



THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

Petition No. 2193 of 2025

QUORUM

Hon'ble Shri Arvind Kumar, Chairman

Hon'ble Shri Sanjay Kumar Singh, Member

IN THE MATTER OF

Petition under 86(1)(a) & (b) of the Electricity Act, 2003 read with Regulation 15 of the UPERC (Conduct of Business) Regulations, 2019 on behalf of UPPCL seeking approval of Power Sale Agreement (PSA) dated 07.03.2024 and the approval of the Supplementary PSA dated 29.07.2024 in order to enable the purchase of additional capacity of 25 MW and increase the total capacity allocated from 1500 MW as stated in PSA dated 07.03.2024 to 1525 MW of Solar Power as stated in the Supplementary PSA dated 29.07.2024.

AND

IN THE MATTER OF

Uttar Pradesh Power Corporation Ltd. (UPPCL),

Through Superintending Engineer- PPA,

Shakti Bhawan, 14-Ashok Marg, Lucknow-226001.

..... Petitioner

Versus

National Hydroelectric Power Corporation Ltd. (NHPC),

Sector H, LDA Colony, Lucknow, Uttar Pradesh 226012

.....Respondent

FOLLOWING WERE PRESENT

1. Sh. Divyanshu Bhatt, Advocate, UPPCL
2. Sh. Manish Dwivedi, S.E(PPA), UPPCL
3. Sh. Rajiv Shankar Dwivedi, Advocate, NHPC

ORDER

(DATE OF HEARING: 17.04.2025)

by

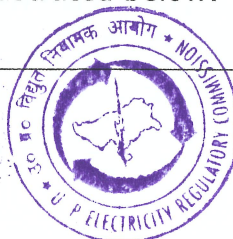




1. The Petitioner, UPPCL has filed this Petition seeking approval of PSA dated 07.03.2024 and SPSA dated 29.07.2024 executed with NHPC for procurement of 1525MW Solar Power under Tariff Based Competitive Bidding (TBCB) Process. The prayers of the Petitioner are as follows:
 - a) Take the instant Petition on record.
 - b) Approve the PSA dated 07.03.2024 between the Petitioner and the Respondent.
 - c) Approve the SPSA dated 29.07.2024 between the Petitioner and the Respondent.
 - d) Approve the overall power procurement of 1525MW of Solar Power by UPPCL through NHPC in accordance with the MOP Guidelines.
 - e) Pass any further Order(s) as this Commission may deem fit in the facts and circumstances of the case.

Brief facts as stated in the Petition.

2. UPPCL has mainly submitted the following:
 - a) The Ministry of New and Renewable Energy (MNRE), Government of India has designated NHPC as an Intermediary Procurer/Renewable Energy Implementing Agency (REIA). In pursuance to a competitive bid process in accordance with Ministry of Power (MOP) Guidelines issued by resolution no. 27/01/2023-RCM dated 28.07.2023, NHPC approached states/Discom(s) for providing consent for procurement of Power and issued Letter of Award (LOA) to 8 solar power generators on 07.12.2023. NHPC filed a Petition No. 366/AT/2024 for Adoption of Tariff for the ISTS Grid connected Solar PV projects of 3000MW capacity selected through Competitive Bidding Process as per the MOP Guidelines dated 28.07.2023 before Central Electricity Regulatory Commission (CERC). Power Sale Agreement (PSA) for 1500MW was executed between NHPC and UPPCL on 07.03.2024 wherein a trading margin of 7 paisa/kWh was agreed.
 - b) These Solar PV Power Projects are to be set up at Rajasthan by the Solar Power Developers i.e., M/s Solairedirect Energy India Private Limited (225 MW), M/s Avaada Energy Private Limited (1000MW) and M/s Hazel Hybren Private Limited (275 MW). NHPC entered into back-to-back Power Purchase Agreement (PPA) with the following solar power generators as illustrated below:





Solar Power Generators	Contracted Capacity	Tariff (Rs/kWh)	Date of PPA
Khaba Renewable Energy Pvt. Ltd. (Project SPV of Solairedirect Energy India Pvt. Ltd.)	250 MW	2.52	18.04.2024
Avaada RJ Sustainable Pvt. Ltd. (Project SPV of Avaada Energy Pvt. Ltd.)	1000 MW	2.53	01.05.2024
Hazel Hybren Pvt. Ltd.	275 MW	2.53	02.05.2024

- c) The procurement of Solar Power in the instant case was an endeavour of UPPCL to fulfil its obligation of Renewable Purchase Obligation (RPO) for promoting green energy and optimising the cost of power purchase to benefit of the consumers of Uttar Pradesh.
- d) The Ministry of Power (MoP) had issued a notification dated 20.10.2023 vide which the MOP had mandated the power distribution companies (i.e., Discoms) to prepare a RPO roadmap and it was further stated that the RPO targets on Discoms for FY 2024-25 shall be 29.91%. Further, MoP, vide said notification dated 20.10.2023, has given the new RPO trajectory from FY 2024-25 to FY 2029-30 as tabulated below:

Year	Wind RPO	Hydro RPO	Other RE	Distributed RE	Total
2024-25	0.67%	0.38%	27.35%	1.50%	29.91%
2025-26	1.45%	1.22%	28.24%	2.10%	33.01%
2026-27	1.97%	1.34%	29.94%	2.70%	35.95%
2027-28	2.45%	1.42%	31.64%	3.30%	38.81%
2028-29	2.95%	1.42%	33.10%	3.90%	41.36%
2029-30	3.48%	1.33%	34.02%	4.50%	43.33%

- e) MoP through the aforesaid notification has provided the criteria to meet the RPO against each category, however, 100% fungibility has been provided between Wind, Hydro, and Other Renewable sources under the notification. The criteria have been outlined below:
- i) Wind: shall be met from the Wind Power Projects commissioned after 31.03.2024.
- ii) Hydro: shall be met only from Hydro Power Projects (including Pump Storage and Small Hydro Projects) commissioned after 31.03.2024.
- iii) Other RPO: can be met by energy produced from any RE projects other than specified under Wind, Hydro, and Distributed Energy and shall comprise energy

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from all WPPs and Hydro Power Projects (including Pump Storage and Small Hydro Projects), including free power, commissioned before the 01.04.2024.

iv) Distributed RE: shall be met only from energy generated from RE projects that are less than 10MW in size.

f) Guideline No. 6 of the aforesaid MoP Notification dated 20.10.2023 provide that any shortfall in meeting RPO targets will be treated as non-compliance and penalty will be imposed for each unit of shortfall in meeting the energy consumption norms as per the amended Energy Conservation Act, 2001. As per Section 12(3) of the Conservation Act, the non-compliance of the directions as mentioned in clause (n) and (x), a penalty shall be levied from the Discoms which shall not exceed Rs. 10 Lakh for each failure. The MNRE, vide its letter dated 01.02.2024, had further notified that additional penalty shall also be levied to the tune Rs. 3.72 per unit for each unit of shortfall in meeting RE consumption norms.

g) The capacity required to be contracted by UPPCL to meet the RPO targets has been showcased below:

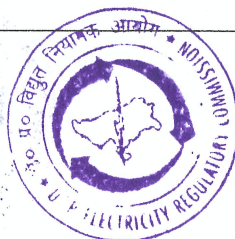
Capacity (MW) to be contracted in respective Year to meet RPO (With Fungibility)										
Category/FY	2023 -24	2024 -25	2025 -26	2026 -27	2027 -28	2028 -29	2029 -30	2030 -31	2031 -32	Total (MW)
Solar	3,000	2,000	2,000	1,000	500	-	-	-	-	8,500
Wind	-	2,000	2,000	1,500	1000	-	-	-	-	6,500
Hydro	-	4,000	1,000	1,000	500	-	-	-	-	6,500
Cumulative	3,000	8,000	5,000	3,500	2,000	-	-	-	-	21,500

h) On 10.04.2024, NHPC apprised UPPCL that Solar Power Developer-Solar Direct has installed capacity of 250MW out of which 225MW was already tied with UPPCL. NHPC further requested UPPCL to provide consent for additional capacity of 25MW in existing project at a competitive tariff of Rs. 2.52/kWh. On 16.05.2024, UPPCL provided its consent for additional capacity of 25MW and thereafter SPSA dated 29.07.2024 was executed for the same.

Records of Proceedings

3. On hearing dated 27.03.2025, Sh. Divyanshu Bhatt, Counsel of UPPCL submitted that instant Petition was filed for approval of PSA dated 07.03.2024 & SPSA dated 29.07.2024 for procurement of 1525MW Solar Power. He further submitted that initially PSA dated 07.03.2024 was signed for 1500MW which was increased to 1525MW

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through SPSA dated 29.07.2024. Sh. Rajiv Shankar Dvivedi, Advocate of NHPC submitted that CERC vide its Order dated 20.03.2025 in Petition No. 366/AT/2024 has adopted the tariff for instant Bidding process. On specific query of the Commission regarding bidding framework of additional procurement of 25MW power, Sh. Bhatt responded that they would be filing the details along with the supporting documents. The Commission allowed UPPCL to file its submissions and directed NHPCL to file the complete Bidding documents.

4. During the hearing on 17.04.2025, Sh. Rajiv Shankar Dvivedi, Advocate of NHPC submitted that in compliance to the Commission's Order dated 01.04.2025, they have filed the details in the hearing itself. He further added that initially 25MW was allocated from L1 bidder- Solairedirect Energy to Military Engineering Services (MES) vide their consent letter dated 07.12.2023 on First cum serve basis, however, MES failed to come up for signing PSA. Thereafter, this 25MW was offered to UPPCL for their consent and upon acceptance by them, the SPSA dated 29.07.2024 was signed.
5. On specific query of the Commission regarding quantum of Bid, Sh. Dvivedi responded that Bid quantum remains the same i.e., 3000MW i.e., 1525 MW to UPPCL and 1475MW to MSEDCL. Further, in response to the Commission's query, Sh. Dvivedi responded that they had finalised the bid quantum first and thereafter obtained consent from the procurer. Sh. Bhatt responded that UPPCL had no objection in accepting additional 25MW offered by NHPC at L1 tariff.

Analysis & Decision

6. UPPCL has filed this Petition seeking approval for procurement of 1525MW Solar PV Power under Tariff-based Competitive Bidding on long-term basis of 25 years along with approval of PSA dated 30.05.2024 & SPSA dated 29.07.2024 executed with NHPC. UPPCL has submitted that this Solar PV power procurement would facilitate meeting its power demand as well as compliance to RPO targets.
7. CERC vide its Order dated 20.03.2025 in Petition No. 366/AT/2024 has adopted the individual tariff for the Solar power projects with total capacity of 3000MW from which 1525 MW power would be supplied to UPPCL. The relevant extract of the quantum of power executed under the PSA by UPPCL as observed in the aforementioned Order dated 20.03.2025 are as follows:

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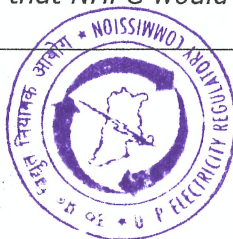
"39. In light of the aforesaid discussion, it emerges that selection of the successful bidders has been done, and the tariff of the Solar Power Projects has been discovered by the Petitioner, NHPC, through a transparent process of competitive bidding and in accordance with the Guidelines issued by the Ministry of Power, Government of India. Therefore, in terms of Section 63 of the Act, the Commission adopts the individual tariff for the solar power project, as agreed to by the successful bidders, and for which PPAs have been entered into by NHPC on the basis of the PSAs with the distribution licensees, which shall remain valid throughout the period covered in the PPA and PSAs as under:

SPGs	Contracted Capacity (MW)	Tariff (Rs/kWh)	PPA Signed on	Discom & Allotted Quantum
Khaba Renewable Energy Pvt. Ltd. (Project SPV of Solairedirect Energy India Private Limited)	250	2.52	18.04.2024	UPPCL-1525MW
Avaada RJ Sustainable Private Limited (Project SPV of Avaada Energy Private Limited)	1000	2.53	01.05.2024	
Hazel Hybren Private Limited	275	2.53	02.05.2024	
Hazel Hybren Private Limited	25	2.53	02.05.2024	MSEDCL-1475MW
JGRJ Two Solar Private Limited (Project SPV of Jakson Ltd.)	400	2.53	01.05.2024	
SPRNG Power Private Limited (Project SPV of Sprng Energy Private Limited)	250	2.53	26.04.2024	
Green Infra Clean Wind Technology Limited- GICWTL (Project SPV of Green Infra Wind Energy Limited)	300	2.53	24.04.2024	
Apraava Energy Private Limited.	250	2.53	18.04.2024	
HR Saraswati Energy Private Limited (Project SPV of Hinduja Renewable Energy Limited)	250	2.53	30.04.2024	

8. The Commission observed that REIA i.e., NHPC has proceeded with the Bid Quantum of 3000MW without prior consent of the procurer. This has led to delay in approval of the PSA as well as adoption of tariff. The e-Reverse Action was concluded on 06.11.2023 and LoA was issued to SPD on 07.12.2023, but the SPSA for 1525MW was signed on 29.07.2024 and Petition has been filed in February 2025. Therefore, the Commission advises REIA to get the procurer's consent first and then proceed for bidding process to avoid unnecessary delays, which may eventually affect power purchase cost. The CERC in its Order dated 20.03.2025 in Petition No. 366/AT/2024 has also highlighted this issue. The relevant extract of the said Order dated 20.03.2025 is as follows:

"3..... As solar power is in surplus, most of the DISCOMs/States and DISCOMs are reluctant to buy solar power. There was apprehension that NHPC would not be able to obtain consent

by





from the DISCOMs for the purchase of the 3GW scheme within 15 days of E-RA PPA and PSA were among the parties signed in March-July 2024.....”

Such practice of obtaining consent of procurer could lead to potential dispute of delayed commissioning and would also not be in the interests of procurer with regard to waiver/discount in Inter-State Transmission System charges, which is limited to commissioning schedule of project.

9. In view of above, the Commission approves the Solar PV power procurement of 1525 MW at the individual tariff as per table at para 7 above in terms of CERC Order dated 20.03.2025 in Petition No. 366/AT/2024, along with trading margin of Rs.0.07/kWh. However, in case of failure by NHPC to provide an Escrow arrangement or irrevocable, unconditional revolving letter of credit to the Solar Power Developers (SPD), trading margin shall be limited to Rs.0.02/kWh in terms of Regulation 8 of the CERC (Trading license) Regulations, 2020. The Commission also approves the PSA dated 07.03.2024 & SPSA dated 29.07.2024 executed between UPPCL & NHPC. Further, UPPCL should comply with the Commission's direction vide Order dated 03.10.2024 in Petition No. 2091/2024 regarding negotiating trading margin below 7 paise per unit for future long-term power procurement with the intermediary procurer/Trading Licensee.

The Petition stands disposed of in terms of above.

(Sanjay Kumar Singh)
Member

(Arvind Kumar)
Chairman

Place: Lucknow
Dated: 02.08.2025

