THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

Petition No. 2213 of 2025

QUORUM

Hon'ble Shri Arvind Kumar, Chairman

Hon'ble Shri Sanjay Kumar Singh, Member

Hon'ble Shri Griesh Kumar Vaish, Member (Law)

IN THE MATTER OF

Amended Petition under section 63 and 86(1)(a), (b) & (e) of the Electricity Act, 2003 read with Regulation 15 of the UPERC (Conduct of Business) Regulations, 2019, for approval of revised tender documents including the Request for Qualification, Request for Proposal and Draft Power Purchase Agreement, along with deviations, to be floated by UPPCL for procurement of 2000 MW of Source Agnostic Peak Power for Medium-Term on standalone basis.

AND

IN THE MATTER OF

Uttar Pradesh Power Corporation Limited (UPPCL),

Shakti Bhawan, 14–Ashok Marg, Lucknow - 226001 **...Petitioner**

FOLLOWING WERE PRESENT

1. Sh. Savyasachi Saumitra, Advocate, UPPCL
2. Sh. A.K. Zaidi, Advocate, UPPCL
3. Sh. Kirti Singh Chauhan, Advocate, UPPCL
4. Ms. Kavita Singh, SE (Planning), UPPCL
5. Ms. Niharika Pandey, EE, UPPCL
6. Sh. Mohit Goyal, Consultant, UPPCL
7. Sh. Siddhartha, Consultant, UPPCL

ORDER

(DATE OF HEARING: 17.09.2026)

1. The Petitioner, UPPCL, has filed this Petition for approval of bidding documents i.e., Request for Qualification (RfQ), Request for Proposal (RfP) and Draft Power Purchase Agreement (PPA), along with deviations, for procurement of 2000 MW of Source Agnostic Peak Power for Medium-Term on standalone basis. The prayers of the Petitioner are as follows:

   a) Admit the amended Petition.

   b) Pass an order approving the quantum of energy proposed to be procured i.e., 2000MW under the present tender.

   c) Pass an Order approving tender documents including the Request for Qualification, Request for Proposal and Draft Power Purchase Agreement, to be floated by UPPCL for medium term procurement of 2000 MW Source Agnostic Power during 19:00 hrs to 05:00 hrs of April to September from 01-04-2027 (SCD).

   d) Pass an order approving the deviations incorporated in the tender documents, namely Request for Qualification, Request for Proposal and Draft Power Purchase Agreement.

   e) Pass any further order(s) as this Commission may deem fit in the facts and circumstances of the case.

Background of the case

2. The Petitioner has mainly submitted following in the last Amended Petition filed on 16.07.2026:

   a) UPPCL had filed a Petition for approval of the Resource Adequacy Plan (RAP) of Uttar Pradesh DISCOMS for FY 2025-26 to FY 2034-35 and approval of tender documents (i.e., RFQ, RFP and draft PPA) for procurement of 1000 MW source-agnostic peak power on medium-term basis. The Commission vide letter UPERC/Secy/D(G)/2025/1724 dated 17.03.2025 directed UPPCL to file separate petitions for approval of the RAP and bidding documents, observing that RAP is a comprehensive subject requiring detailed deliberations and forms the foundation for different medium and long-term power procurement processes. Accordingly, instant

Petition No. 2213/2025 was filed on 21.04.2025 for approval of tender documents for procurement of 1000 MW source agnostic peak power on medium-term basis.

b) Pursuant thereto, an Additional Affidavit dated 13.06.2025 was filed in the captioned Petition. The Commission vide letter dated 08.07.2025 directed the Petitioner to amend the prayers made in the original Petition in light of the Additional Affidavit dated 13.06.2025.

c) Madhya Pradesh Power Management Company Limited (MPPMCL) vide letter dated 05.06.2024 informed UPPCL of its desire to collaborate in the proposed tender process for sharing capacities and banking of power to mitigate seasonal peak demands of both States and reduce stranded costs. An amended Petition therefore, was filed on 25.08.2025, seeking approval of the proposed power quantum to be procured in association with MPPMCL. Thereafter, UPPCL and MPPMCL engaged in detailed discussions regarding collaborative power procurement; however, convergence could not be reached on tariff structure (single tariff versus two tariff) and associated risk allocation. Accordingly, UPPCL decided to proceed with the proposed 1000 MW procurement on a standalone basis.

d) Revised Guidelines and Model Bidding Documents (MBDs) for procurement of electricity for Medium Term from power stations set up on Finance, Own and Operate (FOO) basis were issued by the Ministry of Power (MoP) on 29.01.2019. MoP issued the Revised Guidelines for Procurement of Electricity for Medium Term from Power Stations set up on FOO basis vide Gazette Notification dated 30.01.2019. Thereafter, amendments to the aforesaid MBDs were issued by MoP vide Notifications dated 12.07.2019 and 03.08.2021. Further amendments to the aforesaid MBDs dated 29.01.2019 were issued by MoP vide Notifications dated 19.12.2022 and 12.05.2023.

e) The aforesaid Guidelines have been formulated for procurement of power through a transparent competitive bidding process under Section 63 of the Electricity Act, 2003 for Medium Term procurement by the Procurer from selected bidders. The present Amended Petition has been filed pursuant to the directions contained in the Record of Proceedings dated 19.05.2026, wherein the Commission raised certain queries for

consideration and response. Brief particulars of the proposed 2000MW capacity are reproduced in the table below.

Month of Supply	Year of Supply	Commencement of Supply Date	Timings (Hrs.)	Minimum Bid Capacity	Delivery Point
April to September	05 Years	01-April-2027	00:00 to 05:00 & 19:00 to 24:00	50 MW	▪ For UP STU-connected Power Station: nearest UP STU Sub-station. ▪ For others: UP Periphery (interconnection point of UP STU and CTU)

f) In line with the aforesaid Guidelines, UPPCL proposes to initiate, on a standalone basis, a competitive bidding process for procurement of 2000 MW power for a period of 5 years during peak hours of peak months (April to September) commencing from 01.04.2027, under the FOO framework. The proposed procurement was also intended to address anticipated seasonal peak demand during 19:00 hrs. to 24:00 hrs. and 00:00 hrs. to 05:00 hrs., thereby ensuring grid stability and reliable power supply.

g) Considering the queries raised by the Commission and ensuring commercial clarity, tariff certainty, economic efficiency and transparency, certain modifications have been proposed in the bidding documents as under:

(i) Merit Order Dispatch (MOD)-based Scheduling: for economical procurement and alignment with prevailing market practices.

(ii) Removal of Change in Law Provision: considering the procurement tenure of five years, to reduce contractual complexities, provide tariff certainty and facilitate competitive bidding.

(iii) Single-Part Tariff: to simplify bid evaluation, enable transparent comparison of bids under MOD and reduce disputes relating to tariff components.

h) Keeping in view the Report on Resource Adequacy Plan of UPPCL for FY 2024-25 to FY 2033-34, prepared by the Central Electricity Authority (CEA), Government of India on the basis of inputs received from UPPCL. The said Report examines UPPCL's resource adequacy requirement considering hourly load pattern, projected peak demand, projected energy requirement, existing contracted capacity, planned capacity additions, Renewable Purchase Obligations, variation in renewable generation, forced outage of thermal capacities and reliability parameters.

i) The Report also records that electricity energy requirement and peak demand of UPPCL are increasing and, as per UPPCL projections, may increase at a CAGR of approximately 7.0% and 6.5%, respectively, from FY 2023-24 to FY 2029-30. The Report further records that, for satisfying resource adequacy by meeting electricity demand reliably and at affordable cost, the utility is required to methodically plan capacity expansion either by investing in capacity or procuring power. The Report recognizes the seasonal and diurnal nature of UPPCL's electricity demand and records that demand starts increasing from April, is maximum during July, remains significantly higher during June to September, and that peak electricity load is generally observed during night hours. Accordingly, the procurement period and supply hours have been structured for this power procurement.

j) The demand projections considered in the CEA's Report demonstrate that the requirement is structural and recurring in nature. The Report records that peak demand is projected to increase from 34,713 MW in FY 2026-27 to 36,970 MW in FY 2027-28, 39,373 MW in FY 2028-29 and 53,943 MW by FY 2033-34. Similarly, energy requirement is projected to increase from 1,98,367 MU in FY 2026-27 to 3,15,566 MU by FY 2033-34. The existing contracted capacity of UPPCL, along with planned capacity additions from conventional and renewable energy sources, may not be adequate to meet projected demand.

k) The CEA Resource Adequacy Report has identified substantial additional capacity requirement for UPPCL to meet demand reliably while fulfilling the Renewable Purchase Obligation trajectory. The Report records that the likely contracted capacity of UPPCL in FY 2033-34 is 1,21,297 MW, along with 25,437 MW / 1,01,748 MWh of storage, including existing and planned capacity additions as well as additional capacity from coal, hydro, wind, solar and distributed renewable energy sources.

l) Although the Report provides a long-term resource adequacy perspective, its findings clearly justify timely medium-term procurement. The Report recognizes that resource adequacy helps assess capacity requirement to be tied up or contracted on long-term, medium-term and short-term basis. Therefore, the proposed procurement of 2000 MW source-agnostic peak-hour and peak-month power is a prudent medium-term portfolio measure for meeting the identified evening and night peak demand during April to September.

m) The source-agnostic structure of the proposed tender is also consistent with the CEA's Report, which records that in view of reduction in solar panel costs and newer technology options such as Battery Energy Storage Systems (BESS) planning for long-term optimal generation capacity mix is important. The Report further recognizes an optimal resource mix till FY 2033-34, considering technical and financial parameters associated with capacities, variation in demand, renewable generation and forced outages of thermal capacities.

n) The Report records that reliability studies were carried out considering prescribed reliability criteria and that the Planning Reserve Margin (PRM) for UPPCL has been assessed as 16%. Accordingly, dependable capacity tie-up is necessary so that UPPCL is not solely dependent on uncertain short-term market availability during critical peak hours. In addition to the findings of the CEA, UPPCL has provided data relating to peak demand, peak deficit, average peak demand and average deficit on a diurnal basis from April 2024 onwards. The data indicates a significant peak-hour deficit during April to September, with peak deficit between 19:00 hrs. to 24:00 hrs. and 00:00 hrs. to 05:00 hrs. being around 3408 MW during the last three years from 2024 onwards, and average deficit during the said period being around 2039 MW.

o) UPPCL has also relied upon short-term avenues such as DEEP Portal, DAM, RTM, TAM and other market-based platforms to meet peak-hour requirements. However, bids uploaded on the DEEP Portal and various power exchange platforms, including LDC, TAM, DAM and RTM, have witnessed nominal clearance, particularly during the year 2026, exposing UPPCL to the risk of non-availability and price volatility in the short-term market. Therefore, the most viable and prudent option in the present facts and circumstances is the Medium-term procurement to reduce dependence on short-term market purchases, provide tariff certainty, improve reliability of supply and enable UPPCL to meet consumer demand in a planned and commercially efficient manner.

p) The challenge of meeting peak-hour demand is accentuated by the nature of the existing supply mix. A significant portion of renewable energy, particularly solar, contributes mainly during daytime hours, whereas evening and night peaks are largely met through thermal, hydro, PSP and battery storage sources. While these sources provide a stable base, they are not adequate to meet the rising requirement

during late evening and night hours. Further, demand in Uttar Pradesh has been witnessing consistent growth, particularly during April-September, requiring additional assured procurement during peak hours.

q) The proposed tender for procurement of 2000 MW source-agnostic peak-hour and peak-month power for a period of five years, commencing from 01.04.2027, is directly aligned with the findings of the CEA Resource Adequacy Report and updated peak-deficit data available with UPPCL. Therefore, the Commission is requested to approve the tender documents along with the deviation for procurement of 2000 MW source-agnostic peak-hour and peak-month power on medium-term basis.

Records of Proceeding

3. During the hearing on 30.09.2025, it was noted that instant Petition was initially filed on 21.04.2025 for approval of the tender documents for power procurement of 1000 MW Source Agnostic Peak Power by UPPCL. Subsequently, an Additional Affidavit was filed on 13.06.2025, incorporating deviations. In response to the Secretary, UPERC letter dated 08.07.2025, an amended Petition was filed on 25.08.2025 wherein power procurement was planned in association with MPPMCL. The Commission observed a lack of clarity in the proposed procurement plan in terms of energy, source, time of supply, etc., and that the Petitioner had changed its procurement plan prematurely. Accordingly, the Commission directed UPPCL to submit a clear plan with proper justification for such proposed power procurement. On 18.11.2025, UPPCL filed its additional submission.

4. On hearing held on 20.11.2025, the Commission allowed the request of UPPCL for adjournment of hearing as MPPMCL had proposed two tariff approach (separate for MPPMCL & UPPCL respectively) instead of single tariff for both. On 16.01.2026, UPPCL filed its additional submission. On hearing dated 22.01.2026, the Commission allowed the request of adjournment by UPPCL. On hearing dated 07.04.2026, learned counsel of UPPCL submitted that UPPCL and MPPMCL could not reach a consensus on adoption of a single-or-two tariff therefore, to avoid further delay in procurement of peak power, UPPCL has decided to proceed independently with a stand-alone procurement of 1000MW Source Agnostic Peak Power on a Medium-term basis. Accordingly, third amendment to the original Petition (filed in April 2025) has been filed on 06.04.2026.

The Commission adjourned the hearing considering that amended Petition was filed on the previous day.

5. On hearing dated 12.05.2026, the learned counsel of UPPCL submitted that instant matter pertained to approval of Bidding documents (i.e., RfQ, RfP & draft PPA) for procurement of 1000MW Source Agnostic peak Power on medium term of standalone basis. He also acknowledged that the Petition had been amended several times earlier. Regarding prayed 'Appointed Date' to be 01.06.2026. Learned counsel submitted that proposed Appointed Date would be amended as it is not possible to complete the bidding process within the proposed time and requested the Commission to allow for filing an additional affidavit along with the revised deviation statement. In response to the Commission query about "Source Agnostic", learned counsel responded that bidder has the option to change the type of power supply source during the operation of the PPA. Sh. Deepak Raizada on behalf of UPPCL submitted that as per Schedule-A of the draft PPA, bidder is required to mention the project sites. Thereafter, the Commission enquired about the applicability of Change in Law event for different source of power to which Sh. Mohit Goyal Consultant for UPPCL responded that Change in Law will not be applicable for this Bid. The Commission observed that 'Change in Law' provision was provided in the Article 21 of the draft PPA.

6. The Commission further enquired, if the source of power is not specified, how the principles of 'Change in Law' event, 'Merit Order Dispatch', etc. would be applicable for such supply, as there is a possibility that actual power source may be from a Must-Run Renewable Power plant. The learned Counsel sought time to revert the query of the Commission. The Commission expressed its displeasure over the casual and parenthetical approach of UPPCL in preparation of such important bidding documents which are related to peak power procurement. The Commission further observed that after filing of Petition, Petitioner keeps requesting for urgent listing of the matter and after listing, to the abhorrence of the Commission, it is found that bidding documents are not properly structured. The Counsel for UPPCL apologised for placing incomplete bidding documents and sought three weeks' time to revise the documents. The Commission directed UPPCL to re-examine the proposed bidding documents after incorporating all necessary changes. Since there have been several amendments in the

matter, UPPCL was directed to file afresh deviation statement, standard bidding document referred to with proper justification.

7. On the subsequent hearing dated 09.07.2026, the learned counsel of UPPCL requested for adjournment of the hearing and sought a week time more to comply the Order dated 19.05.2025. The Commission observed that UPPCL itself argues the urgency of procuring peak power on a medium term at one hand while on the other hand, UPPCL fails to comply with its own requested timeline for furnishing the requisite documents. The learned Counsel apologised for the delay and stated that requisite document was under finalisation, which would be placed on record within a week time.

8. On the hearing dated 21.07.2026, Sh. Savyasachi Saumitra, learned Counsel of UPPCL submitted that fourth amended Petition was filed on 16.07.2026 wherein power procurement quantum has been changed from 1000MW to 2000MW, while the commencement of power supply starts from 01.04.2027 at single part tariff. He further submitted that bidder needs to disclose its power source in terms of Annexure-V of RFQ. Further, principles of 'Merit Order Despatch' would be applicable for all type of sources including Renewable Energy and 'Change in Law' event will not be applicable for this power procurement. On specific query of the Commission regarding supply hours, Counsel responded that the same is during night hours i.e., 19:00 hrs. to 5:00 hrs. for the month from April to September. Consultant of UPPCL submitted that L1 matching has been replaced with L1+2% considering 2000MW of power quantum. The Commission admitted the amended Petition and directed UPPCL to furnish following along with relevant supporting documents:

   a) Justification for inclusion of Renewable Energy Plants in Merit Order Despatch.

   b) Schedule-A of the PPA to be provided considering other Renewable sources as well.

   c) Justification for keeping provisions of NEFT/RTGS payment for Performance Security while for Bid Security only e-Bank Guarantee provision has been kept.

   d) Justification for such peak power procurement in terms of existing contracted capacity.

9. On the hearing dated 17.09.2026, the learned Counsel for UPPCL submitted that an additional affidavit was filed on the previous day in compliance with the Commission's Order dated 02.09.2026. He submitted that, in view of the source-agnostic nature of

the proposed procurement and the objective of least-cost peak-hour procurement, UPPCL has sought relaxation under Regulation 14 i.e., 'Power to Relax' of the UPERC MOD Regulations, 2021 to permit source agnostic power procured under the present tender, including Renewable Energy sources, to be scheduled and despatched in accordance with the principles of Merit Order Despatch (MOD). On a specific query of the Commission regarding applicability of Regulation 4(7) of the UPERC MOD Regulations, 2021 in respect of Inter-State Generating Stations quoting single-part tariff, the learned Counsel responded that said Regulation presently provides for Intra-State Generating Stations only and, therefore, UPPCL intends to seek appropriate directions under Regulation 13 i.e., 'Removal of Difficulty' by treating the single-part tariff of Inter-State Generating Stations as variable charge for MOD purposes. He also stated that an additional affidavit would be filed in this regard.

10. The Commission further enquired regarding the likely response to the proposed tender and its probable success, to which learned counsel submitted that positive response had been received during the pre-bid meeting. On the Commission's query regarding the coexistence of the present procurement with the previously approved hydro power procurement, learned counsel responded that despite the proposed hydro procurement, a substantial peak-hour deficit still exists, and the present procurement is intended to meet the requirement during the identified peak hours from 19:00 hrs. to 05:00 hrs. The Commission observed that UPPCL was seeking both 'Power to Relax' as well as 'Removal of Difficulty' under the proposed tender framework, to which the Petitioner submitted that the present procurement is a first-of-its-kind source-agnostic peak power procurement and, therefore, such regulatory interventions were required.

11. The Commission further enquired regarding the type of Renewable Energy sources expected to participate considering procurement pertains to evening and night peak hours. The learned Counsel submitted that participation is expected mainly from Hydro and Battery Energy Storage Systems (BESS). The Commission observed that BESS is not covered under the Must Run category under the UPERC MOD Regulations, 2021 and further enquired as to how much untied BESS capacity is presently available in the market for participation in such procurement. The Commission further observed that the proposed procurement is for a medium-term period of five years and, therefore, it is unlikely that any developer would establish a fresh BESS project exclusively for such

procurement. The Commission, therefore, sought clarification from UPPCL regarding basis on which participation from BESS sources is being envisaged. The Commission also sought clarification regarding non-inclusion of Insurance Surety Bonds as an eligible form of security under the bidding documents, to which learned Counsel submitted that the same would be considered in future tenders. The Commission reserved the Orders subject to filing of the additional affidavit as discussed during the proceedings.

Additional Submission

12. On 16.09.2026, UPPCL filed its submission in compliance to the Order dated 02.09.2026 and has mainly submitted the following:

a) The proposed tender is fuel-agnostic and intended to procure peak-hour power irrespective of the underlying source. Renewable Energy sources as well as conventional generating sources may participate in the tender, either individually or through a combination of sources, at the discretion of the Supplier. Applying different scheduling and despatch principles according to the source of generation would result in differential treatment amongst Suppliers participating in the same tender. Accordingly, UPPCL has proposed that all power procured under the tender should be subjected to Merit Order Despatch (MOD), irrespective of source, so that the scheduling framework remains source neutral.

b) The proposed procurement is designed specifically to meet UPPCL's requirement during the designated peak hours. Scheduling of power according to its relative cost and prevailing system requirement would permit UPPCL to optimize its power procurement portfolio. If a participating source is treated as must-run irrespective of its quoted tariff, higher-cost power may have to be scheduled even where a lower-cost source is available under the same tender, increasing UPPCL's power procurement cost and adversely affecting the economic efficiency sought to be achieved through the proposed competitive bidding process.

c) In view of the competitive bidding process, source-agnostic nature of the tender, limited designated hours and objective of least-cost peak-hour procurement, UPPCL requested the Commission to exercise its powers under Regulation 14 of the MOD Regulations, 2021 and permit all power procured through the present tender,

including power sourced from Renewable Energy Plants, to be scheduled and despatched in accordance with the principles of MOD.

d) Annex-I to Schedule-A of the presently filed Draft PPA contains separate formats for coal-based and gas-based power stations. Prior to execution of the PPA, the selected Supplier is required to submit the draft Schedule-A, including its annexures, to the Procurer for review and incorporation of such additional information, clarifications or particulars as may reasonably be required. Taking into account the fuel-agnostic nature of the tender, Annex-I to Schedule-A is proposed to be revised into a common source-agnostic format applicable to both conventional and Renewable Energy generating sources.

e) Source-specific particulars not material to a medium-term procurement, including Station Heat Rate and detailed descriptions of the boiler, steam turbine and generator, are proposed to be omitted. However, information necessary to identify each source, its site, generating capacity and dedicated communication arrangement shall continue to be furnished. The separate format prescribed for a gas-based power station is consequently proposed to be omitted.

f) The provision permitting payment through NEFT/RTGS in lieu of an electronic Bank Guarantee for Performance Security got inadvertently carried into Clause 9.1.1 of the Draft PPA and does not reflect the intended security mechanism under the present tender. UPPCL's prevailing tender practice, including deviations previously placed before and approved by the Commission in other tenders, permits an electronic Bank Guarantee as the mode for furnishing both Bid Security and Performance Security.

g) The discrepancy pointed out by the Commission is proposed to be rectified by deleting the sentence permitting NEFT/RTGS payment towards Performance Security under Clause 9.1.1 of the Draft PPA. Upon such deletion, both Bid Security and Performance Security shall be furnished through an electronic Bank Guarantee.

h) UPPCL has undertaken an updated assessment of projected demand and power availability for FY 2027-28 to FY 2031-32, based on the latest available details of contracted capacity and assumptions contained in the supporting study. The assessment considers power expected to be available during the identified peak

hours, expected COD of upcoming generating stations and source-wise availability assumptions, covering 00:00 hrs. to 05:00 hrs. and 19:00 hrs. to 24:00 hrs. during the period 16th April to 15th October of each year. The aforesaid assessment projects the average deficit during the identified period and designated hours as set out in the table below.

Financial Year	***Average Deficit (16th April to 15th October)****
FY 2027-28	*2400*
FY 2028-29	*2617*
FY 2029-30	*4790*
FY 2030-31	*6160*
FY 2031-32	*5044*
Average	***4202***

**For 00:00 to 05:00 hours and 19:00 to 24:00 hours*

i) Separate assumptions have been adopted for summer, winter, peak-hour and off-peak-hour requirements. The summer period has been considered from 16th April to 15th October, whereas peak hours have been considered from 00:00 hrs. to 05:00 hrs. and 19:00 hrs. to 24:00 hrs. Expected commercial operation dates of upcoming generating stations have been considered on the basis of the latest Master Data available with the Petitioner as on the date of the study. Availability of thermal generating units may, however, vary depending upon the coal stock position and prevailing real-time operating conditions.

j) Accordingly, UPPCL seek permission to revise the annual supply period from "April to September" to "16th April to 15th October". The first Supply Commencement Date (SCD) is correspondingly proposed to be revised from 01.04.2027 to 16.04.2027, while the designated hours remain unchanged, namely 00:00 hrs. to 05:00 hrs. and 19:00 hrs. to 24:00 hrs.

13. On 21.09.2026, UPPCL filed its submission wherein it mainly submitted following:

a) The proposed procurement is source-agnostic and location-agnostic. Accordingly, generating stations located within Uttar Pradesh as well as outside the State may participate in the tender. A single-part tariff has been proposed for the procurement.

b) Regulation 4(7) of the MOD Regulations, 2021, while expressly providing for an Intra-State Generating Station having a single-part tariff, does not specify the corresponding treatment of a single-part tariff quoted by an Inter-State Generating Station. Under the present tender, an Inter-State Generating Station may also be selected, and, in the absence of a corresponding provision, difficulty would arise in determining how such power is to be placed in the MOD stack.

c) Regulation 4(2) of the MOD Regulations 2021 contemplates preparation of the Merit Order Stack at the State periphery for both Intra-State and Inter-State sources taking into account applicable variable cost. The present difficulty is confined to identifying the charge to be considered for MOD purposes where an Inter-State Generating Station supplies power at a single-part tariff without a separately quoted variable charge.

d) To give effect to the MOD framework in respect of all eligible sources under the present tender, UPPCL seeks a specific order under Regulation 13 removing the identified difficulty by permitting the total single-part tariff quoted by an Inter-State Generating Station to be considered as its variable charge for MOD purposes, in the same manner as Regulation 4(7) provides for Intra-State Generating Stations having Single-part tariff. The present tender documents already contain a provision under Clause 14.1.1 of the Draft PPA stating that the total single-part tariff shall be considered as Variable Charge for MOD purposes.

e) Clause 4.3 of the proposed RFQ includes "Conflict of Interest" within the meaning of an "undesirable practice"; however, the RFQ does not specify the circumstances in which a Bidder shall be regarded as having a Conflict of Interest affecting the bidding process. The same deficiency is also observed in the Standard Bidding Documents issued by the Ministry of Power. To make eligibility requirements clear to prospective bidders and ensure uniform application, insertion of a new sub-clause (f) in Clause 2.2.1 of the RFQ has been proposed. The provision identifies circumstances involving common ownership, control, participation, financial support, representation or relationships that may compromise independence and fairness of bids.

f) The proposed addition to Clause 2.2.1(f) supplies the operative meaning of "Conflict of Interest" for the RFQ, gives effect to the existing reference contained in Clause

4.3 and is intended to safeguard independent participation and integrity of the competitive bidding process. The proposed addition is in line with the definition contained in the DBFOO Model Bidding Documents.

g) The presently filed text of Clause 10.2.1 provides that compensation becomes payable where actual scheduling falls short by more than 40% of Contracted Capacity. However, the subsequent calculation sentence refers to energy corresponding to 40% of Contracted Capacity minus actual energy billed. Accordingly, a change has been proposed to give effect to the stated permissible shortfall of 40% in clause 10.2.1 of the draft PPA.

h) The DEEP Portal has informed UPPCL that approximately six additional months would be required for development and implementation of the module necessary to facilitate participation of bidders falling within the L1+2% range in the subsequent allocation process. It has further indicated that approximately four months would be required to disable the existing L1 Matching functionality. Continued reliance on the DEEP Portal may, therefore, result in significant delay in operationalizing the proposed bidding mechanism. However, Bharat Portal possesses the requisite functionality and is better aligned with the proposed bidding and allocation mechanism, including the proposed L1+2% allocation process.

i) In view of the proposed changes in bidding methodology and the requirement for timely implementation of the 2000 MW Fuel Agnostic Tender, it is proposed that the bidding process be shifted from the DEEP Portal to the Bharat Portal. This would facilitate implementation of the L1+2% allocation mechanism within the required timeline and avoid the additional development period indicated by the DEEP Portal. Accordingly, references to the DEEP Portal in the tender documents are proposed to be replaced with references to the Bharat Portal. The proposed change is limited to the bidding portal and does not alter the substantive terms and conditions of the tender.

Analysis & Decision

14. UPPCL, by way of the instant Amended Petition, has sought approval of the Bidding Documents i.e., Request for Qualification (RFQ), Request for Proposal (RFP) and Draft Power Purchase Agreement (PPA), along with deviations from the Standard Bidding

Documents (SBD) for procurement of 2000 MW Source Agnostic Peak Power for a medium-term period of 5 years. Brief of the proposed power procurement are as below:

i. Power Quantum: 2000MW.
ii. Type of Power: Source/Fuel Agnostic.
iii. Commencement of Supply Date: 16th April 2027
iv. Tariff: Single part Tariff in Rs./kWh
v. Delivery Point: For UP STU-connected Power Station- nearest UP STU Sub-station. For Others-UP Periphery (interconnection point of UP STU and CTU).
vi. Contract Period: 5 years - 16th April to 15th October of the Financial Year.
vii. Supply Timings (Hrs.): 00:00 to 05:00 & 19:00 to 24:00.
viii. Despatch Methodology: Based on Merit Order Despatch
ix. Minimum Bid Capacity: 50MW.
x. Selection Methodology for Bidder: e-RA followed by Bucket filling up to L1+2%.
xi. Bidding Portal: Bharat portal.

15. UPPCL has submitted that the proposed power procurement through this tender is source-agnostic and hence application of different scheduling and despatch principles according to the source of generation would result in differential treatment amongst suppliers participating in the same competitive bidding process. Accordingly, UPPCL has sought relaxation under Regulation 14 of the UPERC (Merit Order Despatch and Optimization of Power Purchase) Regulations, 2021 to permit power procured from Renewable Energy sources under the present tender to be scheduled and despatched in accordance with the principles of Merit Order Despatch. Regulation 14 of the UPERC (Merit Order Despatch and Optimization of Power Purchase) Regulations, 2021 states as below:

> ***"14. Power to Relax***
>
> *The Commission may by general or special order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected by grant of relaxation, may relax any of the provisions of these Regulations on its own motion or on an application made before it by an interested person."*

16. The Commission is of opinion that proposed power procurement is intended to meet its peak demand during the peak season of the year specifically for the designated peak

hours and scheduling power according to its cost/tariff would enable optimization of the power procurement portfolio of UPPCL. Further, if a participating Renewable Energy source is treated as Must Run, irrespective of its quoted tariff, higher-cost power may be scheduled even where lower-tariff power is available under the same tender. **Therefore, the Commission in exercise of its 'Power to Relax' allows power supplied from Renewable Energy sources under the present tender to schedule & despatch in accordance with the principles of Merit Order Despatch. Accordingly, Clause 14.1.1 of the Draft PPA as proposed by UPPCL is approved.**

17. The Commission further notes that Regulation 4(2) of the UPERC (Merit Order Despatch and Optimization of Power Purchase) Regulations, 2021 provides for preparation of the Merit Order Stack at the State periphery for both Intra-State and Inter-State generating sources, whereas Regulation 4(7) specifically provides the treatment of single-part tariff only for Intra-State Generating Stations. UPPCL has, therefore, sought removal of the said difficulty under Regulation 13 of the UPERC (Merit Order Despatch and Optimization of Power Purchase) Regulations, 2021, by treating the total single-part tariff quoted by an Inter-State Generating Station as its Variable Charge for MOD purposes. Regulation 4(2), 4(7) & 13 of the UPERC (Merit Order Despatch and Optimization of Power Purchase) Regulations, 2021 states as below:

> ***"4. GENERAL CONDITIONS AND PRINCIPLES FOR PREPARATION OF MOD STACK:***
>
> *(1) The Distribution Licensee shall verify the details of variable cost provided by the generating company in accordance with the provisions of applicable Regulations or Generation Tariff Orders or other relevant Orders issued by the Appropriate Commission from time to time.*
>
> *(2) The Distribution Licensee shall draw up the Merit Order Stack at the State periphery for intra-State and inter-State Generation sources after taking into account the variable cost of each generating stations as submitted by the generating company along with the inter-state transmission losses and AC-UBC charges as specified under Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020 wherever applicable;*
>
> *Provided that the inter-state transmission loss and inter-state transmission AC-UBC charges for the applicable period corresponding to each generating station shall be considered based on average of (n-1)th month and in case the last month's inter-state transmission loss or*

charges are not available then the last available loss or charges shall be considered.

(3) The Distribution Licensee shall submit the Merit Order Stack to the SLDC in a manner as specified in these Regulations.

.....

(7) For Intra State Generating Stations (InSGS) having single part tariff, total tariff shall be considered as Variable Charge for MOD Purpose.

.....

13. Power to Remove Difficulties

If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by general or specific order, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty."

18. **Accordingly, the Commission allows the total single-part tariff quoted by an Inter-State Generating Station to be considered as its Variable Charge for MOD purposes for present power procurement, in the same manner as provided under Regulation 4(7) for an Intra-State Generating Station.**

19. **Further, UPPCL is directed to incorporate the following in the Bidding Documents:**

a) In Clause 2.19.2 of the RfP, following provision to be added:

"The Procurer shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free."

b) In Article 10.2.1 of the Draft PPA, the word **'three-day ahead basis'** to be replaced with **'a day head basis'** for the unscheduled quantum of power by UPPCL.

c) In Article 10.3 of the Draft PPA, following provision to be added:

"Provided that UPPCL/Procurer will not have any additional financial implication in lieu of alternative source of supply by the generating company/Supplier."

20. Regarding Performance Security and Bid Security, the Commission notes that the Ministry of Finance, Department of Expenditure, vide Office Memorandum No. F.1/1/2022-PPD dated 02.02.2022, has recognized Insurance Surety Bonds as an acceptable alternative to Bank Guarantees (BGs) for Bid Security and Performance Security under the General Financial Rules, 2017. Further, the Ministry of Power, vide Office Memorandum No. 23/17/2013-R&R (Vol-VI)-Part(4) dated 06.04.2026, has

advised States/UTs and procuring utilities to incorporate provisions for acceptance of Insurance Surety Bonds (ISBs), or any other instruments permitted under the General Financial Rules (as amended from time to time), as valid instruments for Bid Security and Performance Security in their respective bidding documents, including those for long-term, medium-term, and short-term power procurement, as well as Battery Energy Storage Systems (BESS). Accordingly, provision in this Bidding documents shall be modified to permit Bid Security and Performance Security through an electronic Bank Guarantee, or an Insurance Surety Bond from an Insurer, or Payment on Order Instrument (POI).

21. **The Commission, after hearing the matter and perusing the documents placed on record, approve the bidding document with the deviation annexed at Annexure-A of this Order for procurement of 2000MW source Agnostic power from generating Plants through tariff based competitive bidding process under Section 63 of the Electricity Act, 2003, for a medium-term period of 5 years (FY 2027-28 to FY2031-32) i.e., for the period from 16th April to 15th October of each financial year, during the designated hours of 00:00 hrs. to 05:00 hrs. and 19:00 hrs. to 24:00 hrs.**

22. **Further, UPPCL is directed to modify the provisions of the bidding documents i.e., RFQ, RFP & draft PPA in terms of decision of the Commission against the proposed provisions in the matter. UPPCL shall ensure alignment of the tender document in terms of the approved provisions, and only then proceed with bidding. A copy of final bidding document shall be placed on record of the Commission.**

The Petition stands **disposed of** in terms of above.

(Griesh Kumar Vaish)	(Sanjay Kumar Singh)	(Arvind Kumar)
Member (Law)	**Member**	**Chairman**

Place: Lucknow
Dated: 28.10.2026

Annexure-A: Deviation Statement of UPPCL from the Standard Bidding Documents

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
1.	Clause-1.1.1 (RFQ)	**Background** The Uttar Pradesh Power Corporation Ltd. is engaged in the distribution of electricity and as part of this endeavour, (the **Procurer**) has decided to procure electricity from a power generating **station irrespective of source[3] that would dedicate** a contracted capacity of 2000 MW for production of electricity and supply thereof for a period of 5 (five) years during peak month (16th April to 15th October) and peak hours of the day comprising 10 hours between (00:00 to 05:00) & (19:00 to 24:00) hours (the "Project") through Public Private Partnership (the "PPP") on Finance, Own and Operate (the "FOO") basis and has, therefore, decided to carry out the bidding process through PFC Consulting Ltd as its Authorized Representative for selection of a corporate entity (ies) as the Bidder to whom the contract may be awarded for production of electricity and supply thereof as per the terms and conditions specified in the Bidding Documents. Brief particulars of the Project are as follows:	Modifications are made as per the requirement of the current tender.	**Approved.** However, since Bharat Portal is proposed by UPPCL instead of DEEP Portal accordingly necessary changes are to be incorporated.

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		<table><tr><th>Requisition No.</th><th>Month of Supply</th><th>Year of Supply</th><th>Commencement of Supply Date (SCD)</th><th>Capacity Required (in MW)</th><th>Timings (Hrs.)</th><th>Minimum Bid Capacity (in MW)</th><th>Delivery Point</th></tr><tr><td>1</td><td>16th April to 15th October</td><td>05 Years</td><td>16-April-2027</td><td>2000</td><td>00:00 to 05:00 & 19:00 to 24:00</td><td>50</td><td>For UP STU-connected Power Station: nearest UP STU Sub-station. For Power Station other than above: UP Periphery (interconnection point of UP STU and CTU).</td></tr></table>		
2.	Clause 1.1.5 (RFQ)	All Bidders shall indicate the particulars of the relevant Power Station in the form specified at Annex-V of Appendix-I and at National e-Bidding DEEP Portal ("**DEEP Portal**") developed by PFC Consulting Ltd. Bidders may bid for the capacity specified in Clause 1.1.1, or a part thereof, not being less than **50 MW (Fifty)**. The remaining capacity, if any, may be procured from other Bidders in accordance with the provisions of the tender document.	Minimum Bid Capacity has been reduced to 50 MW in order to ensure greater participation.	**Approved.** However, since Bharat Portal is proposed by UPPCL instead of DEEP Portal accordingly necessary changes are to be incorporated.
3.	Clause 1.2.1 (RFQ)	The Procurer has adopted a two-stage bidding process (collectively referred to as the "Bidding Process") for selection of the bidder for award of the Project. The first stage (the "e-Tender Stage") of the process involves qualification (the "Qualification") of interested parties who submit Application and Bid in accordance with the provisions of this Bidding Document, comprising of RFQ and RFP (the "Bidder"). Prior to submission of the Application, the Bidder shall pay to the Procurer a sum of Rs 600 (Rupees six hundred only) per MW plus applicable taxes as indicated above, as the **non-refundable** cost of	Clarificatory change	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		the Bidding Process. At the end of e- Tender stage, system will send an email to all Qualified Bidders who are eligible to participate in the second stage of the Bidding Process (the "e-Reverse Auction Stage").		
4.	Clause 1.2.5 (RFQ)	The Bid shall be valid for a period of not less than 120 days from the Bid Due Date. The Bids of only those Bidders that are pre-qualified and short-listed by the Procurer after evaluation of their Application, shall be opened on such date as specified under Clause 1.3 of this Section A and shall be invited to participate in e-Reverse Auction Stage for the Project, in accordance with Clause 4 of Section B, to submit their revised financial bids in e-Reverse Auction stage. The Procurer is likely to provide a comparatively short time span for submission of the Bids for the Project. The Bidders are, therefore, advised to familiarize themselves with the terms of the draft PPA along with RFQ & RFP that will govern the structure of this Project.	Reference of model document may create confusion as the Procurer has sought certain deviations from the same. Therefore, reference of the same has been removed.	**Approved.**
5.	Clause 1.2.8 (RFQ)	In terms of the RFP, a Bidder will be required to deposit, along with its Bid, a bid security of Rs 5,00,000 (Rupees five lakh) per MW of capacity offered by the Bidder (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 PPA. The Bidders **has** to provide Bid Security in the form of an electronic bank guarantee **(e-BG) acceptable to the Procurer**. **The e-BG's** validity period shall not be less	As per UPPCL's standard practice only electronic Bank Guarantee is allowed. Thus, the clause has been amended appropriately.	**Approved with modification stipulated at the end of para 20 of this Order.**

<table>
<tr><th>S. No.</th><th>Clause No.</th><th>Proposed Provisions in Tender Document</th><th>Justification by UPPCL</th><th>Commission's View</th></tr>
<tr><td></td><td></td><td>than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Procurer and the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security.
The said Bid Security shall be submitted through National E-Governance Services Limited (NeSL) platform, details of UPPCL (Beneficiary) are as under:
<table>
<tr><td>PAN No.</td><td>AAACU5088M</td></tr>
<tr><td>Name</td><td>Uttar Pradesh Power Corporation Limited</td></tr>
<tr><td>Date of Incorporation</td><td>30.11.1999</td></tr>
<tr><td>Email ID</td><td>anurag.saxena@uppcl.org</td></tr>
<tr><td>Contact No.</td><td>9415900574</td></tr>
<tr><td>Legal Constitution</td><td>Entity</td></tr>
<tr><td>Registered Office address</td><td>14, Shakti Bhawan, Ashok Marg, Lucknow, Lucknow, Uttar Pradesh, 226001</td></tr>
<tr><td>Communication address</td><td>Room No 306, 14 Shakti Bhawan, Ashok Marg., Lucknow, Uttar Pradesh, 226001</td></tr>
</table></td><td></td><td></td></tr>
<tr><td>6.</td><td>Clause-1.2.10 (RFQ)</td><td>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 here, be selected 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. All other bidders, whose Tariff quoted in the e-Reverse Auction Stage falls within the range of L1+2%, will be allocated the remaining capacity, if any, after allocating the capacity to L1 Bidder, at the Tariff</td><td>Considering that different types of generation sources are being permitted to participate in the tender, it is considered more prudent not to mandate L-1 matching. Accordingly, a band of L1+2% has been proposed in order to facilitate wider participation while simultaneously</td><td>Approved.</td></tr>
</table>

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		quoted in the e-Reverse Auction Stage in the order as they were at the end of **e-Reverse Auction Stage. The system will allocate power to bidders (which fall within the range of L1+2%) in the order as they were at the end of e-Reverse Auction Stage (like L-1, L-2, L-3) for the quantity bid by the Bidders in Bid Stage. It is hereby clarified that the Procurer 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.** **Provided that the bidders are allowed to offer the capacity by pooling power from multiple sources, including part capacity of a generation source subject to the condition that the capacity of each individual source should not be less than 50 MW. Single Tariff will be quoted by the bidder for pooled power.** **Provided further that a Bidder shall not be permitted to submit more than one bid from the same generation source.**	safeguarding the commercial interests of the Procurer. Further, pooling power has been allowed in order to increase participation.	
7.	Clause 1.2.11 (RFQ)	During the Bidding Process, Bidders are invited to examine the **bid documents** in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award of the contract including implementation of the Project.	Clarificatory change	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
8.	Clause 1.2.12 (RFQ)	As part of this Bidding Documents, the Procurer will provide a draft PPA, **RFQ, RFP and any subsequent amendments, corrigendum or clarifications**.	Clarificatory change	**Approved.**
9.	Clause-1.2.13 (RFQ)	Bids are invited for the Project under Section B of this Bidding Document, on the basis of a Tariff to be offered by a Bidder for production and supply of electricity in accordance with the terms of the draft PPA forming part of the Bidding Documents. For the purposes of bidding hereunder, **the Bidder shall offer tariff in the form of single-part tariff for the quantum offered (the "Tariff").** The contract period shall be pre-determined and will be indicated in the draft PPA. The Project shall be awarded to the Bidder(s) **in accordance with the provision of the tender documents**, after the completion of the process under Clause 1.2.7 above. **The Tariff shall be revised as per the terms of the PPA. The Bid for the Project shall, therefore, comprise of single-part Tariff.** In this Section A, the term "**Lowest Bidder**" shall mean the Bidder who is offering the lowest Tariff	A single-part tariff has been considered instead of a two-part tariff, considering the fuel-agnostic nature of the procurement. Since the tender permits participation from diverse technologies, including RE sources such as Solar and Wind, with or without BESS, a conventional bifurcation into Fixed Charges and Variable Charges may neither be practical nor uniformly applicable. A single-part tariff provides a technology-neutral bidding framework, ensures parity among all eligible technologies and contract administration, and avoids the need to artificially apportion the tariff into fixed and variable components for technologies where such	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
			distinction does not naturally exist.	
10.	Clause-1.3 (RFQ)	**Schedule of Bidding Process** The Procurer shall endeavour to adhere to the following schedule:	The 30 days' timeline for signing of the PPA is mentioned in the revised Model Agreement notified by the MoP on 19.12.2022.	**Approved,**
11.	Clause-2.2.1 (RFQ)	**2.2 Eligibility of Bidders** For determining the eligibility of Bidders for their pre-qualification hereunder, the following shall apply: ..... (f) A Bidder shall not have a conflict of interest (the "Conflict of Interest") that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified*. A Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if: (i) the Bidder, its Member or Associate (or any constituent thereof) and any other Bidder, its Member or any Associate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of an Bidder, its Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 5 per cent of the paid up and subscribed share capital of such Bidder, Member or Associate, as the case may be) in the other Bidder, its Member or Associate is less than 5 per cent of the subscribed and paid up equity share	It was observed that RFQ Clause 4.3 defines an "undesirable practice" as including a Conflict of Interest; however, the RFQ does not provide a definition of "Conflict of Interest." The same deficiency is also observed in the Medium-Term Model Bidding Documents issued by the Ministry of Power which have been used as the base documents for current tender process. Accordingly, an appropriate definition of Conflict of Interest has been proposed for inclusion in the current Tender Document, in line with the definition provided in the	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in subsection (72) of section 2 of the Companies Act, 2013. For the purposes of this Clause 2.2.1(f), indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "Subject Person") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; or (ii) a constituent of such Bidder is also a constituent of another Bidder; or (iii) such Bidder, or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other	Model Bidding Documents for DBFOO. The only deviation from the DBFOO provision is the change in nomenclature, wherein "Applicants" has been replaced with "Bidder" to align with the terminology used in the present Tender Document.	

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		Bidder, or any Associate thereof or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or any Associate thereof; or (iv) such Bidder has the same legal representative for purposes of this Application as any other Bidder; or (v) such Bidder, or any Associate thereof has a relationship with another Bidder, or any Associate thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each other's information about, or to influence the Application of either or each other; or (vi) such Bidder, or any Associate thereof has participated as a consultant to the Utility in the preparation of any documents, design or technical specifications of the Project. * *(Footnote) The provisions of sub-clauses (i), (iii) and (v) shall not apply to government companies.*		
12.	Clause-2.2.2 (Eligibility of Bidders) (RFQ)	To be eligible for pre-qualification and short-listing, a Bidder shall fulfil the following conditions of eligibility: (A) **Technical Capacity**: For demonstrating technical capacity and experience (the "Technical Capacity"), the Bidder shall own and operate power generating station(s) having an installed capacity equivalent to at least twice the capacity for which the Bidder is willing to Bid. Bidders shall not be allowed to increase their capacity at e-Reverse Auction Stage greater than for which Technical	The existing provision already permits utilization of Associate credentials for meeting the Financial Capacity requirement. Accordingly, the proposed amendment seeks to extend a similar flexibility for demonstrating Technical Capacity as well, in order to	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		Capacity has been demonstrated. In case the Bidder is a Trading Licensee, the condition under Clause 2.2.2 (A) shall be fulfilled through the Developer. (B) **Financial Capacity**: The Bidder/or its Associate shall have a minimum Net Worth (the "Financial Capacity") equivalent to Rs. 1 crore (Rs. one crore) per MW of the capacity the Bidder is willing to Bid, at the close of the preceding financial year. Bidders shall not be allowed to increase their capacity at e- Reverse Auction Stage greater than for which Financial Capacity has been demonstrated. In case the Bidder is a Trading Licensee, the condition under Clause 2.2.2(B) may be either fulfilled jointly or severally by the Trading Licensee and Developer and/ or its Associate of Developer. **It is clarified that the Bidder are allowed to use the credentials of its Affiliates to meet the Technical Capacity as well as Financial Capacity criteria. However, if both the Bidder and its Affiliates are participating in this bid, in such case, the credential of Technical Capacity as well as Financial Capacity must be fulfilled for cumulative bid capacity of both the Bidder and its Affiliates.**	maintain consistency in treatment of eligibility requirements. Further, provision has been added to avoid double accounting of the credentials. Further, consequential changes	
13.	Clause-2.2.3 (RFQ)	The Bidders shall enclose with its Application, to be submitted as per the format at Appendix-I, complete with its Annexes, the following$: (i) certificate(s) from statutory auditors **or a Practicing Chartered Accountant, duly countersigned by the**	The provision for certification by a Practicing Chartered Accountant, duly countersigned by the Company Secretary, has been	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		Company Secretary, of the Bidder (**or its Associates),** or in case the Bidder is a Trading Licensee, then of the Developer (**or its Associates)**, stating the power stations which are owned and operated by the Bidder (**or its Associates)** or the Developer (**or its Associates)**, as the case may be, as specified in paragraph 2.2.2 (A) above; and (ii) certificate(s) from statutory auditors **or a Practicing Chartered Accountant, duly countersigned by the Company Secretary,** of the Bidder or its Associates specifying the net worth of the Bidder or its Associates, as the case may be, as at the close of the preceding financial year, and also specifying that the methodology adopted for calculating such net worth conforms to the provisions of this Clause 2.2.3 (ii). For the purposes of this Section A, net worth (the "Net Worth") shall mean the net worth as per the Companies Act, 2013.	incorporated to provide operational flexibility while ensuring adequate authentication of the submitted information. Similar provisions have also been adopted in other tenders issued by UPPCL.	
14.	Clause-2.15.2 (RFQ)	However, notwithstanding this Clause, all bids submitted in **e-Reverse Auction** will be considered final and cannot be modified after the bid has been accepted by the system.	Consequential changes	**Approved.**
15.	Clause-2.6.2 (RFQ)	The Procurer reserves the right to reject any Application and/ or Bid if: (a) at any time, a material misrepresentation is made or uncovered, or (b) the Bidder does not provide, within the time specified by the Procurer, the supplemental information sought by the Procurer for evaluation of the Application.	Consequential change	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		If such disqualification/ rejection occurs after the Bids have been opened and the Lowest Bidder gets disqualified/ rejected, then the Procurer reserves the right to: ~~(a) invite the remaining bidders to match the lowest bidder/submit their bids in accordance with Section B; or~~ **(Omitted)** (b) take any such measure as may be deemed fit in the sole discretion of the Procurer, including annulment of the Bidding Process.		
16.	Clause 2.12.2 (RFQ)	2.12.2 Documents required to be uploaded as per this RFQ shall contain: ..... ~~(vi) a copy of Fuel Supply Agreement or equivalent arrangement for the power Station;~~ **(Omitted)**	Not relevant as fuel is not being provided by Procurer	**Approved.**
17.	Clause 2.12.3 (RFQ)	..... **Such hard copies should reach the aforementioned address within 5 days after the opening of the Application in accordance with Clause 1.3 of this RFQ. The Bidders are notified that in case of any discrepancy in the documents uploaded online at the DEEP Portal and the hard copies submitted in accordance with this Clause 2.12.3, the documents uploaded online shall prevail.**	Clarificatory change	**Approved.** However, since Bharat Portal is proposed by UPPCL instead of DEEP Portal accordingly necessary changes are to be incorporated.

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		Provided that the envelope containing the aforementioned hard copies shall be duly sealed and superscribed clearly as: **"TECHNICAL BID / RFQ DOCUMENTS"** **along with the name and address of the Bidder.** **Any envelope not sealed and labelled in the aforesaid manner may be liable for rejection at the discretion of the Procurer.**		
18.	Clause 2.18.1 (RFQ)	Prior to evaluation of Applications, the Procurer shall determine whether each Application is responsive to the requirements of the RFQ **and RFP**. An Application shall be considered responsive if: ..... (g) it contains certificates from its statutory auditors **or/ a Practicing Chartered Accountant, duly countersigned by the Company Secretary**, in the formats specified at Appendix-I of the RFQ for each Eligible Project; ..... (i) it contains a statement on fuel supply arrangement for the Power Station(s) **(not applicable in case of Solar, Wind or BESS)**;	Consequential changes	**Approved.**
19.	Appendix-I (RFQ)	22. I/ We offer a Bid Security of Rs..... (Rupees. only) to the Procurer in accordance with Section B of the Bidding Document.	The Bid Security provisions have been incorporated under Section A (RFQ) instead of Section B (RFP) for better structuring and continuity of the tender document. The	**Approved with modification stipulated at the end of para 20 of this Order.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		23. The copy Bid Security in the form of an electronic Bank Guarantee is attached along with proof of submission on NeSL.	said change is administrative in nature only and does not have any material impact, since submissions under both sections are required to be made simultaneously.	
20.	Appendix-I Annex-V (RFQ)	Particulars of the Power Station(s) ..... **7. Source of Generation (Coal, Hydro, Wind, Solar, ESS, etc.):**	Source of Generation is being sought from the Bidder to ensure transparency.	**Approved.**
21.	Appendix-II	**Power of Attorney** Power of Attorney for signing of Application and **signing of Bid (Refer Clause 2.2.4 of RFQ)**	Separate Powers of Attorney were provided under Section A (RFQ) and Section B (RFP) of the Model Bidding Documents despite substantially similar wording and scope. Further, the format of Power of Attorney prescribed under the RFQ provides a wider and comprehensive authorization covering execution and submission of the Bid as well. Accordingly, in order to avoid duplication and simplify documentation requirements, submission of Power of Attorney has been retained	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
			only under the RFQ stage with minor changes.	
22.	Appendix-III	***Bid Security Format***	The Bid Security provisions have been incorporated under Section A (RFQ) instead of Section B (RFP) for better structuring and continuity of the tender document. The said change is administrative in nature only and does not have any material impact, since submissions under both sections are required to be made simultaneously.	**Approved with modification stipulated at the end of para 20 of this Order.**
23.	Clause-1.1.3 (RFP)	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 (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 PPA. The Bidder **has to provide Bid Security in the form of electronic bank guarantee (e-BG) having** validity period of not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Procurer and the Bidder from time to time. The Bid	As per UPPCL's standard practice only electronic Bank Guarantee is allowed. Thus, the clause has been amended appropriately.	**Approved with modification stipulated at the end of para 20 of this Order.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		shall be summarily rejected if it is not accompanied by the Bid Security		
24.	Clause-1.1.5 (RFP)	Bids are invited for the Project **under Section B of this Bidding Document**, on the basis of a tariff to be offered by a Bidder **for production and supply of electricity in accordance with the terms of the draft PPA forming part of the Bidding Documents. For the purposes of bidding hereunder, the Bidder shall quote single-part tariff for the quantum offered (the "Tariff").** The contract period shall be pre-determined **and will be indicated in the draft PPA**. In this RFP, the term "Lowest Bidder" shall mean the Bidder who is offering the lowest Tariff.	Consequential changes	**Approved.**
25.	Clause-1.1.7 (RFP)	Generally, the Lowest Bidder shall be the Selected Bidder. The remaining Qualified Bidders shall be kept in reserve and may, in accordance with the process specified **here, be selected** 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 of the RFQ is not fully met by the Lowest Bidder. All other bidders, **whose Tariff quoted in the e-Reverse Auction Stage falls within the range of L1+2%, will be allocated the remaining capacity, if any, after allocating the capacity to L1 Bidder, at the Tariff quoted in the e-Reverse Auction Stage in the order as they were at the end of e-Reverse Auction Stage. The system will allocate power to bidders (which fall within the**	Considering that different types of generation sources are being permitted to participate in the tender, it is considered more prudent not to mandate L1 matching. Accordingly, a band of L1+2% has been proposed in order to facilitate wider participation while simultaneously safeguarding the commercial interests of the Procurer.	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		range of L1+2%) in the order as they were at the end of e-Reverse Auction Stage (like L-1, L-2, L-3) for the quantity bid by the Bidders in Bid Stage. It is hereby clarified that the Procurer 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. **Provided that the bidders are allowed to offer the capacity by Pooling power from multiple sources, including part capacity of a generation source subject to the condition that the capacity of each individual source should not be less than 50 MW. Single Tariff will be quoted by the bidder for pooled power.** **Provided further that a Developer shall not be permitted to submit more than one bid from the same generation source.**	Further, pooling power has been allowed in order to increase participation.	
26.	Clause-1.1.8 (RFP)	The Supplier shall, in consideration of its investment and services, be entitled to receive a Tariff.	Consequential changes	**Approved.**
27.	Clause 2.1.5 (RFP)	**The Appendix-I to be submitted on the DEEP Portal shall be exclusive of Bid / Tariff. Bidders shall upload Appendix-I with all fields pertaining to tariff left blank. The tariff shall be submitted only in the designated sections of the DEEP Portal (as applicable) and not as part of Appendix-I.**	The provision has been incorporated to ensure transparency and confidentiality in the bidding process by mandating that tariff be submitted exclusively through the designated fields	**Approved.** However, since Bharat Portal is proposed by UPPCL instead of DEEP Portal accordingly

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		For avoidance of doubt, no Tariff or any component thereof shall be submitted in any uploaded document or Appendix–I, and any such submission shall render the Bid liable for rejection.	of the DEEP Portal, thereby avoiding disclosure of tariff in uploaded documents or hard copies.	necessary changes are to be incorporated.
28.	Clause 2.1.7 (RFP)	The Bidder shall deposit a Bid Security as specified in Clause 1.1.3 of this RFP. The Bidder has to **submit** the Bid Security in the form of an **electronic** Bank Guarantee acceptable to the Procurer, as per format at Appendix–III of RFQ.	Consequential changes	**Approved with modification stipulated at the end of para 20 of this Order.**
29.	Clause 2.1.8 (RFP)	The validity period of the **electronic** Bank Guarantee shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Procurer and the Bidder. The Bid shall be summarily rejected if it is not accompanied by the Bid Security. The Bid Security shall be refundable no later than 60 (sixty) days from the Bid Due Date except in the case of the Selected Bidder(s) whose Bid Security shall be retained till it has provided a Performance Security under the PPA.	Consequential changes	**Approved with modification stipulated at the end of para 20 of this Order.**
30.	Clause 2.1.9 (RFP)	~~The Bidder should submit a Power of Attorney as per the format at Appendix- III, authorising the signatory of the Bid to commit the Bidder.~~ **(Omitted)**	Already sought under Section-A (RFQ)	**Approved.**
31.	Clause-2.2 (RFP)	**Change in Ownership** By submitting the Bid, the Bidder shall be deemed to have acknowledged and agreed that in the event of a change in control of the **Bidder/Affiliate** and/or the Developer (in case of the Bidder being a Trading Licensee), whose	Consequential changes	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of pre- qualification under and in accordance with Section A, the Bidder shall be deemed to have knowledge of the same and shall be required to inform the Procurer forthwith along with all relevant particulars about the same and the Procurer may, in its sole discretion, disqualify the Bidder or withdraw the LOA from the Selected Bidder(s), as the case may be. In the event such change in control occurs after signing of the PPA but prior to the Appointed Date of the Project, it would, notwithstanding anything to the contrary contained in the PPA, be deemed to be a breach of the PPA, and the same shall be liable to be terminated without the Procurer being liable in any manner whatsoever to the Supplier. In such an event, notwithstanding anything to the contrary contained in the PPA, the Procurer shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Procurer under the Bidding Documents and/ or the PPA or otherwise.		
32.	Clause 2.5.2 (RFP)	The Procurer reserves the right to reject any Bid and appropriate the Bid Security if (a) at any time, a material misrepresentation is made or uncovered, or	Consequential change	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		(b) the Bidder does not provide, within the time specified by the Procurer, the supplemental information sought by the Procurer for evaluation of the Bid. Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If such disqualification / rejection occurs after the Bids have been opened and the Lowest Bidder gets disqualified / rejected, then the Procurer reserves the right to: ~~(i) invite the remaining qualified bidders to submit their bids in accordance with clause 4.4; or~~ **(Omitted)** (ii) take any such measure as may be deemed fit in the sole discretion of the Procurer, including annulment of the Bidding Process.		
33.	Clause 2.10.2 (RFP)	The documents accompanying the Bid shall be submitted in original to the designated contact mentioned at Clause 2.12.3 of the RFQ. The documents shall include: (a) Letter comprising the Bid at Appendix-I; ~~(b) Bid Security in the format at Appendix- II;~~ **(Omitted)** ~~(c) Power of Attorney for signing of Bid in the format at Appendix- III; and~~ **(Omitted)** ~~(d) A copy of draft APP with each page initialed by the person signing the Bid in pursuance of the Power of Attorney referred to in Clause (c) hereinabove~~ **(Omitted)**	Consequential changes	**Approved.**
34.	Clause 2.10.3 (RFP)	A true copy of the documents accompanying the Bid, as specified in Clause 2.10.2 (a) shall be uploaded separately. The pages in copy shall be numbered serially and every page shall be initialled in blue ink by the authorised signatory of the Bidder.	Consequential change	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
35.	Clause 2.10.4 (RFP)	~~The Bidders shall send the hard copy of all the original documents stated at Clause 2.10.2 in an envelope clearly indicating the name and address of the Bidder, addressed to the designated contact mentioned at Clause 2.12.3 of the RFQ.~~ ~~Such hard copies should reach the aforementioned address within [5 days] after the opening of the Application in accordance with Clause 1.3 of the RFQ. The Bidders are notified that in case of any discrepancy in the documents uploaded online at the DEEP Portal and the hard copies submitted in accordance with this Clause 2.10.4, the documents uploaded online shall prevail.~~ **(Omitted)**	Consequential change as it has been mandated that tariff-related information be submitted exclusively through the designated fields of the DEEP Portal, thereby avoiding disclosure of tariff in uploaded documents or hard copies.	**Approved.** However, since Bharat Portal is proposed by UPPCL instead of DEEP Portal accordingly necessary changes are to be incorporated.
36.	Clause 2.13.1 (RFP)	The Bid shall be furnished in the format at Appendix–I and **uploaded on the bidding portal. The Appendix–I uploaded on the bidding portal shall not contain any Tariff or any component or break-up thereof, and all such fields shall be mandatorily left blank.** **The Bidder shall quote the Tariff exclusively in the designated sections of the bidding portal (as applicable) and not in any part of Appendix–I or in any uploaded document. The Tariff quoted on the DEEP Portal shall alone be considered for evaluation purposes.** **Any deviation from the above, including inclusion of Tariff details in Appendix–I or failure to quote**	Consequential change as it has been mandated that tariff-related information be submitted exclusively through the designated fields of the DEEP Portal, thereby avoiding disclosure of tariff in uploaded documents or hard copies.	**Approved.** However, since Bharat Portal is proposed by UPPCL instead of DEEP Portal accordingly necessary changes are to be incorporated.

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		tariff in the designated sections of the bidding portal, may lead to rejection of the Bid. The Bidder shall specify (in Indian Rupees) the Tariff to undertake the Project in accordance with this RFP and the provisions of the PPA.		
37.	Clause-2.14.2 (RFP)	However not withstanding this Clause, all Bids submitted in **e-Reverse Auction** will be considered final and cannot be modified after the bid has been accepted by the system. No Bid shall be modified, substituted or withdrawn by the Bidder on or after the Bid Due Date**.**	Consequential changes	**Approved.**
38.	Clause 2.19.1 (RFP)	The Bidder shall furnish as part of its Bid, a Bid Security referred to in Clauses 2.1.7 and 2.1.8 hereinabove in the form of **an electronic** bank guarantee issued by a nationalized bank, or a Scheduled Bank in India having a net worth of at least Rs. 1,000 crores (Rs. one thousand crore), in favour of the Procurer in the format at Appendix– III of RFQ (the "e-Bank Guarantee") and having a validity period of not less than 180 (one hundred eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Procurer and 61 the Bidder from time to time. In case the e-Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalized bank in India is required. For the avoidance of doubt, Scheduled Bank shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934.	Consequential change	**Approved with modification stipulated at the end of para 20 of this Order.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
39.	Clause 2.19.2 (RFP)	~~Bid Security can also be in the form of a demand draft issued by a Scheduled Bank in India, drawn in favour of the Utility and payable at [Delhi] (the "Demand Draft") or may be payable online to Utility though NEFT/IMPS/RTGS payment. The Utility shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free~~ **(Omitted).**	Consequential change	**Approved.** However, it is clarified that the below statement be kept under the clause: "The Procurer shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free."
40.	Clause 2.19.4 (RFP)	Save and except as provided in Clauses 1.1.3 above, the Bid Security of unsuccessful Bidders will be returned by the Procurer, without any interest, as promptly as possible on acceptance of the Bid of the Selected Bidder or when the Bidding process is cancelled by the Procurer, and in any case within 60 (sixty) days from the Bid Due Date.	Consequential change	**Approved.**
41.	Clause 2.19.7 (RFP)	The Bid Security shall be forfeited as Damages without prejudice to any other right or remedy that maybe available to the Procurer under the Bidding Documents and/ or under the PPA, or otherwise, if, a. a Bidder submits a non-responsive Bid **or Application**;	Consequential change	**Not Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
42.	Clause 3.2.1 (RFP)	Prior to evaluation of Bids, the Procurer shall determine whether each Bid is responsive to the requirements of this Section B. A Bid shall be considered responsive only if: ..... d. ~~It is accompanied by the Bid Security as specified in clause 1.1.3~~; (Omitted) e. ~~It is accompanied by the Power(s) of Attorney as specified in clause 2.1.9.~~ (Omitted)	Consequential change, as already made part of RFQ	**Approved.**
43.	Clause 4.4 (RFP)	~~After the completion of e-Reverse Auction, the prevailing lowest Tariff would be visible to all the Bidders ("Lowest Tariff") and a time period of 30 minutes shall be given to all the Bidders qualified at e-Tender Stage for matching the Lowest Tariff ("L- 1 Matching"). The Bidders matching the Lowest Tariff will also be required to give the break-up of the Tariff. The list after completion of L-1 Matching would also include the name, quantum offered and Tariff quoted by those qualified Bidder(s) who have not changed the quantum of electricity and Tariff from e-Tender stage to e- Reverse Auction stage.~~ ***(Omitted)***	Consequential changes	**Approved**
44.	Clause-5.1 (RFP)	Subject to the provisions of Clause 2.15.1, the Bidder whose Bid is adjudged as responsive in terms of Clause 3.2.1 and who quotes the Lowest Tariff offered to the Procurer after Bid Stage, in conformity with the provisions of Clause **1.1.7** shall be declared as the selected Bidder(s) (the "Selected Bidder(s)"). In the event that the Procurer rejects or annuls all the Bids, it	Consequential changes	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.		
45.	Clause-5.3 (RFP)	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 Procurer may allocate the remaining capacity, if any, to such Bidder who participated in the e-Reverse Auction and whose Tariff quoted in the e-Reverse Auction Stage falls within the range of L1+2%, after allocating the capacity to L1 Bidder(s), at the Tariff quoted in the e-Reverse Auction Stage in the order as they were at the end of e-Reverse Auction Stage.** It is hereby clarified that the Procurer 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. The Bidder will have the option to indicate their minimum threshold quantity and the same would be considered for allocation of electricity to the last **Lowest Bidder.**	Consequential changes	**Approved.**
46.	Clause-5.4 (RFP)	~~In the event that no Qualified Bidder offers to match the Lowest Bidder in the second round of bidding as specified in Clause 4.3, the Utility may, in its discretion, invite fresh Bids (the "third round of bidding") from all Qualified Bidders except the Lowest Bidder of the first round of bidding, or annul the Bidding Process, as the case may be. In case the Qualified Bidders are invited in the third round of bidding to revalidate or extend their Bid~~	Consequential changes	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		~~Security, as necessary, and offer fresh Bids, they shall be eligible for submission of fresh Bids provided, however, that in such third round of bidding only such Bids shall be eligible for consideration which are lower than the Bid of the second lowest Bidder in the first round of bidding.~~ **(Omitted)**		
47.	Clause-5.8.1 (RFP)	The Bid shall comprise the Tariff offered by the Bidder for production and supply of electricity to the Procurer in accordance with the provisions of the PPA. **The Tariff comprising the Bid shall be offered in accordance with the provisions of Clauses of the PPA.** **The Tariff shall be revised as per the terms of the PPA. The Bid for the Project shall, therefore, a single-part Tariff.**	Consequential changes	**Approved.**
48.	Appendix-I (RFP)	~~20. I/ We offer a Bid Security of Rs..... (Rupees.....only) to the Utility in accordance with Section B of the Bidding Document.~~ **(Omitted)** ~~21. The Bid Security in the form of a Demand Draft/ Bank Guarantee (strike out whichever is not applicable) is attached.~~ **(Omitted)** 22. The documents, as specified in Clause 2.10.2 of Section B of the Bidding Document, have been submitted online at the e-Bidding DEEP Portal.	These points have been omitted as the same has already been covered under RFQ format (Appendix-I). Further, consequential changes.	**Approved.** However, since Bharat Portal is proposed by UPPCL instead of DEEP Portal accordingly necessary changes are to be incorporated.
49.	Appendix-II (RFP)	~~Bid Security Format~~ **(Omitted)**	Relevant appendix has been moved to RFQ.	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
50.	Appendix-III (RFP)	~~Power of Attorney for signing of Bid~~ **(Omitted)**	Relevant appendix has been moved to RFQ.	**Approved.**
51.	Recitals (PPA)	The Procurer has resolved to procure electricity from **one or more** power generating station**(s) (as detailed under SCHEDULE – A) , including through pooling of power from multiple sources, which shall collectively** deliver a Contracted Capacity of *** MW at the Delivery Point corresponding to ***MW of gross generation on finance, own and operate (the "FOO") basis in accordance with the terms and conditions to be set forth in an agreement for procurement of power to be entered into under and in accordance with the provisions of the Electricity Act, 2003.	Consequential changes, in order to facilitate pooling of generation sources.	**Approved.**
52.	Clause 2.1 (PPA)	**Scope of the Project** The scope of the Agreement (the "Scope of the Agreement") shall mean and include, during the Contract Period: (a) ensure the operation and maintenance of the Power Station**/Contracted Capacity**, situated at the Site(s) described in Schedule-A and having the principal features stated therein, in accordance with the provisions of this Agreement.	Consequential changes, in order to facilitate pooling of generation sources.	**Approved.**
53.	Clause-3.1.1 (PPA)	Subject to and in accordance with the provisions of this Agreement, Applicable Laws and the Applicable Permits, the Procurer hereby awards to the Supplier the procurement contract set forth herein (for **generating** electricity at the Power Station(s), if Supplier is NOT a Trading Licensee) for supply thereof to the Procurer for a period of 5 year **from 16.04.2027**, and the Supplier	In line with other UPPCL tenders, prior approval from the Hon'ble Commission shall be taken before PPA extension.	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		hereby accepts the Procurement Contract and agrees to implement the same subject to and in accordance with the terms and conditions set forth herein. **Provided that, subject to approval of the UPERC, the Parties may, by mutual agreement and upon written notice issued at least 3 (three) months prior to expiry of the Contract Period specified hereinabove, extend the Contract Period for a further period of 1 (one) year on the same terms and conditions set forth herein.**		
54.	Clause-3.1.2 (PPA)	Subject to and in accordance with the provisions of this Agreement, the Procurement Contract hereby awarded shall oblige or entitle (as the case may be) the Supplier to: ..... ~~(c) to receive Fixed Charge from the Utility in respect of the Availability of Contracted Capacity;~~ **(Omitted)** (d) to receive **Tariff** in accordance with the provisions of this Agreement;	Consequential changes	**Approved.**
55.	Clause 4.1.2 (PPA)	The Supplier may, upon providing the Performance Security to the Procurer in accordance with Article 9, at any time after 15 (fifteen) days from the date of this Agreement or on an earlier day acceptable to the Procurer, by notice require the Procurer to satisfy any or all of the Conditions Precedent set forth in this Clause 4.1.2 within a period of 30 (thirty) days of the notice, and the Conditions Precedent required to be satisfied by the	(a), (b) & (e) has been omitted as per standard practice of UPPCL, as UPPCL is already providing LC in PSM as per the LPS rules. UPPCL is not providing Default Escrow Agreement.	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		Procurer shall be deemed to have been fulfilled when the Procurer shall have: (a) ~~executed and procured execution of the Default Escrow Agreement in accordance with the provisions of Clause 13.1~~; **(Omitted)** (b) ~~executed the Deed of Hypothecation in accordance with the provisions of Clause 13.1.2~~; **(Omitted)** (c) ~~procured approval of the Commission for payment of Tariff by the Utility to the Supplier in accordance with the provisions of this Agreement; and~~ Filling a petition for approval of the Commission for payment of Tariff by the Procurer to the Supplier in accordance with the provisions of this Agreement; and (d) ~~[Obtained the letter of assurance, dated [**] issued by [**] ("Coal Supplier") in the name of the Supplier for the supply on a linkage basis, [**] tonnes per annum of [**] grade coal for the entire Term of this Agreement ("Letter of Assurance" appended herein as Annexure 1) for the purposes of the Project.]~~ **(Omitted)** (e) ~~Provided performance security to the Supplier.~~ **(Omitted)**	(d) has been omitted as it pertains to coal based plant procuring coal from linkage coal.	
56.	Clause 4.1.3	The Conditions Precedent required to be satisfied by the Supplier within a period of 90 (ninety) days from the date of this Agreement shall be deemed to have been fulfilled when the Supplier shall have:	The requirement relating to execution of Fuel Supply Agreement has been omitted since, as per the tender conditions, the responsibility	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		~~(e) [The Supplier shall have executed the Fuel Supply Agreement upon the fulfillment of all the conditions laid down in the Letter of Assurance;~~ **(Omitted.)**	for procurement of coal/fuel, if any, rests solely with the Supplier.	
57.	Clause 4.2 (PPA)	**Damages for delay by the Procurer** ***Omitted***	It is to mention that Procurer is not providing Performance Security to the Supplier as mentioned in the revised Model Agreement.	**Approved.**
58.	Clause 4.4 (PPA)	**Deemed Termination upon delay** Without prejudice to the provisions of Clauses 4.2 and 4.3, and subject to the provisions of Clause 9.2, the Parties expressly agree that in the event the Appointed Date does not occur, for any reason whatsoever, 120 (one hundred twenty) days from the date of this Agreement or the extended period provided in accordance with this Agreement, all rights, privileges, claims and entitlements of the Supplier and the Procurer under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the parties, and the Power Procurement Agreement shall be deemed to have been terminated by mutual agreement of the Parties. Provided, however, that in the event the delay in occurrence of the Appointed Date is for reasons attributable to the Supplier, the Performance Security of the Supplier shall be encashed and appropriated by the Procurer as Damages thereof.	Consequential change	**Approved.**
59.	Clause 4.5 (PPA)	**Extension of Term of Agreement**	Proviso has been incorporated to clarify that extension of the	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		In the event the damages are paid by the defaulting party as per provisions of clause 4.2 and 4.3 and the Agreement has not been terminated as per the provisions of Clause 4.4, the term of the Agreement shall be deemed to have been extended corresponding to the period of delay in fulfilment of conditions precedent. For eg – If there is a delay of 15 days in the fulfilment of conditions precedent and the defaulting party has paid the applicable damages, the Appointed Date shall start after 15 days from the originally stipulated Appointed Date. **Provided that nothing contained in this Agreement shall be construed to permit extension of the Appointed Date beyond such period that would result in crossing the SCD.**	Appointed Date on account of delay in fulfilment of Conditions Precedent shall not be construed as permitting any extension beyond the Scheduled Commissioning Date (SCD), thereby safeguarding timely commencement of supply.	
60.	Clause 4.6 (PPA)	**Date of Commencement of Supply** The date of **Commencement of Supply (SCD)** shall be 16.04.2027.	SCD has been specified upfront in order to provide certainty regarding the timeline for commencement of supply and to ensure alignment with the Procurer's power procurement planning and requirement. Accordingly, linkage of commencement of supply with extension of Appointed Date has not been retained.	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
61.	Clause 5.1.2 (PPA)	The Supplier shall [ensure that the Developer shall if Supplier is a Trading Licensee] operate and maintain the Power Station**(s)** in accordance with the Specifications and Standards and the Maintenance Requirements such that the Availability of the Contracted Capacity from the Power Station**(s) (collectively in case of multiple Power Stations)** is at least **90 % (Ninety per cent) thereof during 00:00 to 05:00 hrs & 19:00 to 24:00 hrs** each year of the Contract Period (the "**Normative Availability**"). **Explanation:** Availability of the Power Station**(s) (collectively in case of multiple Power Stations)** to its full capacity shall, in respect of any hour, mean the capacity of the Power Station**(s) (collectively in case of multiple Power Stations)** to the extent it is offered by the Supplier for producing and supplying electrical energy equal to []*kWh per megawatt of Contracted Capacity over a period of one hour, after accounting for auxiliary consumption, and transmission losses upto the Delivery Point, and for any month or year, as the case may be, the hours during that month or year when the Contracted Capacity **from** the Power Station**(s) (collectively in case of multiple Power Stations)** 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, (the "**Availability**"). For the avoidance of doubt, the Parties agree that Availability shall, during the	Changes have been made in accordance with UPPCL's requirement. Further changes made in order to accommodate pooling of generation sources.	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		months when **SCD** or the date of Termination occurs, be determined with reference to the number of days when the Power Station**(s) (collectively in case of multiple Power Stations)** was in operation, and shall be determined likewise for any single day of operation. The Parties further agree that if the Contracted Capacity **from** the Power Station**(s) (collectively in case of multiple Power Stations)** 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.		
62.	Clause 5.1.3 (PPA)	Special Provisions relating to Pooling of Power Sources: 1. Where the Contracted Capacity under this Agreement is proposed to be supplied from more than one Power Station through pooling arrangement, the contribution of each such Power Station towards the Contracted Capacity shall be as specified in Schedule–A. 2. Notwithstanding anything to the contrary contained in this Agreement, all rights, obligations,	The clause has been incorporated to suitably address scenarios involving pooling of power from multiple generating sources and to ensure that the Supplier remains responsible for maintaining the Contracted Capacity at the	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		liabilities, reliefs, compensation, damages, Availability, Non-Availability, transmission unavailability, shortage of fuel, Change in Law, Force Majeure impact, substitute supply, extension of Contract Period and other matters, including but not limited to performance obligations under this Agreement, shall, where reasonably applicable, be assessed and determined by the Procurer, only with reference to the Contracted Capacity available at the Delivery Point, without having any impact on the Tariff. Such assessment shall be undertaken in proportion to the respective contribution of such Power Station towards the Contracted Capacity as specified in Schedule–A. 3. For the avoidance of doubt, occurrence of any event affecting an individual Power Station, including shortage of fuel, transmission constraint, outage, Force Majeure Event or reduction in generation, shall not by itself entitle the Supplier to any relief under this Agreement unless such event results in reduction of the Available Contracted Capacity at the Delivery Point below the Normative Availability requirements under this Agreement and such reduction could not reasonably have been mitigated through other Power Station(s) forming part of the Contracted Capacity.	Delivery Point irrespective of issues affecting any individual Power Station. The provision also clarifies the manner of assessment of obligations, reliefs and performance parameters in pooled supply arrangements, thereby safeguarding continuity and reliability of supply to the Procurer without impacting the discovered Tariff.	

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		4. The Supplier shall remain obligated to maintain and supply the aggregate Contracted Capacity through the remaining available Power Station(s) to the maximum extent possible notwithstanding any event affecting any individual Power Station.		
63.	Clause 5.3 (PPA)	**Obligations relating to transmission charges** The inter-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 transmission shall be borne by the Supplier. If the Power Station(s) is connected to intra-state transmission system of a state other than the state where the Procurer is located, such 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 intra-state transmission shall, subject to the provisions of Clause 11.4.3, be borne by the Supplier. **A. Inter State Transmission Charges** The Supplier shall be liable for **all charges payable on account of T-GNA (including SLDC, RLDC charges, other applicable charges) shall be borne by the Supplier. In case, the Supplier is a Trading Licensee or Distribution Licensee then the TGNA application shall be punched by the Supplier. If the Supplier is a Generator/Developer, then Procurer will apply for T-GNA application. In such cases, T-GNA charges (including all applicable charges) payable**	As the current tender is for procurement of peak power, UPPCL will either to procure additional GNA or schedule the power through T-GNA. Procuring GNA for only peak power seems impractical. Therefore, procurement of such power through T-GNA has been proposed. This is in line with approved short-term tender document.	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		to SLDC/RLDC shall be reimbursed to Procurer by the Supplier without any rebate within 3 working days on receipt of the bill from Procurer, beyond which Late Payment Surcharge @ 1.25% per month shall be applicable. Normally, the contracted power will be scheduled under T-GNA. With the discretion of Procurer, if Procurer opts to schedule power under GNA, transmission charges for T-GNA will not apply. In this scenario, the Supplier, who has not paid any T-GNA charges to the implementing agency, should accordingly raise the bill at a reduced tariff, wherein the reduction in tariff shall be equivalent to the applicable notified T-GNA charges for the relevant period corresponding to such scheduled power. This reduced tariff will be used for all other purposes, such as Liquidated Damages, rebates, and taxation (like TDS, TCS, etc.) for the respective period of supply. **B. Intra State Transmission Charges** Transmission Charges up to the Deliver Point shall be borne by the Supplier.		
64.	Clause 5.4 (PPA)	**Obligations relating to transmission losses.** **Supplier shall bear transmission losses up to the Delivery Point. For avoidance of doubt the parties agree that the Contracted Capacity shall be delivered at the Delivery Point.**	To ensure the power delivered to UPPCL is at UP state periphery and it also creates a level playing field for generators within the State.	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
			The same is also as per the previously approved deviations in 4000 MW Hydro bid documents.	
65.	Clause 5.6 (PPA)	**Obligations relating to taxes** The Supplier shall pay, at all times during the subsistence of this Agreement, all taxes, levies, duties, cesses and all other statutory charges payable in respect of the Power Station.	Certificatory changes	**Approved.**
66.	Clause 6.1.1 (PPA)	**Obligations of the Procurer** The Procurer agrees to provide support to the Supplier and undertakes to observe, comply with and perform, subject to and in accordance with the provisions of this Agreement and Applicable Laws and upon written request from the Supplier, and subject to the Supplier complying with Applicable Laws, provide reasonable support and assistance to the Supplier in procuring the Applicable Permits required from any Government Instrumentality for operation of the of the **Power Station(s)** from inter-state transmission system for contracted capacity and under Applicable Laws;	Consequential changes	**Approved.**
67.	Clause 7.1 (PPA)	**Representations and warranties of the Supplier** The Supplier represents and warrants to the Procurer that: ..... (m) **Omitted;**	The requirement relating to execution of Fuel Supply Agreement has been omitted since, as per the tender conditions, the responsibility for procurement of coal/fuel,	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
			if any, rests solely with the Supplier.	
68.	Clause 8.1.2 (PPA)	The Procurer **makes no representation whatsoever, express, implicit or otherwise, regarding** the accuracy, adequacy, correctness, reliability and/or completeness of **any** assessment, assumption, statement or information provided by it **and the Supplier confirms that it shall have no claim whatsoever against the Procurer in this regard.**	Change proposed in line with DBFOO model document and tender document of 1600 MW and 4000 MW DBFOO tender approved by this Hon'ble Commission.	**Approved.**
69.	Clause 8.1.5 (PPA)	**Except as otherwise provided in this Agreement, all risks relating to the Supply shall be borne by the Supplier and the Procurer shall not be liable in any manner for such risks or the consequences thereof**	(New Clause added) For clarity and to safeguard UPPCL's interest	**Approved.**
70.	Clause 9.1.1 (PPA)	The Supplier shall, for the performance of its obligations hereunder, provide to the Procurer no later than 30 (thirty) days from the date of this Agreement, an irrevocable and unconditional **electronic bank** guarantee from a Schedule Bank for a sum equivalent to Rs. ***** crore (Rupees ***** crore)* in the form set forth in Schedule-B (the "Performance Security") valid for a period ending 6 (six) months after date of **SCD or** the actual commencement of supply**, whichever is later**. ***Footnote:*** **To be calculated @ Rs. 10,00,000 (Rs. ten lakh) per MW of Contracted Capacity.*	Consequential and clarificatory changes	**Approved with modification stipulated at the end of para 20 of this Order.**
71.	Clause 9.1.2 (PPA)	***Omitted***	UPPCL is not providing Performance Security as mentioned in the revised	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
72.	Clause 9.2.2 (PPA)	***Omitted***	Model Agreement dated 19.12.2022. Therefore, the clause 9.2.2 of the current document is omitted. The same is also in line with the previously approved deviations in 4000 MW Hydro bid documents.	
73.	Clause9.3 (PPA)	**References to Performance Security** References to Performance Security occurring in this Agreement for and in respect of any period prior to the delivery of the Performance Security by the **Supplier to the Procurer**, or in respect of any period subsequent to the expiry or release thereof, as the case may be, shall be construed solely for the purposes of calculating the amount of Damages payable by the **Supplier, and the amount** so determined shall be appropriated from the Bid Security, **as the case may be.**	Consequential changes	**Approved.**
74.	Clause 10.2.1 (PPA)	**Dispatch of unutilized Contracted Capacity** In the event the Procurer, does not schedule a quantum of power out of its Contracted Capacity **on three-day ahead basis**, the Supplier shall be entitled to sell such un requisitioned power on power exchange ~~under day ahead or real time collective transaction or intraday transaction~~. Provided that in such cases, Procurer shall not be entitled to recall full or part of its unrequisitioned capacity.	In accordance with UPERC Open Access Regulations to accommodate intra-state generators in UP. The revised provision allows UPPCL greater flexibility during lean/ low demand	**Approved.** The Word 'three-day ahead basis' to be replaced with 'a day ahead basis' and the word "under day ahead or real time collective transaction or

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		Provided further that the Procurer would ensure that actual scheduling does not deviate by more than 40% of Contracted Capacity on monthly basis. In case actual scheduling is in deviation by more than 40% of the Contracted Capacity, the Procurer shall pay compensation at 50% of applicable Tariff per kWh for the quantum of shortfall in excess of permitted deviation of 40%. **Provided also that if the Supplier fails to offer such un requisitioned power in the power exchange, the un-requisitioned power to the extent not offered in the power exchange up to the declared capacity shall not be considered as available for any payment of Tariff.** Provided further that if the Supplier is able to sell the un-requisitioned power, sharing of gain **(The gain will be calculated as the difference between selling price (DAM/RTM rate) of** such power **in the power exchange and 50% of the applicable Tariff as per the PPA) from sale of such power shall be as per following:** **(i) recovery of Tariff liability payable by the Procure towards the un-requisitioned power;** **(ii) the balance shall be shared in the ratio of 50:50 between the Procurer and the Supplier.**	period to surrender power upto 40% without facing any liability of Fixed Charges and is in commercial interest of UPPCL. In line with LPS rules and other UPPCL tenders.	intraday transaction" to be deleted.

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		For clarification, the monthly Tariff liability payable by the Procure towards the unrequisitioned power shall be reduced in line with the above provision i.e. after adjustment of gain sharing.		
75.	Clause 10.3 (PPA)	**Substitute Supply** In the event **if** the **Supplier is unable to supply power from** the Power Station**(s)**, on account of **any reason**, the Supplier may supply electricity from any alternative source, and such supply shall, for payment of **Tariff**, be deemed to be supply under and in accordance with the provisions of this Agreement. Provided further that **the Supplier will not be required to take any approval from the Procurer for supply from alternative source if such supply period is for a cumulative period of 6 months or less over the PPA tenure. However, in the event that the cumulative supply period from the alternative source exceeds six (6) months from the commencement of the PPA, the Supplier will have to take prior approval in writing from the Procurer for the same.** **Additionally, in any case, Supplier shall be required to provide prior intimation to the Procurer at least 15 days before the commencement of supply from alternative source.** For the avoidance of doubt, the Parties agree that in the event the Procurer rejects any supply of electricity offered hereunder from an alternative source, Procurer **shall not**	Considering to source agnostic nature of the tender, Suppliers are allowed to supply power from any alternate source. Providing this flexibility to the Supplier shall ensure greater participation and competitive tariff.	**Approved.** However, UPPCL/Procurer will not have any additional financial implication in lieu of alternative source of supply by the generating company/Supplier.

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		be liable for Tariff payment towards such offered supply from alternative source. Provided also that the Supplier may supply the Contracted Capacity in a flexible manner by bundling with **any** source.		
76.	Clause 10.4 (PPA)	**Supply during Designated Hours** The Supplier shall ensure the Availability of the **Contracted Capacity** during designated hours of the day comprising 00:00 to 05:00 hours & 19:00 to 24:00 hours during 16th April to 15th October ("Designated Hours"). However, the Procurer may with a notice of 30 (thirty) days, require the Supplier a change in the Designated Hours subject to mutual agreement between the parties.	Clarificatory change	**Approved.**
77.	Clause 10.5 (PPA)	**Supply on Round the Clock Basis:** ***Omitted***	Not relevant for current tender	**Approved.**
78.	Clause 11.1 (PPA)	**Tariff** 11.1.1 The Procurer shall pay to the Supplier **single-part tariff** for supply of electricity, in accordance with the provisions of this Agreement (the "**Tariff**"). 11.1.2 The Procurer shall pay to the Supplier an amount, determined in accordance with the provisions of this Article 11, **for supply of electricity of the Power Station(s) against the Contracted Capacity.**	Consequential and clarificatory changes	**Approved.**
79.	Clause 11.2 (PPA)	**Base Year Tariff** The Parties agree that the **Tariff** payable for **supply of electricity during** Designated Hours, i.e. 19:00 to 24:00	Consequential changes	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		& 00:00 to 05:00 hrs during 16th April to 15th October, shall, in accordance with the offer of the Supplier for the Base Year, be Rs.....(Rupees .....) per kWh (the "Base **Year Tariff**"), which shall be revised annually in accordance with the provisions of Clause 11.3 to determine the **Applicable Tariff** for the relevant Accounting Year.		
80.	Clause 11.3 (PPA)	**Annual Escalation** For determining the **Applicable Tariff** due and payable to the Supplier, the Base **Year Tariff** shall be revised annually to reflect **30% (thirty per cent)** of the variation in WPI occurring between January 31 immediately preceding the Bid Date and January 31 immediately preceding the Accounting Year for which such revision is undertaken. For the avoidance of doubt and by way of illustration, if (a) the Bid Date occurs in March 2015; (b)the **SCD** occurs in May 2019; and (c) WPI increases by 20% (twenty percent) between January 31, 2015 and January 31, 2019, the **Tariff** for the Accounting Year commencing from April 1, 2019 shall be **106% (one hundred and six percent) of the Base Year Tariff.**	**Consequential changes** Previously escalation of 20% and 50% on WPI variation was allowed on Fixed Charges and Variable Charges, respectively. However, considering that now single part tariff is allowed, weighted average escalation has been computed based on previously allowed escalations and giving weightage of 65% and 35% to Fixed Charges and Variable Charges escalations, respectively. ***(~30% = 65% x 20% + 35% x 50%)***	**Approved.**
81.	Clause 11.4 (PPA)	**Computation of Applicable Tariff** 11.4.1 Subject to the provisions of this Clause 11.4, the Base **Year Tariff**, as corrected for variation in WPI Index	Consequential changes	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		in accordance with Clause 11.3 shall be the **Applicable Tariff** payable for **electricity supplied** in each month of the relevant Accounting Year. 11.4.2 The obligations of the Procurer to pay **Applicable Tariff** in any Accounting Year shall in no case exceed an amount equal to the **Applicable Tariff** due and payable for electricity supplied in respect of the Normative Availability of **90% (Ninety per cent)** during Designated Hours i.e. 00:00 to 05:00 hrs & 19:00 to 24:00 hrs during 16th April to 15th October computed with reference to the Contracted Capacity. Provided that the **electricity supplied** to be considered for calculation of **Tariff** shall be reconciled **Monthly**. 11.4.3 In the event that any shortfall in supply of electricity to the Procurer occurs on account of deficiency in intra state transmission system in accordance with the provision of Clause 5.3, Availability shall be deemed to be reduced in accordance with the provisions of Clause 11.5.2 and the Non-Availability arising as a consequence thereof shall, for the purposes of payment of **Tariff**, 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, Dispatch the Power Station**(s)/Contracted Capacity** to the extent of full or part Non-Availability hereunder for supply to other Utilities or Buyers, as the case may be,	Considering that the power being procured under this tender is to meet peak demand, the availability has been increase from 85% to 90%. Other consequential changes	

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		and to the extent of full or part Non-Availability hereunder for supply to other Buyers, and to the extent of such Dispatch, the Procurer shall not be liable to payment of any **Tariff** and payable in accordance with the provisions of this Clause 11.4.3. Provided further that sharing of gain from sale of such power shall be in the same manner as provided for sale of un- requisitioned power in applicable rules issued by the Ministry of Power, as amended from time to time. 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. **11.4.4 (Omitted)**		
82.	Clause 11.5.3 (PPA)	**Declaration of Availability:** In the event that any shortfall in supply of electricity to the Procurer occurs on account of shortage of Fuel, the Availability shall be deemed to be reduced to the extent of reduction in generation of electricity, and such reduction shall be deemed as Non-Availability on account of shortage of Fuel. For the avoidance of doubt and by way of illustration, the Parties agree that if the deficiency in generation is equal to 20% (twenty per cent) of 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 if Supplier is NOT a Trading Licensee] or Developer through the	Not relevant for current tender	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		Supplier if Supplier is a Trading Licensee]to the Procurer forthwith. ~~Provided that where the Fuel is being supplied under allocated coal linkage, the Supplier shall have an option to arrange the Fuel from an alternate source. The Utility shall be intimated if the increase in Variable Charge is greater than 30 % (thirty percent).~~ **(Omitted)** Provided that if the Procurer does not schedule the power, the Supplier shall have the option to offer such power in the power exchange.		
83.	Clause 11.5.5 (PPA)	In the event that the Availability at any time is determined to be lower than 100% (one hundred per cent) of the Contracted Capacity or the reduced Availability notified hereunder, an event of mis-declaration of Availability (the "Mis-declaration") shall be deemed to have occurred. In such an event, the Availability for the relevant month shall, for the purposes of payment of **Tariff**, be deemed to be reduced by the same proportion that Availability bears to **50% of** Mis-declaration, as if the Mis-declaration had occurred for a period of one month. For the avoidance of doubt, the Parties agree that deductions on account of Mis-declaration shall be made from the subsequent payments due to the Supplier under this Agreement.	Consequential changes	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
84.	Clause 11.6.1 (PPA)	In the event that Availability in any month is less than the Normative Availability, the **Tariff payable equivalent to 50% of Applicable Tariff** for such month shall be reduced to the extent of shortfall in Normative Availability and in addition, any reduction below the Normative Availability shall be multiplied by: • **for sale to third party/sale in power exchange, or unjustifiable reasons: the monthly average Power Exchange rate (IEX RTM rate) of the respective time block plus Rs. 1 (one) to determine the Damages payable for such reduction in supply.** • **Any other reasons: 25% (twenty-five per cent) of Applicable Tariff to determine the Damages payable for such reduction in supply.**	Consequential changes Further, imposed damages in case sale to third party/unjustifiable reasons align with the UPERC Order dated 14.02.2023 in Petition no 1869 of 2022, which stated that damages are to be levied on per day RTC rate plus Rs. 1. However, the proposed clause suggests a modification by using the monthly average Power Exchange rate (IEX RTM rate) plus Rs. 1. This change is made considering that the current tender is for procurement of peak power during peak months and the energy supply shortfall can be done on specifically during the peak hours. Further, in case of justifiable reasons the damages clause is to be levied equivalent to 25% of the Fixed Charges is	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
			as per the revised model agreement dated 19.12.2022.	
85.	Clause 11.7 (PPA)	~~**Variable Charge:** The Utility shall pay to the Supplier, as part of Tariff, a Variable Charge to be determined in accordance with the provisions of Article 12~~. **(Omitted)**	Consequential change	**Approved.**
86.	Clause 11.8.2 (PPA)	**Taxes and duties:** The Tariff payable by the Procurer under this Article 11 shall be exclusive of Electricity Duty, Value Added Tax or **Goods and Service Tax on supply of electricity**, or any replacement thereof, if applicable, thereon shall be paid by the Supplier and reimbursed by the Procurer upon submission of necessary particulars by the Supplier.	It is to mention that the current tender is a source agnostic tender for 2000 MW peak power during the specified peak hours and peak periods. The fuel arrangement is in scope of the bidder and UPPCL is not responsible for the same. In light of the above, the fuel part of the clause 11.8.2 of the Model Agreement is removed on the current bid document.	**Approved.**
87.	Clause 11.9.1 (PPA)	Commencing from the month following the month in which the **SCD** occurs, the Supplier shall, by the 5 th (fifth) day of such and each succeeding month (or, if such day is not a Business Day, the immediately following Business Day), **submit an invoice to the Procurer in the agreed form/ format and medium as may be specified by the Procurer from time to time** (the "**Monthly Invoice**") setting out the computation of the **Tariff** to be paid by the Procurer to the Supplier in	The provision has been modified to provide flexibility to the Procurer in prescribing the format, mode and procedural requirements for submission of Monthly Invoices from time to time, in line with operational requirements, digitization	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		respect of the immediately preceding month in accordance with the provisions of this Agreement.	initiatives and administrative practices.	
88.	Clause 11.9.2 (PPA)	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 11.3; (d) detailed calculations of the **Tariff for supply of electricity** in accordance with this Article 11; **(e) not used**; (f) detailed calculations of the Damages in accordance with the provisions of Clause 11.6; (g) details in respect of taxes/duties payable/reimbursable in accordance with the provisions of this Agreement; (h) details of the **Tariff** to be adjusted by the Supplier in respect of sale of power to Buyers; (i) details in respect of Damages payable in accordance with the provisions of this Agreement; (j) adjustments, if any, on account of revision of the transmission charges referred to in Clause 5.3; (k) proportionate adjustment on account of transmission losses to be determined in accordance with Clause 5.4; and (l) the net amount payable under the Monthly Invoice.	Consequential changes	**Approved.**
89.	Clause 11.9.3 (PPA)	**Billing and Payment** The Procurer shall, within **45 (Fourty Five)** days of receipt of a Monthly Invoice in accordance with Clause 11.9.1 (the "Payment Due Date"), make payment of the	As per LPS rule and other recent tenders of UPPCL.	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		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").		
90.	Clause 11.11 (PPA)	**Discount for early payment** The Parties expressly agree that in the event the Procurer pays the billed amount within the periods as specified below, it shall be entitled to deduct specified percentage of the amount by way of discount for early payment: (i) Up to 5 days from the date of submission of the invoice – 1.5% (ii) Up to 10 days from the date of submission of the invoice-1.4% (iii) Up to 15 days from the date of submission of the invoice-1.3% (iv) Up to 20 days from the date of submission of the invoice-1.2% (v) Upto25 days from the date of submission of the invoice – 1.1% (vi) Up to **Due Date** from the date of submission of the invoice– 1.0% Provided that the counting of days shall be exclusive of the day of submission of invoice. Provided further that in case of computation of days, the number of days shall be counted consecutively without considering any holiday.	Consequential changes due to change in Due Date from 30 days to 45 days as per the LPS Rule.	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
91.	Clause 12 (PPA)	**VARIABLE CHARGE** ***12.1 (Omitted)*** ***12.2 (Omitted)*** ***12.3 (Omitted)*** ***12.5 (Omitted)***	Consequential changes	**Approved.**
92.	Clause 13.1 (PPA)	**Default Escrow Account** ***(Omitted)***	Consequential changes, as UPPCL is already providing LC in PSM as per the LPS rules. UPPCL is not providing Default Escrow Agreement	**Approved.**
93.	Clause 13.2 (PPA)	**Letter of Credit** 13.2.1The Procurer shall, **on mutually agreed date, in respect of payment of its Monthly Bills and/or Supplementary Bills corresponding to their respective period of supply**, provide to the Supplier, an unconditional, **weekly** revolving and irrevocable letter of credit for an amount equivalent to the **Minimum** Monthly Payment (the "Letter of Credit"), which may be drawn upon by the Supplier for recovery of payment due against the Monthly Invoice in accordance with the provisions of this Agreement. The Letter of Credit shall be substantially in the form specified in Schedule-E and shall be modified once every year to reflect the revision in **Minimum** Monthly Payment in accordance with the provisions of this Agreement. **The "Minimum Monthly Payment" shall mean an amount equal to 20% (twenty per cent) of the 3**	As per standard practice of UPPCL and in line with the previously approved deviations in 4000 MW Hydro bid documents.	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		months Tariff payable against the Contract Capacity computed based on normative availability. **In case of difficulty in opening of LC, the Distribution Company may pay in advance through electronic mode for an amount equivalent to the weekly bill either on estimated basis or on the basis of previous 6 months' average bill and inform the same to the respective Load Dispatch Centre (LDC), in such case also LDC shall schedule the power to the Distribution Company.** 13.2.2 The Letter of Credit shall be procured by the Procurer from **any nationalized bank**. All costs and expenses relating to opening and maintenance of the Letter of Credit shall be borne by the Procurer.		
94.	Clause 13.4 (PPA)	**Payment security for Termination** The Parties agree and acknowledge that upon Termination and on failure of the Procurer to make the Termination Payment within 30 (thirty) days of demand by the Supplier, Revenues equal to the **Maximum** Monthly Payment, deposited into the **bank account of the bank from which Letter of Credit is being procured**, shall be appropriated every month and paid to the Supplier until discharge of the Termination Payment and any interest thereon. For the avoidance of doubt, the Procurer expressly agrees and undertakes that 30% (thirty per cent) of **the 3 months Tariff payable against the Contract Capacity computed based on**	In line with approved Hydro Tender document and consequential changes.	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		normative availability (the "Maximum Monthly Payment") shall continue to be deposited into its account of the **bank from which Letter of Credit is being procured** until its liability for and in respect of the Termination Payment is fully discharged.		
95.	Clause 13.5 (PPA)	**Operationalization of Payment security mechanism Notwithstanding the above provisions with respect to Payment Security Mechanism, the alternate payment security mechanism with respect to opening of LC as provided in the MoP order dated 17.07.2019 shall also fulfill the obligation of Procurer for providing Default Escrow Agreement and Deed of Hypothecation.**	Consequential changes and in line with the previously approved deviations in 4000 MW Hydro bid documents	**Approved.**
96.	Clause 14.1.1 (PPA)	The Procurer shall, in accordance with Applicable Laws, issue instructions to the Supplier for production of electricity and despatch thereof to the Grid during such period and in such volume as it may specify in its instructions (the "**Despatch**"). Provided that the Procurer shall not Despatch in excess of the Contracted Capacity, unless mutually agreed between the Parties. For the avoidance of doubt, the Parties agree that the Procurer may, in its discretion, direct the Supplier to Despatch on its behalf, all or part of the Contracted Capacity, in favour of the third parties designated by it from time to time on the express understanding that the payment therefor shall be made by the Procurer to the Supplier as if the electricity has been Despatched in favour of the Procurer.	Considering the source-agnostic nature of the tender and participation of multiple generation technologies, the provisions have been incorporated to ensure a level playing field among all participating sources and to align scheduling and dispatch principles with Merit Order Dispatch (MOD) principles.	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		Provided that, in the case of electricity supply from a renewable energy source under this agreement the scheduling will be done as per the principles of Merit-Order-Despatch (MOD). **For the avoidance of doubt, it is hereby clarified that, in the event electricity is supplied from Renewable Energy source(s) under this Agreement, the Parties expressly acknowledge, agree and undertake that such Renewable Energy source(s) shall not be treated as "Must Run" generation for the purposes of scheduling and dispatch. Accordingly, such Renewable Energy source(s) shall be scheduled and dispatched strictly in accordance with the principles of Merit Order Dispatch (MOD), including any backing down, curtailment, or scheduling instructions issued by the Procurer, SLDC or RLDC. The total Tariff shall be considered as Variable Charge for MOD purposes.** **The Supplier hereby irrevocably waives any right to claim, contend, or assert, before any court, tribunal, regulatory commission, statutory authority or any other forum, that the Renewable Energy source covered under this Agreement is entitled to "Must Run" status or protection inconsistent with the provisions of this Agreement.**		

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		The Parties further agree that the provisions of this Agreement shall prevail inter se between the Parties notwithstanding anything contrary contained in any regulation, guideline, policy, practice direction, or order, to the extent permissible under Applicable Law. The Supplier further acknowledges and agrees that, except for such compensation or payments as may be expressly provided under this Agreement, no compensation, deemed generation benefit, damages, restitution or any other claim whatsoever shall arise or be payable on account of backing down, curtailment, reduced scheduling, or non-despatch carried out in accordance with the MOD principles under this Agreement. The Supplier shall be solely responsible for obtaining, maintaining, and ensuring compliance with all approvals, consents, declarations, communications, scheduling arrangements and operational protocols required from any statutory, regulatory, grid, load dispatch, transmission, or other competent authority, including but not limited to SLDC, RLDC, NLDC, CTU, STU, or any renewable energy implementing agency, to ensure that electricity, if supplied from Renewable Energy source(s) under this Agreement, is not treated, scheduled, dispatched or accorded the status of		

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		"Must Run" generation and is subjected to Merit Order Dispatch (MOD) principles in accordance with this Agreement. **The Supplier further agrees that any action, omission, claim, communication, representation or proceeding initiated by the Supplier or through any third party resulting in the grant, assertion or enforcement of "Must Run" status contrary to the provisions of this Agreement shall constitute a material breach of this Agreement.**		
97.	Clause 14.1.3 (PPA)	**Despatch of Contracted Capacity** In the event the Supplier schedules any electricity, produced from Contracted Capacity, for sale to Buyers in breach of this Agreement, the Supplier shall pay Damages equal **in accordance with clause 11.6 of this Agreement**. For the avoidance of doubt, no **Tariff equivalent to 50% of Applicable Tariff** or any amount in lieu thereof shall be due or payable to the Supplier for and in respect of any electricity sold hereunder. However, if the Procurer does not schedule the full or part of Contracted Capacity, Supplier may sell the same through the power exchange in line with the applicable rules issued by the Ministry of Power, as amended from time to time.	To prevent the imposition of a double penalty on the Supplier, the clause in the current document has been modified.	**Approved.**
98.	Clause 14.4 (PPA)	**Ramp up of Despatch** In the event the Procurer despatches less than 2% (two per cent) of **the** Contracted Capacity at any time and	Consequential changes	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		requires ramping up of generation thereafter, **the Supplier shall be allowed the following timeframes** to reach Availability equal to the Contracted Capacity: **(i) Thermal Power: A period of 4 (four) hours shall be allowed.** **(ii) Hydro Power: A period of 5 (five) minutes shall be allowed.** **(iii) Gas Power: A period of 10 (ten) minutes shall be allowed.** **(iv) Other Sources: The provisions of this clause shall not apply to other sources of energy.** For the avoidance of doubt, in the event the Supplier fails to reach such Availability within **the stipulated timeframe for the respective source**, the shortfall thereof shall be deemed to be a Mis-declaration under the provisions of Clause 11.5.5. The liability of the **Procurer under this provision** shall, at all times, be reckoned with reference to the Contracted Capacity.		
99.	Clause 17.3 (PPA)	**17.3 Other Events** One or more of the following acts or events by or on account of any Government Instrumentality: **(a) Omitted;**	Change in Law impact has been covered under Article 21, hence, the same has been removed from here.	**Approved.**
100.	Clause 17.9 (PPA)	**17.9 Special Provisions relating to Pooling of Power Sources** Where the Contracted Capacity under this Agreement is proposed to be supplied from more than one Power	The clause has been incorporated to suitably address scenarios involving pooling of power from	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		Station, the contribution of each such Power Station towards the aggregate Contracted Capacity shall be as specified in Schedule–A. For the purposes of determination of Availability, Non-Availability, Force Majeure impact, Liquidated Damages, extension of Contract Period and any other performance obligation under this Agreement, the impact attributable to each Power Station shall be assessed by the Procurer in proportion to its respective contribution towards the aggregate Contracted Capacity as specified in Schedule–A. The Parties further agree that occurrence of a Force Majeure Event affecting any individual Power Station shall not, by itself, entitle the Supplier to any relief under this Agreement unless such event results in reduction of the aggregate Available Contracted Capacity at the Delivery Point below the Normative Availability and such reduction could not reasonably have been mitigated through alternate Power Station(s) forming part of the contracted supply arrangement. For avoidance of doubt, the Supplier shall continue to remain obligated to supply the aggregate Contracted Capacity through the remaining available Power Station(s) to the maximum extent possible notwithstanding occurrence of a Force Majeure Event affecting any individual Power Station. Where the aggregate Contracted Capacity remains Available at or above the Normative Availability through	multiple generating sources and to ensure that the Supplier remains responsible for maintaining the Contracted Capacity at the Delivery Point irrespective of issues affecting any individual Power Station. The provision also clarifies the manner of assessment of obligations, reliefs and performance parameters in pooled supply arrangements, thereby safeguarding continuity and reliability of supply to the Procurer without impacting the discovered Tariff.	

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		other Power Station(s), no extension of Contract Period, relief from performance obligation or waiver of Liquidated Damages shall be available solely on account of Force Majeure affecting any individual Power Station. Any extension of Contract Period or relief admissible on account of Force Majeure in relation to pooled Power Station(s) shall be computed proportionately with reference to the reduction in aggregate Available Contracted Capacity attributable to the affected Power Station(s), relative to their respective contribution specified in Schedule–A.		
101.	Clause 19.1.1 (d)(PPA)	**Termination for Supplier Default** ***Omitted***	Not relevant, as Fuel is not being arranged by the Procurer.	**Approved.**
102.	Clause 19.2.1 (PPA)	**Termination for Procurer Default** In the event that any of the defaults specified below shall have occurred, and the Procurer fails to cure such default within a Cure Period of 90 (ninety) days or such longer period as has been expressly provided in this Agreement, the Procurer shall be deemed to be in default of this Agreement (the "Procurer Default") unless the default has occurred as a result of any breach of this Agreement by the Supplier or due to Force Majeure. The defaults referred to herein shall include the following: ~~(a) The Performance Security Utility has been encashed and appropriated in accordance with Clause 9.2 and the Utility fails to replenish or provide fresh Performance~~	Consequential change	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		~~Security Utility within a Cure Period of 15 (fifteen) days;~~ **(Omitted)** ~~(b) subsequent to the replenishment or furnishing of fresh Performance Security Utility in accordance with Clause 9.2, the Utility fails to meet any Condition Precedent or cure the Utility Default, as the case may be, for which whole or part of the Performance Security Utility was appropriated, within a Cure Period of 120 (one hundred and twenty) days;~~ **(Omitted).**		
103.	Clause 19.3.1 (PPA)	Apart from the other payments to be made by the Supplier on Supplier Default, upon Termination on account of a Supplier Default, the Supplier shall pay to the Procurer, by way of Termination Payment, an amount equal to the **50% of Tariff** that would have been due and payable for Normative Availability for a period of 6 (six) months as if the Contracted Capacity was Available for such 6 (six) months from the date of Termination.	Consequential change	**Approved.**
104.	Clause 19.3.2 (PPA)	Apart from the other payments to be made by the Procurer on Procurer Default, upon Termination on account of a Procurer Default, the Procurer, shall pay to the Supplier, by way of Termination Payment, an amount equal to the **50% of Tariff** that would have been due and payable for Normative Availability for a period of 6 (six) months as if the Contracted Capacity was Available for such 6 (six) months from the date of Termination.	Consequential change	**Approved.**
105.	Article 21 (PPA)	**21.1 No Tariff Adjustment on Account of Change in Law**	Considering the source-agnostic and competitively bid nature of the	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		The Parties expressly agree that there shall be no adjustment in Tariff, compensation, restitution, reimbursement, or any other financial relief whatsoever on account of occurrence of any Change in Law event, resulting in any increase or decrease in costs, expenses, taxes, duties, levies, charges, capital expenditure, operating expenditure, financing costs or any reduction or increase in revenues, returns, profitability or other financial gains/losses of either Party. The Tariff under this Agreement shall remain firm, fixed and unchanged throughout the Term of this Agreement notwithstanding the occurrence of any Change in Law event, and each Party shall bear and absorb the financial consequences of such Change in Law event to its own account. **21.2 No Financial Implication** In the event that performance of either Party under this Agreement is affected due to occurrence of a Change in Law event, such event shall not give rise to any claim for compensation, tariff revision, deemed generation, damages, restitution, reimbursement or any other financial implication or relief against the other Party. **21.3 Notice of Change in Law** The affected Party shall notify the other Party in writing of the occurrence of a Change in Law event within 10 (ten) days from the date of occurrence or knowledge	procurement, the Change in Law provisions have been modified to provide tariff certainty and ensure that the discovered Tariff remains firm and non-adjustable throughout the term of the Agreement. The revised provisions are intended to establish a clear contractual allocation of Change in Law risks between the Parties, while ensuring uniform treatment of all participating technologies and avoiding future tariff uncertainty and pass-through claims. Further, considering the medium-term nature of the procurement, the Change in Law risk exposure is expected to be relatively limited.	

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		thereof, providing reasonable particulars of such event and its impact on performance under this Agreement. **21.4 Limited Relief for Affected Party** Notwithstanding anything contained in this Agreement, a Change in Law event shall not constitute a ground for either Party to claim that the Agreement has become commercially impracticable, financially unviable, economically burdensome or incapable of performance merely on account of any increase in costs, reduction in revenues, inability to recover costs, reduction in return on investment, deterioration in financial position, impact on debt servicing, impairment of cash flows, reduction in profitability or any adverse effect on the business, operations or financial condition of such Party. Accordingly, neither Party shall be entitled to suspend, withhold, reduce, or refuse performance of its obligations under this Agreement, nor seek any tariff adjustment, compensation, restitution, renegotiation, discharge or any other financial or contractual relief, solely on the ground that the financial impact of a Change in Law event has affected or may affect the viability, sustainability, or functioning of its business or project. Provided, however, that if compliance with any obligation under this Agreement becomes unlawful or impossible solely due to a Change in Law event, the affected obligation shall stand excused only to the limited extent and for the duration of such unlawfulness or impossibility,		

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		without any accompanying financial relief or tariff adjustment. **21.5 Waiver of Claims** Each Party irrevocably waives any right to raise, claim or seek, before any court, tribunal, arbitral forum, regulatory commission, governmental authority or any other adjudicatory body, any tariff adjustment, compensation, restitutionary relief or financial relief of any nature whatsoever on account of any Change in Law event, except to the limited extent of excuse from affected performance in accordance with Clause 21.4 above.		
106.	Clause 23.1.3 (PPA)	**Dispute resolution** **In case of cross-border (imported) power, the Dispute Settlement and Resolution mechanism provided in the CERC (Cross Border Trade of Electricity) Regulations, 2019, as amended from time to time, shall be applicable.** **Provided that in case the dispute is escalated to International Arbitration Centre, then the same shall be referred to the Indian International Arbitration Centre at Delhi, India.** **Further, for domestic power, following provisions shall be applicable.**	It is to mention that Imported Power supply is allowed in the current tender. Considering the above and in line with the previously approved deviations in 4000 MW Hydro bid documents, the clause 23.1.3 is modified as appropriate for the current tender.	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
107.	Article 26 (PPA)	**Definitions:** **"Appointed Date"** means the date on which all the Conditions Precedent are achieved and every Condition Precedent is either satisfied or waived, as the case may be, in accordance with the provisions of this Agreement; **"Base <u>Year Tariff</u>"** shall have the meaning as set forth in Clause 11.2**;** ~~***"Capacity Charge"***~~ ***(Omitted)*** **"Change in Ownership"** means a transfer of the direct and/or indirect legal or beneficial ownership of any shares, or securities convertible into shares, that causes the aggregate holding of the promoters, together with their Associates in the total Equity to decline, at any time prior to the 1st (first) anniversary of the **<u>SCD</u>**, below 51% (fifty one per cent) thereof, or such lower proportion as may be permitted by the Procurer upon substitution of the promoters of the Supplier by an entity having sufficient financial and technical capacity to discharge the obligations of the Supplier under this Agreement; ~~**"Deed of Hypothecation"** shall have the meaning as set forth in Clause 13.1.2~~**;** ***(Omitted)*** ~~**"Default Escrow Account"** shall have the meaning as set forth in Clause 13.1.1~~**;** ***(Omitted)*** ~~**"Default Escrow Agreement"** shall have the meaning as set forth in Clause 13.1.1~~**;** ***(Omitted)*** ~~**"Default Escrow Bank"** shall have the meaning as set forth in Clause 13.1.1~~**;** ***(Omitted)***	Consequential changes	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		"**Delivery Point**" refers to 1. For UP STU-connected Power Station: nearest UP STU Sub-station. 2. For Power Station other than above: UP Periphery (interconnection point of UP STU and CTU). "**Applicable Tariff**" shall have the meaning as set forth in Clause 11.1.2; "**Maximum Monthly Payment**" shall have the meaning as set forth in Clause **13.4**; "**Minimum Monthly Payment**" shall have the meaning as set forth in Clause **13.2.1;** **"Secured Obligations"** means: ~~(a) the amounts due to the Default Escrow Bank from the Utility in relation to the Letter of Credit;~~ **(Omitted)** (b) obligations of the Procurer for payment of Tariff under and in accordance with this Agreement; and (c) obligation of the Procurer to make Termination Payment under and in accordance with this Agreement upon termination thereof; ~~"Variable Charge" shall have the meaning as set forth in clause 12.1; and~~ **(Omitted)** **"WPI"** means the Wholesale Price Index for all commodities as published by the Ministry of Industry, GOI and shall include any index which substitutes the WPI, and any reference to WPI shall, unless the context otherwise requires, be construed as a reference to the		

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		WPI published for the period ending with the preceding month, save and except that for the purposes of annual revision of the **Tariff** in accordance with the provisions of Clause 11.3, the revision due on April 1 of any year shall be computed with reference to WPI as on January 31 of that year.		
108.	Schedule A	**SCHEDULE – A** **(See Clause 2.1)** **SITE OF THE POWER STATION(s)** *(In case of a Trading Licensee being the Supplier, the details of the Power Station(s) of the Developer need to be filled in this Schedule.)* **1 The Site** Site of the Power Station**(s)** shall include the land, buildings, structures as briefly described in Annex-I of this Schedule A. **Provided that where Annex-I is not available or not separately attached in respect of any source forming part of the pooled supply arrangement, the Supplier shall provide details of such source(s) in the same manner and format as specified in Annex-I, to the extent reasonably possible.** **2 Power Station(s)** The principal features of the Power Station**(s)** are described in Annex-I of this Schedule A. **3 Contribution of Each Power Station in case of Pooled Power**	The provision under Model Bidding Document appears to be drafted primarily for a single identified Power Station supplying power under the Agreement. However, under pooled supply arrangements, additional clarity regarding the contributing generating stations becomes necessary for ensuring transparency, traceability and proper contractual identification of the supply arrangement. Accordingly, the proposed modifications seek to extend the applicability of Schedule–A to multiple Power Stations under a pooled supply arrangement, ensure disclosure of each station's	**Approved.**

<table>
<tr><th>S. No.</th><th>Clause No.</th><th>Proposed Provisions in Tender Document</th><th>Justification by UPPCL</th><th>Commission's View</th></tr>
<tr><td></td><td></td><td>In case the Contracted Capacity is proposed to be supplied from multiple Power Stations through pooling arrangement, the Supplier shall clearly specify the contribution of each such Power Station towards the Contracted Capacity under this Agreement.

<table>
<tr><th rowspan="2">Hours</th><th rowspan="2">Time Block</th><th rowspan="2">Contracted Capacity (MW)</th><th colspan="4">Contribution of Each Power Station</th></tr>
<tr><th>Power Plant – 1 (Name) (MW)</th><th>Power Plant – 2 (Name) (MW)</th><th>Power Plant – 3 (Name) (MW)</th><th>Power Plant – ..... (Name) (MW)</th></tr>
<tr><td>00:00-00:15</td><td>1</td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>00:15-00:30</td><td>2</td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>00:30-00:45</td><td>3</td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>00:45-01:00</td><td>4</td><td></td><td></td><td></td><td></td><td></td></tr>
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<tr><td>23:45-24:00</td><td>96</td><td></td><td></td><td></td><td></td><td></td></tr>
</table>

Note: Prior to execution of the Agreement, the Supplier shall submit a draft of Schedule–A, including all Annexures thereto, to the Procurer for review. The Supplier shall incorporate such additional information, clarifications or particulars as may be reasonably required by the Procurer for proper identification of the Power Station(s) and the contracted supply arrangement under this Agreement.</td><td>contribution towards the Contracted Capacity, enable proper identification of generating sources by the Procurer and avoid future ambiguity or disputes relating to source identification and supply arrangements.</td><td></td></tr>
<tr><td>109.</td><td>Annex-I (Schedule A)</td><td>Annex-I: Description of Power Station

(Particulars in respect of the blanks in this Annex-I shall be provided by the selected bidder after issue of Letter of</td><td>The Annex-I of Schedule-A may be amended as proposed to make it source-agnostic</td><td>Approved.</td></tr>
</table>

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
		Award and the same shall be included in the Agreement to be executed between Parties.) **1. The site** The Site of the Power station shall include the land, building and structures as briefly described below: {Provide a brief description here.} **2. Capacity of the Power Station** 2.1 The Power Station shall have a generating capacity of not less than ..... MW. {2.2 The configuration of Units is given below: (a) The number of Units is ..... (b) The nameplate capacity of each Unit is..... MW.}[1] **3. Dedicated Communications** The Power Station shall have a dedicated communication linkage with the Utility.	and applicable to all types of generating sources. Ramp rates of various sources have already been defined under clause 14.4 of the PPA.	
110.	Annex-I (Schedule A)	**Annex-I: Description of Gas-based Power Station** **(Omitted)**	Consequential change, as the Annex-I provided along Schedule-A has been proposed to be amended in order to make it source-agnostic i.e., applicable to all types of generating sources.	**Approved.**
111.	Schedule C	~~DEFAULT ESCROW ACCOUNT~~ **(Omitted)**	Consequential changes	**Approved.**
112.	Schedule D	~~DEED OF HYPOTHECATION~~ **(Omitted)**	Consequential changes	**Approved.**

S. No.	Clause No.	Proposed Provisions in Tender Document	Justification by UPPCL	Commission's View
113.	Schedule E	**Letter of Credit** 2. The Letter of Credit shall come into force with effect from...., 20..... and shall be valid and effective up to the 31st (thirty first) day of March, 20.... (indicate the year) falling after the year in which the Letter of Credit is issued (the "Expiry Date"), **and shall be renewed every year by the Bank as directed by Procurer,** 2 (two) months prior to the date of expiry, for the period of the financial year that commences immediately after the Expiry Date, and shall continue to be so renewed until the end of the Contract Period. The date of expiry for the renewed period hereunder shall be deemed to be the Expiry Date for the purposes hereof.	As per standard practice of UPPCL	**Approved.**
114.	Schedule E	8.The Expiry Date of this Letter of Credit shall be deemed to be automatically extended, 2 (two) months prior to its Expiry Date, without any act or deed, for an additional period of 1 (one) financial year from the respective Expiry Date, unless at least 180 (one hundred and eighty) days prior to any Expiry Date, the Bank gives notice in writing to the Supplier and the Procurer that the Bank elects not to renew this Letter of Credit for any such additional period.	Consequential changes	**Approved.**
115.	Schedule F	~~Methodology for Calculation of ECR for Blending with Alternative Sources.~~ **(Omitted)**	Not relevant for current tender	**Approved.**