

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No.: 14 of 2020

In the matter of:

Petition to extend the Control Period of the benchmark capital cost and generic tariff as declared by the Commission vide Order dated 11.05.2020, upto March, 2020 for upcoming 10,000 numbers of Grid connected Solar PV Power Plants of capacity 25 kWp (cumulative capacity of 250 MW).

In the matter of:

Uttarakhand Renewable Energy Development Agency ... Petitioner

AND

In the matter of:

Uttarakhand Power Corporation Ltd. ... Respondent

CORAM

Shri D.P. Gairola Member (Law)

Shri M.K. Jain Member (Technical)

Date of Hearing: August 18, 2020

Date of Order: October 05, 2020

This Order relates to the Petition dated 24.07.2020 filed by Uttarakhand Renewable Energy Development Agency (hereinafter referred to as "UREDA" or "Petitioner") under the provisions of Regulations 11, 12, 51 and 52 of the UERC (Tariff And Other Terms for Supply of Electricity from Non-conventional and Renewable Energy Sources and non-fossil based Co-generation stations) Regulations, 2018 (hereinafter referred to as "RE Regulations, 2018"), to extend the Control Period of benchmark capital cost & generic tariff determined by the Commission for solar energy based power projects vide its Suo-moto Order dated 07.06.2019 for FY 2019-20 and subsequently, extended till September, 2020 vide Suo-moto Order dated

11.05.2020 upto March, 2022 for 10,000 numbers of upcoming Solar PV Power Plants having capacity of 25 kW each (cumulative capacity 250 MW).

1. Background & Submission

- 1.1 The Petitioner has filed the present Petition dated 24.07.2020 seeking approval to extend the control period of the benchmark capital cost & generic tariff as determined by the Commission vide Order dated 07.06.2019 and extended till 30.09.2020 vide Order dated 11.05.2020, upto March, 2022 for upcoming 10,000 numbers of Solar PV Power Plants having capacity of 25 kW each (cumulative capacity of 250 MW).
- 1.2 The Petitioner submitted that the Government of Uttarakhand had issued Uttarakhand Solar Energy Policy, 2013 on 27.06.2013 and amendment thereto on 26.09.2018. Solar energy based power projects are proposed to be setup under four categories in the Solar Energy Policy, 2013 one of which is reserved for State Discom, i.e. Uttarakhand Power Corporation Limited (UPCL), for meeting its Renewable Purchase Obligation (RPO) wherein the solar power projects are selected through the tariff based competitive bidding process. Further, as per the said policy, the solar energy projects upto 5 MW shall be allotted only in the hilly areas of the State and shall be reserved for the permanent residents of the State of Uttarakhand. Second type is for projects to be set up on private land for captive/3rd part sale under REC mode. The third type is similar to the second type with a difference that under the third type Govt. land will be used and will be given to developer who will provides maximum free power per MW to GoUK. Solar projects under Jawaharlal Nehru National Solar Mission, GoI will be setup under type four of Solar Policy.
- 1.3 The Petitioner submitted that a scheme is being specially launched for providing employment to youth and small and marginal farmers for enhancement of their income through sale of power to UPCL. The size of Solar Power Plant to be allotted has been kept to only 25 KWp. In the scheme, the projects up to maximum capacity of 25KWp are proposed to be allotted to unemployed youth and low income group residents of Uttarakhand and the competitive bidding process for this small solar power plant may defeat the purpose of financial supporting the target group. The allotment of these projects is proposed on the tariff decided by the UERC for the ground mounted Solar Power Plants.

- 1.4 The Petitioner submitted that it has prepared a scheme document for upcoming 10,000 number of grid connected Solar PV Power Plants of capacity of 25 kWp each (cumulative capacity of 250 MW).
- 1.5 The Petitioner submitted that the State Government is trying to convince, thousands of migrants who had left Uttarakhand for greener pastures returning amid the Covid-19 lockdown to stay on and rebuild their lives there, offering interest-free loans, subsidies and free electricity to set up eco-tourism and micro-enterprises. To provide self-employment opportunities near their areas of residence, a meeting was held on 07.07.2020 in the chairmanship of Chief Minister of Uttarakhand wherein it was decided that UREDA shall prepare a scheme for the installation of 10,000 numbers of grid connected Solar PV plants having capacity of 25 kW each (cumulative capacity 250 MW).
- 1.6 The Petitioner submitted that the tentative date of publication of said scheme was 15.08.2020 by the Chief Ministry of Uttarakhand and after the due process for selection for the developers, the projects could be allotted to selected developers till 31.03.2021. Further, as per the Solar Policy, 2013, time schedule for completing the Solar PV plants is 12 months from the date of allotment. Accordingly, all projects under the scheme could be completed till 31.03.2022.
- 1.7 Accordingly, UREDA requested the Commission to allow the extension of Control Period of the benchmark capital cost & generic tariff as determined by the Commission vide Order dated 07.06.2019 and extended till 30.09.2020 upto 31.03.2022 for upcoming Solar PV Power Plants having capacity of 25 kW each (cumulative capacity of 250 MW).

2. Respondent's reply

- 2.1 The Commission had forwarded the copy of the Petition to UPCL for its comments, if any, in the matter. UPCL vide their letter dated 17.08.2020 submitted its reply to the Commission which was forwarded to the Petitioner for counter reply. The Petitioner vide its letter dated 24.09.2020 submitted its rejoinder in the matter. The Commission has dealt with the reply and rejoinder of the parties in the subsequent paragraphs.
- 2.2 UPCL vide its letter dated 17.08.2020 submitted that the Petitioner has filed the Petition which appears to be for the furtherance of scheme visualized by the Hon'ble Chief Minister of the State for providing opportunity to the migrants for self-employment. the

Policy is yet to be finalised and, therefore, the Petition seems to be pre-mature. UPCL submitted that the projects to be allotted under the said scheme may not fall under the categories defined in Solar Policy, 2013 and terms & conditions of the policy are yet to be finalised. Further, benchmark capital cost is determined after public hearing, creating a separate category of solar generators and keeping a special tariff for them may require amendment in the regulations.

- 2.3 The Respondent submitted that as per minutes dated 07.07.2020, UPCL needs to arrange to get benchmark tariff determined by the Commission, therefore, even as per the said policy UPCL has been obligated to get the benchmark capital cost fixed. Moreover, any proceeding consequent to this provision of the policy does not require any action as the Commission always ensure that suitable benchmark tariff will remain in force for the concerned period and in the present matter, however, in the present Petition the time-lines given by the Petitioner suggests that complete twelve months will be given for installation of the plant and since the same is required to be completed by March, 2022, only one financial year will come in picture and for that suitable benchmark tariff will be determined by the Commission at appropriate point of time.
- 2.4 The Respondent submitted that Regulation 11 provides for annual review of generic tariff for Solar energy based power plants considering that Solar PV technology has witnessed continuous improvements over the period of time. Hence, costs need to be assessed on annual basis so that at one end the RE power could be promoted but at the same time common consumers are not unnecessarily burdened. Therefore, allowing extension of the control period of the benchmark capital cost and accepting the same as it is without reverse bidding for such a large cumulative capacity of 250 MW, it is quite likely that common consumers of the state may be adversely affected.
- 2.5 The Respondent submitted that any allowance of extension of present benchmark tariff upto March, 2022 may result in a situation where simultaneously two benchmark tariffs will prevail when actually the installation period for both the types will be same. This situation may discriminate two sets of consumers who belongs to the same State and has decided to install the plant at the same point of time but tariff will be different as one among the two will get the tariff equivalent to benchmark tariff of FY 2019-20 while the other will bid for the tariff below the ceiling of benchmark tariff of FY 2021-22.

- 2.6 The Respondent submitted that as per minute of meeting dated 07.07.2020 a different categorisation will be designed after suitable modification in Solar Policy, 2013 for accommodating the target consumers but the Commission needs to assess as to whether or not the same may be allowed as per the prevailing RE Regulations, 2018.
- 2.7 UPCL submitted that the Commission determines the levelised tariff for Solar power plants every year. By extending control period of tariff of FY 2019-20 to FY 2021-22, the very purpose of the competitive reverse bidding would get defeated. There is up-gradation of Solar PV module technology and over the period of time Solar PV module of lesser size has been able to generate same power with less requirement of land. Hence, extending the control period of the benchmark capital cost is neither in the interest of the consumers nor is in favour of UPCL.

3. Petitioner's rejoinder

- 3.1 A copy of the reply submitted by UPCL was forwarded to UREDA for comments. UREDA vide its rejoinder dated 24.09.2020 submitted its comments which have been discussed in subsequent Paras of this Order.
- 3.2 UREDA submitted that the State Government of Uttarakhand vide its Order dated 22.09.2020 has approved "मुख्यमंत्री सौर स्वरोजगार योजना" and as per the scheme, solar energy generated from the Solar PV plants to be installed under the said scheme shall be procured by UPCL at the levelised generic tariff determined by the Commission for Solar PV plants.
- 3.3 The Petitioner submitted that a solar plant will be allotted up to an aerial distance of 300 meters in hilly terrain and 100 meters in plain terrain from transformers having capacity of 63 kVA and above installed by UPCL as per the approved scheme.
- 3.4 The Petitioner in response to the comments/objections given by UPCL in the letter dated 17.08.2020, submitted that it is to be informed that UPCL has played an important role in the conceptualisation of this scheme from the beginning and also in the meetings organized for the formation of this scheme at the government level. While protecting its interests, suggestions have been made by UPCL to make necessary modifications in the scheme.

3.5 The Petitioner submitted that plant capacity of the solar power plants under the scheme shall be 25 kW each and UPCL shall be eligible for meeting its Renewable Purchase Obligation from the power procured from the solar plants to be installed under the said scheme. Further, under the said scheme, employment will be provided to the migrants who have returned to Uttarakhand due to lockdown because of COVID-19 epidemic.

4. Commission's Views & Decisions

4.1 UREDA has filed the present Petition dated 24.07.2020 before the Commission under Regulation 11, 12, 51 and 52 of RE Regulations, 2018 to extend the control period of benchmark capital cost & generic tariff as determined by the Commission vide Order dated 07.06.2019 and further extended till 30.09.2020 vide Order dated 11.05.2020, upto March, 2022 for upcoming 10,000 numbers of Solar PV Power Plants having capacity of 25 kW each (cumulative capacity of 250 MW).

4.2 The Commission conducted a hearing on the merit of the Petition on 18.08.2020. The Commission heard both the parties and carefully considered their written submissions. The Commission has critically analysed contentions of the Petitioner and the Respondent in the matter. After examining the relevant material available on records, issues raised by the Petitioner have been dealt in the subsequent paragraphs of this Order.

4.3 With regard to the Control Period, Regulation 11 of RE Regulations, 2018 specifies as follows:

"11. Control Period or Review Period

(1) The Control Period or Review Period under these Regulations shall be of five years, of which the first year shall be the financial year 2018-19.

Provided that the benchmark capital cost of Solar PV, Canal Bank & Canal Top Solar PV, Solar Thermal, Municipal Solid Waste based power projects, Refuse Derived Fuel based power projects and Grid interactive Roof Top and Small Solar PV projects may be reviewed annually by the Commission.

Provided further that the tariff determined as per these Regulations for the RE projects commissioned during the Control Period, shall continue to be applicable for the entire Tariff Period."

(Emphasis added)

The Commission vide its Suo-moto Order dated 07.06.2019 has determined the benchmark capital cost & generic tariff for solar energy based power plants

commissioned during FY 2019-20 which may be reviewed annually by the Commission. Subsequently, the Commission vide its Suo-moto Order dated 11.05.2020 extended the benchmark capital cost & generic tariff for solar energy based projects determined through Order dated 07.06.2019 till 30.09.2020, which was further extended upto 31.03.2021 vide Suo-moto Order dated 30.09.2020 considering the impact on supply chain of Solar Panels because of nation-wide lockdown due to pandemic of COVID-19.

- 4.4 The Commission observed that UPLC has expressed its concern towards ambiguity in terms and conditions of the proposed scheme as the scheme was not finalised at the time of filing the Petition. In the matter, it is to be noted that the Government of Uttarakhand vide its Order dated 22.09.2020 has approved “मुख्यमंत्री सौर स्वरोजगार योजना” wherein it is explicitly mentioned that under the scheme solar plants having capacity of 25 kW each shall be installed and UPCL shall procure the power generated from the such plants at the levellised generic tariff determined by the Commission for Solar PV plants without applying competitive bidding process. Further, UPCL shall be eligible to meet its Solar RPO requirement through the solar energy procured from the plants installed under the scheme.
- 4.5 As far as UPCL’s comments on the getting the Commission’s approval on the benchmark capital cost and generic tariff is concerned, it is to be noted that the scheme is to be floated by UREDA being State Nodal Agency for development of renewable energy based power plants in the state of Uttarakhand and under the scheme rate is to be provided for provided revenue certainty to the small developers. Accordingly, the Commission does not find any default on the part of UREDA in the matter w.r.t. filing of the present Petition.
- 4.6 UPCL has also raised its concern regarding applicability of two benchmark capital cost and levellised generic rates at the same time. In the matter, its to be noted that such situation is not arising for the first time. This had been the case also when UREDA had invited bids for solar projects and two tariffs were applicable at that time also. The Commission has extended the benchmark capital cost and levellised generic tariff for a certain period based on Petitions filed by UREDA before the Commission in the past also. Moreover, the Commission does not understand the reasons for raising such issues when the terms & conditions of the scheme has been finalised by the Government of

Uttarakhand after many deliberation with the officials of UPCL and no object was raised by UPCL during the meetings held with the officials of Government in the matter.

4.7 As far as UPCL's comments on the generic tariff for the year of commissioning of solar plant is concerned, it is worth mentioning the Commission vide its Suo-moto Order dated 07.06.2019 has provided the generic tariff for the solar energy based power projects commissioned or to be commissioned in FY 2019-20 which was extended upto 30.09.2020 vide Suo-moto Order dated 11.05.2020 and further extended upto 31.03.2021 vide Commission's Suo-moto Order dated 30.09.2020. In the present case, the said scheme has been approved on 22.09.2020 by the Government of Uttarakhand and as per past practice followed by UREDA, six months may be required for various activities such as promotion of the scheme, scrutiny of applications, site visit, feasibility report etc., before issuance of allotment letters (LoA) to the eligible applicants. Accordingly, it is assumed that the LoA will be issued by the end of March, 2021 positively to the eligible applicants for the development of Solar PV plants under the said scheme and as per Solar Energy Policy, 2013, schedule completion time for the solar PV projects is twelve months from the issue of LoA. Accordingly, successful bidders may commission their plants by March, 2022.

Further, it is pertinent to mention that the said scheme has been introduced to provide earning opportunity to the migrants who have returned to Uttarakhand due to COVID 19 epidemic and a rate is to be mentioned in the scheme/offer letter, so that interested developers may plan accordingly. Moreover, at present it is not possible to determine the generic tariff applicable for FY 2021-22 due to non-availability of sufficient information.

Considering the above, the Commission exercises its power provided under regulation 51 and 52, i.e. Power to remove difficulties and Power to relax which is reproduced hereunder:

“51. Power to Remove Difficulties

If any difficulty arises in giving effect to these regulations, the Commission may, of its own motion or otherwise, by an order and after giving a reasonable opportunity to those likely to be affected by such order, make such provisions, not inconsistent with these regulations, as may appear to be necessary for removing the difficulty.

52. Power to Relax

The Commission, for reasons to be recorded in writing, may vary any of the provisions of these regulations on its own motion or on an application made before it by an interested person."

Accordingly, in the present case, the Commission as a one-time exception allows extension of benchmark capital cost and generic tariff applicable for FY 2019-20 (which has already been extended by the Commission till 31.03.2021 vide Suo-moto Order dated 30.09.2020) upto March, 2022 for upcoming Solar PV Power Plants having capacity of 25 kW each (cumulative capacity of 250 MW) under "मुख्यमंत्री सौर स्वरोजगार योजना" and also exempt them from bidding as small developers may not be in a position to bid the tariffs.

The Commission would like to reiterate that as the scheme has been launched for providing employment to migrant youth and small farmers for enhancement of their income through sale of power to UPCL and as the size of the plant is very small, the competitive bidding process may defeat the purpose of financial supporting the target group. Therefore, UPCL shall procure entire solar energy generated from such solar PV plants at the rate determined for Solar PV plants in Suo-moto Order dated 07.06.2019. Further, UPCL and UREDA are advised to support the eligible applicants in all aspects for development of the solar plants so that the plants can be commissioned in advance of March, 2022.

4.8 Ordered accordingly.

(M.K. Jain)
Member (Technical)

(D.P. Gairola)
Member (Law)