may be issued separately for	Changes with respect to Scheduled Completion Date of Unit 1 and Unit 2. As per the Resource Adequacy Plan of Uttarakhand, the additional coal-based power requirement is projected at 500 MW in 2029–30, 1000 MW in 2030–31, and 1309 MW in 2031–32. A 500 MW medium-term contract has already been executed for 4 years (2026–27 to 2029–30) with a provision for 1-year extension in 2030–31.

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			payable and the provisions of this Agreement shall apply mutatis mutandis to each such Unit. For the avoidance of doubt, the Parties agree that upon completion of any Unit hereunder, the provisions of this Agreement shall apply to that Unit as if it is the Power Station, and the rights and obligations of the Supplier for and in respect of that Unit shall be construed accordingly. The Parties also agree that if the Provisional Certificate for Unit A is issued at any time after the 3rd (third) anniversary of the Appointed Date, the provisions of Clause 14.1.2 shall not apply. The Parties also agree that the Concessionaire may, by notice issued to the Utility no later than the 1st (first) anniversary of the Appointed Date, determine the Scheduled Completion Date of the 1st (first) Unit to be a date which may be upto 365 (three hundred and sixty five) days prior to the Scheduled Completion Date of the Power Station as specified in Schedule-E, and in such an event the provisions of Clause 14.1.2 shall apply as if the Scheduled Completion Date specified therein is substituted by the scheduled completion date determined under this Clause 13.6.]	each of the Units, whereupon the Tariff based on the Availability of such Unit shall become payable and the provisions of this Agreement shall apply mutatis mutandis to each such Unit. For the avoidance of doubt, the Parties agree that upon completion of any Unit hereunder, the provisions of this Agreement shall apply to that Unit as if it is the Power Station, and the rights and obligations of the Supplier for and in respect of that Unit shall be construed accordingly. The Parties also agree that if the Provisional Certificate for Unit A is issued at any time after ~~the 3rd (third) anniversary of~~ 42 months from the Appointed Date, the provisions of Clause 14.1.2 shall not apply. The Parties also agree that the Concessionaire may, by notice issued to the Utility no later than the 1st (first) anniversary of the Appointed Date, determine the Scheduled Completion Date of the 1st (first) Unit to be a date which may be upto 365 (three hundred and sixty five) days prior to the Scheduled Completion Date of the Power Station as specified in Schedule-E, and in such an event the provisions of Clause 14.1.2 shall apply as if the Scheduled Completion Date specified therein is substituted by the scheduled completion date determined under this Clause 13.6.~~]~~	Considering that the PSA under the long-term tender is likely to be executed in May/June 2026, it is proposed to revise the indicative commissioning timeline of 36 months (1050 days) as per MBD to 42 months for Unit-1 and 48 months for Unit-2 from the Appointed Date, in order to avoid overlap with the medium-term contracted power and prevent surplus availability. Accordingly, the long-term tender is expected to provide 617 MW in 2030–31 and 1234 MW in 2031–32, resulting in total contracted capacity of 500 MW in 2029–30, 617 MW (+ optional 500 MW medium-term) in 2030–31, and 1234 MW in 2031–32, broadly aligning with the projected requirement of the State.

Sr No	Clause No. (MBD)	Clause No. in Document	Clause in MBD	Modified Clause as proposed by UPCL	UPCL Response
10.	18.6	18.6	**18.6 Substitute Supply** In the event the Availability of the Power Station is reduced on account of Scheduled Maintenance, Unscheduled Maintenance or Force Majeure, the Supplier may, with prior consent of the Utility, which consent the Utility may deny in its sole discretion or convey acceptance with such conditions as it may deem fit, supply electricity from any alternative source, including Merchant Capacity, if any, and such supply shall, for payment of Fixed Charge and Fuel Charge, be deemed to be supply under and in accordance with the provisions of this Agreement.	**18.6 Substitute Supply** In the event the Availability of the Power Station is reduced on account of Scheduled Maintenance, Unscheduled Maintenance or Force Majeure, or any Unforeseen Event/ other events the Supplier may, with prior consent of the Utility, which consent the Utility may deny in its sole discretion or convey acceptance with such conditions as it may deem fit, supply electricity from any alternative source, including Merchant Capacity, if any, and such supply shall, for payment of Fixed Charge and Fuel Charge, be deemed to be supply under and in accordance with the provisions of this Agreement, subject to that any additional cost regarding transmission charges and transmission losses including additional SLDC and RLDC charges if any upto the Point of Grid Connection to be borne by the supplier. Provided that in case such consent is denied by the Utility, the Utility shall be liable for payment of Fixed Charge to the Supplier in proportion to the Substitute Supply made available by the Supplier .	Alternate power is provided and for payment fixed charge and fuel charge is as per the provisions in this agreement. The addition of unforeseen event/other event is only to broadbase the list of events in which the Supplier may supply electricity from any alternative source at the Tariff as per the PSA. Considering, the alternate supply of power will be at the same tariff as PSA and that the same shall be only with the prior consent of the Utility, and also that any incremental transmission charges on this account have to be borne by the Supplier, the enabling modifications to the clause may be considered reasonable.
11.	21.2.4	21.2.4	The Initial Fixed Charge shall be deemed to be the Base Fixed Charge for the Accounting Year in which COD occurs, and for each subsequent Accounting Year, the applicable Base Fixed Charge shall be determined by	The Initial Fixed Charge shall be deemed to be the Base Fixed Charge for the Accounting Year in which ~~COD~~ Scheduled Completion Date of Power Station occurs, and for each subsequent	This modification protects the Utility and penalizes the Supplier in case there is a delay in achievement of COD as the reduction in Base Fixed Charge commences from SCD

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			decreasing the Base Fixed Charge for the immediately preceding Accounting Year by 2% (two per cent) thereof. For the avoidance of doubt and by way of illustration, the Base Fixed Charge for the first Accounting Year in which COD occurs shall be the Initial Fixed Charge, and for the second and third Accounting Years subsequent to the Accounting Year in which COD occurs, shall be a sum equal to 98% (ninety eight per cent) and 96.04% (ninety six point zero four per cent) respectively of the Initial Fixed Charge.	Accounting Year, the applicable Base Fixed Charge shall be determined by decreasing the Base Fixed Charge for the immediately preceding Accounting Year by 2% (two per cent) thereof. For the avoidance of doubt and by way of illustration, the Base Fixed Charge for the first Accounting Year in which ~~COD~~ Scheduled Completion Date of Power Station occurs shall be the Initial Fixed Charge, and for the second and third Accounting Years subsequent to the Accounting Year in which ~~COD~~ Scheduled Completion Date of Power Station occurs, shall be a sum equal to 98% (ninety eight per cent) and 96.04% (ninety six point zero four per cent) respectively of the Initial Fixed Charge. It is hereby clarified that in case COD of the Power Station is delayed beyond the Scheduled Completion Date of the Power Station, the 2% reduction in Base Fixed Charge shall commence from the subsequent Accounting Year in which the Scheduled Completion Date of the Power Station was scheduled to occur. In the event COD is achieved prior to the Scheduled Completion Date, the utility shall have the first right of refusal to procure such power and Fixed Charge shall be payable only to the extent of power procured. In the event the Utility does not procure power no Fixed Charge shall be	irrespective of the delayed COD. Thus, modification of the existing provision will lead to timely and possibility of early supply to Utility and prevent delay in scheduled supply. It may also be noted that Utility has proposed no fixed charge liability on account of early COD as against 70% of the fixed charge payable to the Supplier as per model PSA. The Utility shall retain the right of first refusal to procure such power and fixed charge shall be payable only to the extent of the power procured.

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				payable (as against 70% of the Fixed Charge as stipulated in article 14.1.2) to the Supplier for the period prior to the Scheduled Completion Date.	
12.	21.4.1	21.4.1	Subject to the provisions of this Clause 21.4, the Base Fixed Charge, as corrected for variation in WPI Index in accordance with Clause 21.3 shall be the Fixed Charge payable for Availability in each month of the relevant Accounting Year.	Subject to the provisions of this Clause 21.4, the Base Fixed Charge, as corrected for variation in WPI Index in accordance with Clause 21.3 shall be the Fixed Charge payable for Cumilative Availability ~~in~~ upto each month of the relevant Accounting Year.	Other States which have invited tender in recent times have done changes in similar lines. Also the medium term tender release by UPCL have incorporated similar changes
13.	21.4.3	21.4.3	In the event that any shortfall in supply of electricity to the Utility occurs on account of deficiency in transmission between the Point of Grid Connection and Delivery Point, Availability shall be deemed to be reduced in accordance with the provisions of Clause 21.5.3 and the Non-Availability arising as a consequence thereof shall, for the purposes of payment of Fixed Charge, be deemed to be Availability to the extent of 50% (fifty per cent) of the Non-Availability hereunder. Provided, however, that the Supplier may, in its sole discretion, Despatch the Power Station to the extent of full or part Non-Availability hereunder for supply to other Distribution Licensees or Buyers, as the case may be, and to the extent of such Despatch, the Utility shall not be liable to payment of any Fixed Charge due and payable in accordance with the provisions of this Clause 21.4.3. Provided further that the provisions of this Agreement for and in respect of Tariff and Revenue Share shall	In the event that any shortfall in supply of electricity to the Utility occurs on account of deficiency in transmission beyond ~~between~~ the Point of Grid Connection~~ and Delivery Point~~, Availability shall be deemed to be reduced in accordance with the provisions of Clause 21.5.3 and the Non-Availability arising as a consequence thereof shall, for the purposes of payment of Fixed Charge, be deemed to be Availability to the extent of 50% (fifty per cent) of the Non-Availability hereunder. Provided, however, that the Supplier may, in its sole discretion, Despatch the Power Station to the extent of full or part Non-Availability hereunder for supply to other Distribution Licensees or Buyers, as the case may be, and to the extent of such Despatch, the Utility shall not be liable to payment of any Fixed Charge due and payable in accordance with the	Modification as Transmission beyond the point of grid connection is in the scope of the Utility. Transmission constraints may occur at the grid level, over which UPCL has no control, as the Central Transmission Grid is operated by PGCIL. Similarly, the Supplier also does not have any control over such situations. As the transmission charges and transmission losses up to the point of grid connection are proposed to be within the scope of the Supplier, the transmission charges and losses beyond the point of grid connection shall be the responsibility of the Utility. Since the scenario of transmission constraint is beyond the control of both the Supplier and the Utility, it is proposed that the associated risk of Non-Availability be shared equally

Sr No	Clause No. (MBD)	Clause No. in Document	Clause in MBD	Modified Clause as proposed by UPCL	UPCL Response
			apply to such supply. For the avoidance of doubt, the Parties expressly agree that if such deficiency in transmission is caused by an action or omission attributable to the Supplier, it shall not be reckoned for the purposes of computing Availability hereunder.	provisions of this Clause 21.4.3. Provided further that the provisions of this Agreement for and in respect of Tariff and Revenue Share shall apply to such supply. For the avoidance of doubt, the Parties expressly agree that if such deficiency in transmission is caused by an action or omission attributable to the Supplier, it shall not be reckoned for the purposes of computing Availability hereunder.	between the Supplier and the Utility.
14.	21.5.3	21.5.3	In the event that any shortfall in supply of electricity to the Utility occurs on account of any deficiency in transmission between the Point of Grid Connection and Delivery Point, the Availability shall be deemed to be reduced to the extent of reduction in transmission of electricity, and the reduction referred to hereinabove shall be deemed as Non-Availability on account of deficiency in transmission. For the avoidance of doubt and by way of illustration, the Parties agree that if such deficiency in transmission is equal to 20% (twenty per cent) of the entitlement of the Utility in the Contracted Capacity, the Availability shall be deemed to be 80% (eighty per cent) and the Non-Availability hereunder shall be notified by the Supplier to the Utility forthwith.	In the event that any shortfall in supply of electricity to the Utility occurs on account of any deficiency in transmission ~~between~~ beyond the Point of Grid Connection ~~and Delivery Point~~, the Availability shall be deemed to be reduced to the extent of reduction in transmission of electricity, and the reduction referred to hereinabove shall be deemed as Non-Availability on account of deficiency in transmission. For the avoidance of doubt and by way of illustration, the Parties agree that if such deficiency in transmission is equal to 20% (twenty per cent) of the entitlement of the Utility in the Contracted Capacity, the Availability shall be deemed to be 80% (eighty per cent) and the Non-Availability hereunder shall be notified by the Supplier to the Utility forthwith.	Modification as Transmission beyond the point of grid connection is in the scope of the Utility. Transmission constraints may occur at the grid level, over which UPCL has no control, as the Central Transmission Grid is operated by PGCIL. Similarly, the Supplier also does not have any control over such situations. As the transmission charges and transmission losses up to the point of grid connection are proposed to be within the scope of the Supplier, the transmission charges and losses beyond the point of grid connection shall be the responsibility of the Utility. Since the scenario of transmission constraint is beyond the control of both the Supplier and the Utility, it is proposed that the associated risk of Non-Availability be shared equally

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					between the Supplier and the Utility.
15.	21.9.2	21.9.2	The Tariff and Incentives payable by the Utility under this Article 21 shall be exclusive of Service Tax, Electricity Duty, Value Added Tax or General Sales Tax, Custom Duty on Fuel or any replacement thereof, if applicable, and any Service Tax, Electricity Duty, Value Added Tax or General Sales Tax and Custom Duty on fuel thereon shall be paid by the Supplier and reimbursed by the Utility upon submission of necessary particulars by the Supplier.	The Tariff and Incentives payable by the Utility under this Article 21 shall be exclusive of Service Tax, Electricity Duty, Goods and Service Tax (GST),Value Added Tax or General Sales Tax, Custom Duty on Fuel or any replacement thereof, if applicable, and any Service Tax, Electricity Duty,Goods and Service Tax (GST), Value Added Tax or General Sales Tax and Custom Duty on fuel thereon shall be paid by the Supplier and reimbursed by the Utility upon submission of necessary particulars by the Supplier.	Added GST in the list of Taxes which will not form a part of the tariff and incentive as taxes are not a part of tariffs and incentive
16.	21.10.2	21.10.2	The Supplier shall, with each Monthly Invoice submit, (a) a certificate that the amounts claimed in the invoice are correct and in accordance with the provisions of the Agreement; (b) proof of Availability for the period billed, comprising evidence of communications regarding the extent of Non-Availability from time to time; (c) official documents in support of the variation in WPI as specified in Clause 21.3; (d) detailed calculations of the Fixed Charge for Availability in accordance with this Article 21; (e) detailed calculations of the Fuel Charge, in respect of the electricity dispatched, computed in accordance with Article 22; (f) detailed calculations of the Incentives and/or Damages in accordance with Clause	The Supplier shall, with each Monthly Invoice submit, (a) a certificate that the amounts claimed in the invoice are correct and in accordance with the provisions of the Agreement; (b) proof of Availability and Despatch as given by SLDC/RLDC in State/Regional Energy Account, as the case may be, and shall be subject to subsequent corrections/revisions by appropriate authority and amended REA shall be binding on the parties for the period billed, comprising evidence of communications regarding the extent of Non-Availability from time to time; (c) official documents in support of the variation in WPI as specified in Clause 21.3; (d) detailed calculations of the Fixed Charge for Availability in	Modification to bring in more clarity on billing

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				accordance with this Article 21; (e) detailed calculations of the Fuel Charge, in respect of the electricity dispatched, computed in accordance with Article 22; (f) detailed calculations of the Incentives and/or Damages in accordance with Clause	
17.	21.10.3	21.10.3	The Utility shall, within 30 (thirty) days of receipt of a Monthly Invoice in accordance with Clause 21.10.1 (the "**Payment Due Date**"), make payment of the amount claimed directly, through electronic transfer, to the nominated bank account of the Supplier, save and except any amounts which it determines as not payable or disputed (the "**Disputed Amounts**").	The Utility/Supplier shall, within 30 (thirty) days of receipt of a Monthly Invoice in accordance with Clause 21.10.1, Supplementary Invoice in accordance with Clause 21.13 (the "**Payment Due Date**"), make payment of the amount claimed directly, through electronic transfer, to the nominated bank account of the Supplier, save and except any amounts which it determines as not payable or disputed (the "**Disputed Amounts**").	Provision of Supplementary Invoice added
18.	NA	21.13	New Clause	**Supplementary Invoice** 21.13.1 Either Party may raise a bill on the other Part" ("Supplementary Invoice) for payment on account of: i. Adjustments required by the State/ Regional Energy Account (if applicable); or ii. Change in Law as provided in Article 34, and such Supplementary Bill shall be paid by the other Party. 21.13.2 The Utility or the Supplier, as the case may be, shall pay the amount	Supplementary Invoice is added with the same terms of payment as per regular monthly invoice

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				payable under the Supplementary Bill on or before the Payment Due Date as per the terms and conditions laid down in the agreement for the payment of regular monthly invoices being raised. 21.13.3 In the event of delay in payment of a Supplementary Invoice by either Party in accordance with Clause 21.11.2 above, the provisions of Article 21.15 shall apply.	
19.	22.2.5	22.2.5	The total cost of transportation of imported Fuel, forming part of the Landed Fuel Cost, shall be the lower of, (a) the indicative cost of transportation as specified in the Bid, in US cents, and (b) [20% (twenty per cent)] of the price of Fuel, as specified in the Bid, to which 110% (one hundred and ten per cent) of the freight payable to the Indian Railways shall be added for inland transportation, if any, and the total freight charges so determined as on the Bid Date shall be revised from time to time to reflect the variation occurring in the Freight Index: Provided that the Supplier shall normally undertake shipment of Fuel, comprising no less than 90% (ninety per cent) of its annual import, under long term contracts which have a duration of one year or more, and the cost of transportation hereunder shall be computed and paid at the rate specified in such contracts. Provided further that the freight charges payable under such long term contracts shall	<Omitted>	Modification as the tender is based SHAKTI Scheme. Imported coal is not required

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			not exceed the lower of, (i) the freight charge determined as on the Bid Date and adjusted to reflect the variation in Freight Index from time to time, and (ii) the average freight payable under similar contracts entered into during a period of 180 (one hundred and eighty) days preceding the date of that contract, and where information relating to such contracts is not available, then 90% (ninety per cent) of the amount computed under sub-clause (i) hereinabove. Provided also that the cost of transportation due and payable by the Utility to the Supplier shall in no case exceed the actual cost incurred by the Supplier. Explanation: For the purposes of this Clause 22.2.5, Freight Index for shipping shall be computed by assigning a weightage of [40% (forty per cent) and 60% (sixty per cent) respectively] or such relative weightage as the Parties may with mutual agreement determine from time to time, to the Baltic Dry Index and the Singapore 380 CST Bunker Fuel Price Index, or any substitute thereof as the Parties may mutually agree, and determining the arithmetic mean of such indices for a period of 3 (three) calendar months preceding the month in which Fuel is loaded on a ship, and in the case of transportation by rail, the freight charges shall always be deemed to be equal to 110% (one hundred and ten per cent) of the freight payable to the Indian Railways.		

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20.	22.4.1	22.4.1	Prior to the Appointed Date, the Supplier shall have executed an agreement with a supplier of Fuel for supply of Fuel sufficient for generating electricity at no less than [55% (fifty five per cent)] of the Contracted Capacity during each month for a period of at least [20 (twenty) years] commencing from COD]41, substantially in accordance with the provisions of Clause 22.5 (the "Fuel Supply Agreement" or "FSA") or shall have executed all the agreements for the Coal Mine/Blocks under Applicable Laws]. Upon execution of the FSA between the Supplier and the supplier of Fuel, the same shall be assigned by the Supplier in favour of the Utility prior to the Appointed Date. [Provided, however, that the provisions of this Clause 22.4.1 shall not apply in respect of Fuel procured at the prevailing market prices in accordance with the provisions of this Agreement or the fuel sourced from Coal Mine/Blocks.] For the avoidance of doubt, the Parties agree that the rights of the Utility arising from such assignment shall be limited to procuring that the Allocated Coal is used only in accordance with the provisions of this Agreement and for no other purpose.	Prior to the Scheduled Completion Date ~~Appointed Date~~, the Supplier shall have executed an agreement with a supplier of Fuel for supply of Fuel sufficient for generating electricity at no less than [85~~55~~% (~~fifty five~~ eighty five per cent)] of the Contracted Capacity during each month for a period of at least [25~~0~~ (twenty-five) years] commencing from Scheduled Completion Date ~~COD~~]41, substantially in accordance with the provisions of Clause 22.5 (the "Fuel Supply Agreement" or "FSA") ~~or shall have executed all the agreements for the Coal Mine/Blocks under Applicable Laws]. Upon execution of the FSA between the Supplier and the supplier of Fuel, the same shall be assigned by the Supplier in favour of the Utility prior to the Appointed Date. [Provided, however, that the provisions of this Clause 22.4.1 shall not apply in respect of Fuel procured at the prevailing market prices in accordance with the provisions of this Agreement or the fuel sourced from Coal Mine/Blocks.] For the avoidance of doubt, the Parties agree that the rights of the Utility arising from such assignment shall be limited to procuring that the Allocated Coal is used only in accordance with the provisions of this Agreement and for no~~	Prior to Scheduled Completion date Supplier needs to sign FSA sufficient to generate electricity at no less than 85% and for a period of 25 Years (PPA Period). Contracted capacity means capacity of 1234 MW which will be delivered to UPCL. With respect to the modification in this clause, the same is to ensure that the supplier should have executed Fuel Supply Agreement(FSA) before the Scheduled Completion Date as coal under the FSA shall be used for generation of power as per requirement of contracted capacity.

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				~~other purpose.~~	
21.	22.4.3	22.4.3	The Fuel procured under the FSA shall be utilised by the Supplier for production of electricity to be supplied to the Utility as part of the Contracted Capacity and only the surplus, if any, may be used for Open Capacity, subject to the provisions of Clause 22.6.	The Fuel procured under the FSA shall be utilised by the Supplier for production of electricity to be supplied to the Utility as part of the Contracted Capacity and only for the sale of the unutilized Contracted Capacity to Buyers ~~the surplus~~, if any, ~~may be used for Open Capacity~~, subject to the provisions of Clause 22.6.	Sale of unutilized power to buyers
22.	22.5 (a)	22.5 (a)	The minimum annual quantity of Fuel to be supplied under the FSA shall be sufficient for generating electricity for Despatch of at least 55% (fifty five per cent) of the Contracted Capacity during each month (the "**MACQ**");	The minimum annual quantity of Fuel to be supplied under the FSA shall be sufficient for generating electricity for Despatch of at least 85% (eighty five per cent) ~~55% (fifty five per cent)~~ of the Contracted Capacity during each month (the "**MACQ**");	MACQ to be equivalent to Normative availability
23.	24.2	24.2	**24.2 Settlement of UI charges** 24.2.1 All payments due to or from the Supplier on account of any unscheduled interchange in terms of the UI Regulations (the "Unscheduled Interchange" or "UI") shall be solely to the account of and borne by the Supplier, save and except as provided in Clauses 24.2.2 and 24.2.3. 24.2.2 Subject to the provisions of the Applicable Laws, the Utility shall have the first right to Despatch, in the form of UI, any surplus electricity generated from the entitlement of the Utility in the Contracted Capacity by utilising the Fuel procured under Clause 22.4, and 90% (ninety per cent) of the revenues accruing from such UI	**24.2 Settlement of UI charges** 24.2.1 All payments due to or from the Supplier on account of any ~~unscheduled interchange~~ deviation in terms of the ~~UI~~DSM Regulations including any amendments (the "~~Unscheduled Interchange" or "UI~~Deviation") shall be solely to the account of and borne by the Supplier, save and except as provided in Clauses 24.2.2 and 24.2.3. 24.2.2 Subject to the provisions of the Applicable Laws, the Utility shall have the first right to Despatch, in the form of ~~UI~~Deviation, any surplus electricity generated from the entitlement of the Utility in the Contracted Capacity by	Modification based on recent DSM Regulations

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			charges, after deducting an amount equal to the Tariff payable for such electricity, shall be paid by the Supplier to the credit of the Utility and the balance remaining may be appropriated by the Supplier. 24.2.3	utilising the Fuel procured under Clause 22.4, and 90% (ninety per cent) of the revenues accruing from such ~~UI~~ charges for Deviation, after deducting an amount equal to the Tariff payable for such electricity, shall be paid by the Supplier to the credit of the Utility and the balance remaining may be appropriated by the Supplier. 24.2.3	
24.	28.4 (a)	28.4 (a)	Change in Law, only if consequences thereof cannot be dealt with under and in accordance with the provisions of Article 34 and its effect, in financial terms, exceeds the sum specified in Clause 34.1;	Change in Law, only if consequences thereof cannot be dealt with under and in accordance with the provisions of Article 34 and its effect, in financial terms, exceeds the sum ~~specified in Clause 34.1~~ of Rs.1 crore (Rupees one crore) or 0.1% (zero point one percent) of the Capacity Charge in any Accounting Year whichever is higher;	Since Article 34 has been amended in line with Latest Change in Law rules, the reference to clause 34.1 has been removed, however, the threshold specified in the said clause have been retained and specified in this clause itself.
25.	34	34	Change in Law 34.1 Increase in costs 34.2 Reduction in costs 34.3 Protection of NPV 34.4 Restriction on cash compensation 34.5 No claim in the event of recovery from Buyers	Change in Law *Modified as per revised GR regarding Change in Law* Attached in Appendix I	As per latest Change in Law Rules
26.	38.4.1	38.4.1	The Parties hereto agree that payments due from one Party to the other Party under the provisions of this Agreement shall be made within the period set forth therein, and if no such period is specified, within 30 (thirty) days of receiving a demand along with the necessary particulars. Unless otherwise	The Parties hereto agree that payments due from one Party to the other Party under the provisions of this Agreement shall be made within the period set forth therein, and if no such period is specified, within 30 (thirty) days of receiving a demand along with the	Modification based on latest Late Payment Surcharge Rules

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			specified in this Agreement, in the event of delay beyond such period, the defaulting Party shall pay interest for the period of delay calculated at a rate equal to 5% (five per cent) above the Bank Rate, and recovery thereof shall be without prejudice to the rights of the Parties under this Agreement including Termination thereof.	necessary particulars. Unless otherwise specified in this Agreement, in the event of delay beyond such period, a late payment Surcharge shall be payable by the defaulting Party ~~shall pay interest~~ for the period of delay calculated in accordance with the Electricity ((Late Payment Surcharge and related Matters) Rules 2022, as amended from time to time (**"Late Payment Surcharge"**) ~~at a rate equal to 5% (five per cent) above the Bank Rate~~, and recovery thereof shall be without prejudice to the rights of the Parties under this Agreement including Termination thereof.	
27.	Article 39 Definitions	Article 39 Definitions	NA	**"Additional Auditor"** shall have the meaning as set forth in Clause 27.2.3;	Defined Additional Auditor
28.	Article 39 Definitions	Article 39 Definitions	NA	**"Award"** shall have the meaning as set forth in clause 36.3.3 ;	Defined Award
29.	Article 39 Definitions	Article 39 Definitions	NA	**"Covenant"** shall have the meaning as set forth in Clause 5.2.3;	Defined Covenant
30.	Article 39 Definitions	Article 39 Definitions	**"Change in Law"** means the occurrence of any of the following after the Bid Date: (a) the enactment of any new Indian law; (b) the repeal, modification or re-enactment of any existing Indian law; (c) the commencement of any Indian law which has not entered into effect until the Bid Date; (d) a change in the interpretation or application of any Indian law by a judgement of a court of record which has become final, conclusive and binding, as	**"Change in Law"** shall have the meaning as set forth in Clause 34.1.1	Defination as per Modified Change in Law Provision

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			compared to such interpretation or application by a court of record prior to the Bid Date; or (e) any change in the rates of any of the Taxes that have a direct effect on the Project;		
31.	Article 39 Definitions	Article 39 Definitions	New Clause	**"Coal Supplier"** shall have the meaning as set forth in Clause 4.1.3 k;	Defined Coal Supplier
32.	Article 39 Definitions	Article 39 Definitions	New Clause	**"Cumulative Availability"** - means availability from the day of COD or first day of the Accounting Year, whichever is later, up to and including last day of the Month for which Monthly Invoice is being submitted.	The payment of fixed charge is based on cumulative monthly availability basis as incorporated by other states in their recent tenders. Fixed Charges payable is linked to declared plant availability. Supplier needs to maintain availability minimum upto normative availability annually to meet its primary obligation according to the PSA. Also the incentive/damages are payable by the supplier to the utility based on cumulative monthly availability. If fixed charges are paid strictly based on monthly availability, a supplier may suffer temporary financial loss due to temporary outages/non-availability, even though the plant ultimately meets the required annual availability. Cumulative availability ensures that the performance obligation remains in line with the annual availability

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					requirement without resulting in disproportionate financial penalties due to short term non-availability. Over the Accounting Year, the total amount payable by the Utility towards availability-linked Fixed Charges would broadly remain the same, as the Supplier must ultimately achieve the normative annual availability to recover the full Fixed Charges.
33.	Article 39 Definitions	Article 39 Definitions	New Clause	**"Deviation"** shall have the meaning as set forth in Clause 24.2.1;	Defined Deviation
34.	Article 39 Definitions	Article 39 Definitions	New Clause	**"DSM Regulations"** means the CERC (Deviation Settlement Mechanism and related matters) Regulations, 2024 along with its amendments or any substitute thereof;	Defined DSM Regulation
35.	Article 39 Definitions	Article 39 Definitions	New Clause	**"Initial Fixed Charge"** shall have the meaning as set forth in Clause 21.2.1;	Defined Initial Fixed Charge
36.	Article 39 Definitions	Article 39 Definitions	New Clause	"**Letter of Assurance**" shall have the meaning as set forth in Clause 4.1.3 K;	Defined Letter of Assurance
37.	Article 39 Definitions	Article 39 Definitions	New Clause	**"Late Payment Surcharge"** shall have the meaning as the Parties here to agree that in case the payment of Monthly Invoice / Supplementary Invoice is delayed beyond the Payment Due Date, the provisions of the Article 38.4 shall apply.	Modification in line to LPS rules applied in 38.4.1
38.	Article 39 Definitions	Article 39 Definitions	New Clause	**"MACQ"** shall have the meaning as set forth in Clause 22.5(a);	Defined MACQ
39.	Article 39	Article 39	New Clause	**"MoU"** shall have the meaning as set	Defined MoU

Sr No	Clause No. (MBD)	Clause No. in Document	Clause in MBD	Modified Clause as proposed by UPCL	UPCL Response
	Definitions	Definitions		forth in Clause 28.11.6;	
40.	Article 39 Definitions	Article 39 Definitions	New Clause	**"Performance Guarantee"** shall have the meaning as set forth in Clause 9.1.1;	Defined Performance Guarantee
41.	Article 39 Definitions	Article 39 Definitions	**"Point of Grid Connection"** means the point of interconnection at, which the electricity generated by the Power Station is transferred to the Grid;	**"Point of Grid Connection"** means the point of interconnection at the Power Station end, at which the electricity generated by the Power Station is transferred to the Inter-State Grid; i.e. CTU interconnection point.	Defined the point of Grid connection for clarity
42.	Article 39 Definitions	Article 39 Definitions	**"Taxes"** means any Indian taxes including excise duties, customs duties, value added tax, sales tax, local taxes, cess and any impost or surcharge of like nature (whether Central, State or local) on the goods, materials, equipment and services incorporated in and forming part of the Power Station charged, levied or imposed by any Government Instrumentality, but excluding any interest, penalties and other sums in relation thereto imposed on any account whatsoever. For the avoidance of doubt, Taxes shall not include taxes on corporate income;	**"Taxes"** means any Indian taxes including excise duties, customs duties, Goods and Services tax, value added tax, sales tax, local taxes, cess and any impost or surcharge of like nature (whether Central, State or local) on the goods, materials, equipment and services incorporated in and forming part of the Power Station charged, levied or imposed by any Government Instrumentality, but excluding any interest, penalties and other sums in relation thereto imposed on any account whatsoever. For the avoidance of doubt, Taxes shall not include taxes on corporate income;	Added GST in definition of taxes
43	Article 39 Definitions	Article 39 Definitions	New Clause	**"Unforeseen Event"** shall have the meaning as set forth in Clause 28.11.1;	Defined Unforeseen Event
44.	Article 39 Definitions	Article 39 Definitions	New Clause	**"Utility Indemnified Persons"** shall have the meaning as set forth in Clause 35.1.1;	Defined Utility Indemnified Persons
45.	Annexure I Schedule C	Annexure I Schedule C	2.2 The Power Station shall have the capacity to use the following mix of Fuel at the level	2.2 <Omitted>	Modification as the tender is based SHAKTI Scheme.

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			of full Availability: (a) Upto .....% (.... per cent) of the Fuel having an ash content of....% (per cent); and (b) upto .....% (..... per cent) of the Fuel having an ash content of ....% (per cent).56		Mixing of Fuel is not required
46.	Annexure I Schedule C	Annexure I Schedule C	Subject to the provisions of Paragraph 2 of this Annex-I, the Power Station shall conform with the provisions of Central Electricity Authority Technical Standards for construction of Electrical Plants and Electrical Lines) Regulations 2010 which shall be deemed to be the Specifications and Standards (An authenticated copy of the same has been provided to the Supplier as part of the Bid documents.)	Subject to the provisions of Paragraph 2 of this Annex-I, the Power Station shall conform with the provisions of Central Electricity Authority Technical Standards for construction of Electrical Plants and Electrical Lines) Regulations 2010 as amended from time to time and the Central Electricity Authority (Flexible Operation of Coal Based Thermal Power Generating Units) Regulations, 2023 as amended from time to time which shall be deemed to be the Specifications and Standards ~~(An authenticated copy of the same has been provided to the Supplier as part of the Bid documents.)~~	Latest regulation is referred and similar changes done in recent tenders in other states like UP & Bihar. Central Electricity Authority Technical Standards for construction of Electrical Plants and Electrical Lines) Regulations 2010 and its amendments and Central Electricity Authority (Flexible Operation of Coal Based Thermal Power Generating Units) Regulations, 2023 and its amendments are publicly available documents, hence the same is not provided along with the bid documents. Moreover this helps to accommodate if there are any further amendments to these regulations that get published before the bid due date and is not restricted to what is provided with the tender as a part of bid document.
47.	Schedule E Project Completion Schedule	Schedule E Project Completion Schedule	**2 Project Milestone-I** 2.1 Project Milestone-I shall occur on the date falling on the [180th (one hundred and eightieth)] day from the Appointed Date (the "Project Milestone-I"). 2.2 Prior to the occurrence of Project	**2 Project Milestone-I** 2.1 Project Milestone-I shall occur on the date falling on the ~~[180th (one hundred and eightieth)] day~~ 39 months from the Appointed Date (the "Project Milestone-I").	Project Milestones linked to the completion and synchronization of units, in place of expenditure against project for ease of project monitering. The timeline of the milestones has been increased proportionately in line

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			Milestone-I, the Supplier shall have commenced construction of the Power Station and expended not less than 10% (ten per cent) of the Total Project Cost.	2.2 Prior to the occurrence of Project Milestone-I, the Supplier shall have ~~commenced construction of the Power Station and expended not less than 10% (ten per cent) of the Total Project Cost.~~completed the synchronization of Unit 1 of the power station with the Grid.	with the extension of the project completion timeline from 36 months to 42 months for the first unit, with an additional 6 months for the second unit. Further, the milestones have been aligned with unit completion and synchronization, which represent the Utility's final objective. In contrast, the provisions in the Standard Bidding Documents (SBD) link milestones to the percentage of expenditure of the total project cost, which may not necessarily reflect the actual physical progress of the project. Accordingly, to facilitate easier monitoring of project progress and to ensure that tangible deliverables serve as project milestones, the milestone structure has been modified in the tender documents. Similar modification has been incorporated in recent similar tenders in the state of Madhya Pradesh (3200 MW), Uttar Pradesh(1600 MW), Assam (3200 MW) and Maharashtra (1600 MW).
48.	Schedule E Project Completion Schedule	Schedule E Project Completion Schedule	**3 Project Milestone-II** 3.1 Project Milestone-II shall occur on the date falling on the [550th (five hundred and	**3 Project Milestone-II** 3.1 Project Milestone-II shall occur on the date falling on the ~~[550th (five~~	Project Milestones linked to the completion and synchronization of units, in place of expenditure against project for ease of project monitoring.

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			fiftieth)] day from the Appointed Date (the "Project Milestone-II"). 3.2 Prior to the occurrence of Project Milestone-II, the Supplier shall have expended not less than 40% (forty per cent) of the Total Project Cost.	~~hundred and fiftieth)] day~~ 42 months from the Appointed Date (the "Project Milestone-II"). 3.2 Prior to the occurrence of Project Milestone-II, the Supplier shall have completed the COD of Unit 1 of the power station ~~expended not less than 40% (forty per cent) of the Total Project Cost~~.	The timeline of the milestones has been increased proportionately in line with the extension of the project completion timeline from 36 months to 42 months for the first unit, with an additional 6 months for the second unit. Further, the milestones have been aligned with unit completion and synchronization, which represent the Utility's final objective. In contrast, the provisions in the Standard Bidding Documents (SBD) link milestones to the percentage of expenditure of the total project cost, which may not necessarily reflect the actual physical progress of the project. Accordingly, to facilitate easier monitoring of project progress and to ensure that tangible deliverables serve as project milestones, the milestone structure has been modified in the tender documents. Similar modification has been incorporated in recent similar tenders in the state of Madhya Pradesh (3200 MW), Uttar Pradesh(1600 MW), Assam (3200 MW) and Maharashtra (1600 MW).
49.	Schedule E Project Completion Schedule	Schedule E Project Completion Schedule	NA	**4 Project Milestone-III** 4.1 Project Milestone-III shall occur on the date falling on the 45 months from the Appointed Date (the "Project Milestone-III"). 4.2 Prior to the occurrence of Project	Project Milestones linked to the completion and synchronization of units, in place of expenditure against project for ease of project monitoring. The timeline of the milestones has been increased proportionately in line

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				Milestone-III, the Supplier shall have completed the synchronization of Unit 2 of the power station with the Grid.	with the extension of the project completion timeline from 36 months to 42 months for the first unit, with an additional 6 months for the second unit. Further, the milestones have been aligned with unit completion and synchronization, which represent the Utility's final objective. In contrast, the provisions in the Standard Bidding Documents (SBD) link milestones to the percentage of expenditure of the total project cost, which may not necessarily reflect the actual physical progress of the project. Accordingly, to facilitate easier monitoring of project progress and to ensure that tangible deliverables serve as project milestones, the milestone structure has been modified in the tender documents. Similar modification has been incorporated in recent similar tenders in the state of Madhya Pradesh (3200 MW), Uttar Pradesh(1600 MW), Assam (3200 MW) and Maharashtra (1600 MW).
50	Schedule E Project Completion Schedule	Schedule E Project Completion Schedule	The Scheduled Completion Date for completion of the Contracted Capacity of the Power Station shall be the [1,050th (one	The Scheduled Completion Date for completion of the Contracted Capacity of the Power Station shall be the ~~[1,050th (one thousand and fiftieth)]~~	Scheduled completion date of the second unit is 48 months from the appointed date. The timeline of the milestones has been increased

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			thousand and fiftieth)] day from the Appointed Date.	~~day~~ 48 months from the Appointed Date.	proportionately in line with the extension of the project completion timeline from 36 months to 42 months for the first unit, with an additional 6 months for the second unit. Thus the Scheduled Completion Date for the contracted capacity i.e. for both the units shall be 48 months from the appointed date.
51.	Schedule P SUBSTITUTION AGREEMENT	Schedule P SUBSTITUTION AGREEMENT	3.4.5 The transfer of Contract hereunder to a Nominated Company may, notwithstanding anything to the contrary in this Agreement and the Power Supply Agreement, be undertaken by transfer of no less than 75% (seventy five per cent) of the equity of the Supplier to the Nominated Company, and upon such transfer hereunder, the Supplier shall be deemed to be the Nominated Company under and in accordance with the provisions of this Agreement and the Power Supply Agreement.	3.4.5 The transfer of Contract hereunder to a Nominated Company may, notwithstanding anything to the contrary in this Agreement and the Power Supply Agreement, be undertaken by transfer of no less than ~~75%~~ 51% (~~seventy five~~fifty one per cent) of the equity of the Supplier to the Nominated Company, and upon such transfer hereunder, the ~~Supplier~~ Nominated Company shall be deemed to be the ~~Nominated Company~~ Supplier under and in accordance with the provisions of this Agreement and the Power Supply Agreement.	Transfer of contract to the nominated company happens as no less than 51% of equity gets transferred to the nominated company. The Substitution Agreement is executed between Supplier, Utility, and Lenders. This gives lender the step-in rights if the supplier defaults under the PSA. This allows lender to replace the defaulting supplier with another entity. Lenders, usually require only around 51% of the equity shares to be transfered to the nominated company for the transfer to be effective. Thus, the current provision of 'no less than 75%' could lead to delay in substitution of the supplier by the banks if required, as the transfer will be effective only upon transfer of atleast 75%. Further, this may also lead to impact on the bankability of the project as the banks may view the requirement of tie-up of additional shares as a

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					constraint and rate the project accordingly which may lead to delay in financial closure. Also early substitution will only ensure continuity the power supply, instead of PSA termination.