THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

Petition No. 2381 of 2026

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

Petition under section 86(1)(b) of the Electricity Act, 2003 and Regulation 15 of the UPERC (Conduct of Business) Regulations, 2019 read with Regulation 5 of the UPERC CRE Regulations, 2024 for approval of PPA dated 20.02.2026 for Khara Small Hydro Project with total capacity of 1.5MW (2x0.75MW) for a period of forty years executed between UPPCL and UPRVUNL.

AND

IN THE MATTER OF

Uttar Pradesh Power Corporation Limited (UPPCL),

14th Floor, Shakti Bhawan Extension, 14, Ashok Marg, Lucknow– 226001 **...Petitioner**

VERSUS

Uttar Pradesh Rajya Vidyut Utpadan Nigam Limited (UPRVUNL),

12th Floor, Shakti Bhawan Extension, 14, Ashok Marg, Lucknow– 226001 **...Respondent**

FOLLOWING WERE PRESENT

1. Sh. Divyanshu Bhatt, Advocate, UPPCL
2. Sh. Vishal Kumar, Advocate, UPPCL
3. Sh. Manish Dwivedi, CE (PPA), UPPCL
4. Sh. Vibhanshu Srivastava, Advocate, UPRVUNL
5. Sh. Amitav Singh, Advocate, UPRVUNL
6. Sh. D.B Yadav, CE (NP&C), UPRVUNL
7. Sh. M.K. Gautam, SE (Comm.), UPRVUNL

8. Sh. Sunil Kumar, EE (Comm.), UPRVUNL

ORDER

(DATE OF HEARING: 08.10.2026)

1. The Petitioner, UPPCL filed this Petition for approval of Power Purchase Agreement (PPA) dated 20.02.2026 for power procurement of 1.5 MW form Khara Small Hydro Project for a period of forty years. The prayers of the Petitioner are as follows:
   a) Admit the instant petition.
   b) Approve the PPA dated 20.02.2026 for total capacity of 1.5 MW (2 X 0.75) small hydro project executed between UPPCL and UPRVUNL; and
   c) Adopt the tariff for 1.5 MW (2 X 0.75) small hydro power plant in terms of the PPA and UPERC CRE Regulations 2024; and/or
   d) Pass such orders that this Commission may deem fit in the present facts and circumstances of the case.

Background of the case

2. The Petitioner has mainly submitted the following in the Petition:
   a) UPRVUNL owns and operates the Khara Small Hydro Electric Power (SHEP) Station in District Saharanpur having an installed capacity of 72 MW (3x24 MW), originally commissioned by the erstwhile Uttar Pradesh State Electricity Board (UPSEB) in 1992. The generating station was transferred and vested in UPRVUNL under Section 23 of the Uttar Pradesh Electricity Reforms Act, 1999 and Section 5 of the Uttar Pradesh Reforms Transfer Scheme, 2000.
   b) Through another channel built on the power plant, around 24 cusecs to 300 cusecs water is being supplied for irrigation needs of farmers in and around Fatehpur village from the commencement of this power plant. In such a case, it was envisaged that the 35 m fall and 100 cusecs water available from this channel could be utilized for generation of electricity. Pursuant thereto, an expansion of the Khara Small Hydro Electric Power Station having installed capacity of 1.5 MW (2x0.75MW) was established by UPRVUNL, which achieved commissioning on 14.02.2025.

c) UPRVUNL, vide its letter No. 194/Act/PPA dated 17.02.2026, submitted that the revised draft PPA to be executed for procurement of power from this expansion of Khara SHEP (2x0.75 MW) had been duly approved by the competent authority and certain amendments in the definitions and tariff-related provisions had been incorporated in accordance with the UPERC (Captive and Renewable Energy Generating Plants) Regulations, 2024.

d) The Project has been operational and running on commercial load from 02.04.2025, as per the availability of water in the irrigation canal. The sealing work of Energy Meter (Main & Check) at Khara and of the 33 kV Khara-Behat Line was completed in terms of the minutes of meeting dated 10.03.2025. Clarifications regarding the provisions of the PPA with respect to the Delivery Point and Project life etc. were provided by UPRVUNL vide its communication dated 05.03.2025. UPRVUNL issued the COD Certificate of successful commissioning of both units of the Khara SHEP and that both units were operating on commercial load with effect from 02.04.2025, subject to availability of water in the irrigation canal.

e) As an expansion of an existing State-owned and controlled power generating project, the tariff for the Khara SHEP (2 x 0.75 MW) has to be adopted by the Commission based on the UPERC (Captive and Renewable Energy Generating Plants) Regulations, 2024, as amended from time to time. In Order to facilitate procurement of electricity generated from the Project, the Petitioner and the Respondent had earlier executed a PPA dated 16.06.2025. Petition No. 2261 of 2025 was filed by UPPCL before the Commission seeking approval of the PPA dated 16.06.2025. In view of the Commission's observations regarding applicability of the appropriate regulations, the said Petition No. 2261 of 2025 was withdrawn with liberty to file afresh which was allowed by the Commission Vide its Order dated 21.11.2025. The parties thereafter executed the revised PPA dated 20.02.2026 incorporating the correct regulatory framework.

f) Pursuant to the Commission's directions and subsequent correspondence between the parties, PPA dated 20.02.2026 was executed for procurement of power from the Khara SHEP (2 x 0.75 MW) incorporating the applicable regulatory framework under

the CRE Regulations. Accordingly, the present Petition has been filed seeking approval of the PPA dated 20.02.2026.

g) The recital in the PPA dated 20.02.2026 provides that Khara Project (2 x 0.75 MW), being an expansion of an existing State-owned and controlled power generating project, falls under Section 62 of the Electricity Act, 2003 and, being a renewable energy (Small Hydro) Project, its tariff shall be governed by the UPERC (Captive and Renewable Energy Generating Plants) Regulations, 2024, as amended from time to time. Regulation 5 of the UPERC CRE Regulations, 2024 provides the tariff for Small Hydro-based Generation Plants.

h) Clause 6.1 of the PPA dated 20.02.2026 provides that the tariff chargeable to UPPCL shall be the project-specific tariff determined by the Commission as per Clause 5.3 of Schedule-I of the UPERC (Captive and Renewable Energy Generating Plants) Regulations, 2024. Clause 6.2 of the said PPA provides that the bill for energy supplied shall be based on joint meter readings/energy accounts. Further, Clause 6.3 provides that pending determination of final tariff by the Commission, provisional billing shall be at the tariff specified in Clause 5.1 of Schedule-I of the UPERC CRE Regulations, 2024 for Small Hydro Power Plants commissioned during FY 2006-07.

i) Approval of the PPA dated 20.02.2026 will enable procurement of electricity from the Khara SHEP and contribute towards renewable energy generation within the State of Uttar Pradesh. The procurement of renewable energy from Renewable Energy Power Generators is an endeavour of UPPCL to fulfil its obligation of RPO/RCO and optimizing the power purchase cost for the benefit of its consumers.

j) Guideline No. 6 of the Ministry of Power notification dated 20.10.2023 provides that specified RCO targets shall be met either directly or through Certificate in accordance with the CERC (Terms and Conditions for Renewable Energy Certificates for Renewable Energy Generation) Regulations, 2022. Any shortfall in the specified RCO targets shall be treated as non-compliance and penalty shall be imposed at the rate specified under Section 26(3) of the Energy Conservation Act, 2001.

k) Section 12(3) of the Energy Conservation (Amendment) Act, 2022 provides that failure to comply with directions issued under Clauses (n) and (x) of Section 14 shall

attract a penalty not exceeding Rs. 10 lakh for each failure and an additional penalty not exceeding twice the price of every metric ton of oil equivalent prescribed under the Act in excess of the prescribed norms. Further, MNRE, vide its letter dated 01.02.2024, notified that the additional penalty could amount up to Rs. 3.72 per unit for each shortfall in meeting the RE consumption norm.

l) Under Article 3.1 of the PPA, power procured from the Project shall be divided among the Discoms in the State of Uttar Pradesh in the following proportion:

Sl. No.	Discom	Allocation of Power (%)
1.	Madhyanchal Vidyut Vitaran Nigam Ltd.	20
2.	Paschimanchal Vidyut Vitaran Nigam Ltd.	30
3.	Purvanchal Vidyut Vitaran Nigam Ltd.	30
4.	Dakshinanchal Vidyut Vitaran Nigam Ltd.	20

Records of Proceeding

3. During the hearing dated 07.07.2026, the Commission observed that prayer (c) regarding adoption of tariff, which is applicable to tariff based competitive bidding, to which Sh. Divyanshu Bhatt, learned counsel for UPPCL, responded that until final tariff is determined by the Commission, adoption or prescription of provisional tariff for the Project would be in terms of Article 6 of the PPA dated 20.02.2026. The Commission observed that adoption of tariff in a bidding process and that prescribing a provisional tariff under the PPA are two different aspects altogether. Sh. Bhatt apologized and submitted that the only intention behind the said prayer was for prescribing provisional tariff till final tariff is being determined by the Commission.

4. The Commission pointed out that the PPA does not mention the Design Energy & CUF of the project, while 'Change in Law' event had been defined without providing the relief methodology. Also, the definition of COD also creates ambiguity to which Sh. Bhatt clarified that the commissioning date was 14.02.2025 and COD was 02.04.2025

5. The Commission further asked about the word "SPG" in Article 9 of the PPA. Sh. Bhatt, the learned Counsel responded that it should be SHP developer instead of SPG. The Commission expressed its displeasure over the manner in which the PPA has been drafted. The Commission observed that Annexure-1, referred to in the PPA, is not annexed. On specific query of the Commission regarding provisions for due date, rebate

and Late Payment Surcharge omitted in the PPA, Sh. Bhatt responded that these provisions were intentionally omitted based on mutual consent of the parties. Sh. Bhatt apologized for the errors and requested the Commission that an opportunity be granted to file Supplementary PPA or additional submission after rectifying all the identified errors and omissions. After hearing, the Commission asked UPPCL to provide clarification/justification regarding provisions in the PPA on the following:

a) Any facilities of existing Khara SHP project are being used by this expansion unit of 1.5MW.
b) Reason for not approaching the Commission prior to COD of the project.
c) Reason for not providing the relief methodology with respect to Change in Law event.
d) PPA does not specify the project details such as design energy, CUF, etc.
e) Definition of Schedule Energy, Force Majeure, Commercial Operation Date, Forced Outage, Metering date, etc.
f) Applicability/use of clause 'Daily Capacity Index' for the project.
g) Clause 8 of the PPA regarding 'Points of Metering.'
h) Clause 10 of the PPA provides for third party sales, however, there is no provisions for adjusting the revenue so generated with the procurer/UPPCL. Further, no provisions are there for rebate and Late Payment Surcharge.
i) Clause 12 of the PPA, regarding 'Regulation of Power Supply.'
j) As specified in Clause 10 of the PPA, details of specified approved budget.
k) Annexure-I of the PPA dated 20.02.2026.
l) Details of any time overrun and associated cost overrun for this project.

6. During the hearing dated 11.08.2026, the Commission noted that vide Order dated 20.07.2026, UPPCL had been directed to provide clarification/justification regarding the provisions of the PPA. Sh. Divyanshu Bhatt, learned Counsel for UPPCL, apologized for the delay in filing the requisite information and requested additional two weeks' time for furnishing the same. The Commission allowed the request, granted two weeks' time to file the requisite response, if any.

7. On the hearing dated 08.10.2026, Sh. Bhatt, learned Counsel for UPPCL, submitted that submission was filed on 06.10.2026 in compliance with the directions of the Commission

vide Order dated 20.07.2026. The Commission enquired whether UPRVUNL agrees with the submissions filed by UPPCL? The learned Counsel for UPRVUNL submitted that UPPCL's submission was prepared upon consultation with UPRVUNL. The Commission allowed two weeks' time to UPRVUNL to file its response.

Additional Submission

8. On 06.10.2026, UPPCL filed its submission wherein it mainly submitted following:

a) UPRVUNL informed that the 1.5 MW project utilizes the existing head regulator, forebay, canal, access road and project land. The existing personnel, officers and administrative establishment are also common to both Projects i.e., this 1.5 MW expansion SHP as well as existing Khara SHP. This 1.5 MW SHP project was developed as an extension of the existing 72 MW Khara SHP, whose PPA had already been approved and whose tariff had been determined under Section 62 of the Electricity Act, 2003. However, for tariff determination purpose, the proposed 1.5 MW capacity is required to be treated as a Small Hydro Project under the UPERC CRE Regulations, 2024. This SHP Project was commissioned on 14.02.2025. UPRVUNL had approached UPPCL in December 2024 and the approval process remained under consideration; meanwhile, UPRVUNL submitted the COD Certificate declaring COD as 02.04.2025 and, accordingly, the Effective Date of the PPA was considered as 02.04.2025. The PPA was initially executed on 16.06.2025 and, pursuant to the Commission's Order dated 21.11.2025, the revised PPA was executed on 20.02.2026. Accordingly, UPPCL approached the Commission subsequent to execution of the revised PPA dated 20.02.2026.

b) Regarding 'Change in Law' event, it is pertinent to note that similar position exists in the Small Hydro PPAs previously approved by the Commission, including PPAs executed with Sheetla and Belka, wherein no specific methodology for determination of Change in Law relief was provided. Since the said PPAs were approved under Section 62 of the Electricity Act, 2003, determination of Change in Law relief falls within the jurisdiction of the Commission. The provision was retained from the PPA dated 28.12.2015 executed between the parties, with a view to maintain consistency with the existing contractual framework. The detailed 'Change in Law' mechanism may be incorporated and formalised through a Supplementary PPA. Accordingly, the

proposed amendments to the 'Definition' of 'Change in Law' and to 'Article 16 A of the PPA is as below:

"Definitions: ***Change in Law*** *shall have the meaning ascribed thereto in Article 16 A of this Agreement;*

Article 16 A: CHANGE IN LAW

16 A.1 Definitions

In these rules, unless the context otherwise requires, -

16 A.1.1 *In this Article 16 A, the term "Change in Law" shall refer to the occurrence of any of the following events pertaining to this project only after 02.04.2025 (i.e. the Effective Date of the PPA), including any enactment or amendment or repeal of any law, leading to corresponding changes in the cost requiring change in tariff, and includes-*

a change in interpretation of any law by a competent court; or

a change in any domestic tax, including duty, levy, cess, charge or surcharge by the Central Government, State Government or Union territory administration leading to corresponding changes in the cost; or

a change in any condition of an approval or license obtained or to be obtained for purchase, supply or transmission of electricity, unless specifically excluded in the agreement for the purchase, supply or transmission of electricity, which results in any change in the cost,

but does not include-

Any change in any withholding tax on income or dividends distributed to the shareholders of the generating company or transmission licensee; or

change in respect of deviation settlement charges or frequency intervals by an Appropriate Commission.

16 A .1.2 *The term "law" in this Article includes any Act, Ordinance, order, bye-law, rule, regulation, and notification, for the time being in force, in the territory of India.*

16 A .2 Adjustment in tariff on account of Change in Law

16 A. 2.1 *On the occurrence of a change in law, the monthly tariff or charges shall be adjusted and be recovered in accordance with the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 notified by the Ministry of Power on 22.10.2021 (and subsequent amendments, if any) to compensate the affected party so as to restore such affected party to the same economic position as if such change in law had not occurred.*

16 A.2.2 *For the purposes of 16 A.2.1 above, the affected party, which intends to adjust and recover the costs due to change in law, shall give a 21 days' prior notice to the other party about the proposed impact in the tariff or charges, positive or negative, to be recovered from such other party.*

16 A .2.3 *The affected party shall furnish to the other party, the computation of impact in tariff or charges to be adjusted and recovered, within thirty days of the occurrence of the change in law or on the expiry of 21 days from the date of the notice referred to in 16 A.2.2 above, whichever is later, and the recovery of the proposed impact in tariff or charges shall start from the next billing cycle of the tariff.*

16 A.2.4 *The impact of change in law to be adjusted and recovered may be computed as one time or monthly charges or per unit basis or a combination thereof and shall be recovered in the monthly bill as the part of tariff.*

16 A.2.5 *The recovery of the impacted amount, in case of the fixed amount shall be,*

In case of generation project, within a period of one-hundred eighty months; or

In case of recurring impact, until the impact persists.

16 A.2.6 *The UPRVUNL shall, within thirty days of the coming into effect of the recovery of impact of change in law, furnish all relevant documents along with the details of calculation to the Appropriate Commission for adjustment of the amount of the impact in the monthly tariff or charges.*

16 A.2.7 *The Appropriate Commission shall verify the calculation and adjust the amount of the impact in the monthly tariff or charges within sixty days from the date of receipt of the relevant documents under clause 16 A.2.7.*

16 A.2.8 *After the adjustment of the amount of the impact in the monthly tariff, the UPRVUNL, shall adjust the monthly tariff or charges annually based on actual amount recovered, to ensure that the payment to the affected party is not more than the yearly annuity amount.*

16 A.2.9 *In the event of any decrease in the project cost by the UPRVUNL or any income to the UPRVUNL on account of any of the events as indicated above, UPRVUNL shall pass on the benefit of such reduction at a rate as provided in Article 16 A.2 to UPPCL. In the event of the UPRVUNL failing to comply with the above requirement, UPPCL shall make such deductions in the monthly tariff payments on immediate basis. Further, at the time of raising of 1st Monthly Tariff Payment Bill, UPRVUNL shall be required to provide a statutory auditor certificate supported by Board Resolution in regard to implications (loss/ gain) arising out of Article 16 A .*

16 A.2.10 *Any notice service pursuant to this Article 16 A.2.7, shall provide, amongst other things, precise details of the Change in Law and its effect on the Project Cost, supported by documentary evidences including Statutory Auditor*

Certificate to this effect so as to establish one to one correlation and its impact on the Project Cost.

***16 A.2.11 "Project Cost"** wherever applicable under this Article, shall mean the cost incurred by the UPRVUNL towards supply and services only for the Project concerned, upto the actual date of commencement of power supply from the Khara SHP (2 x 0.75 MW). For example, in case the date of actual Commencement of power supply from the last part capacity is 15.04.2026, the Project Cost shall be determined as the cost incurred by the UPRVUNL upto 15.04.2026."*

c) Design Energy is defined under Clause 1.1 of the PPA. However, project-specific value of Annual Generation, including CUF, are mentioned in Annexure-I. As per Annexure-I, Annual Energy Generation is 5.28 MUs, and primary and secondary energy have been defined based on Design Energy under the PPA. The Design Energy and CUF details were proposed to be incorporated through SPPA, while incentive shall be governed by the UPERC CRE Regulations, 2024, whereby incentive at 50 paisa per unit shall be payable for ex-bus scheduled energy corresponding to incremental annual CUF over and above 40%. The proposed amendment to the definition of 'Design Energy' and 'CUF' is as below:

> ***"Design Energy"** means the quantum of energy which could be generated in a 90% dependable year with 95% installed capacity of the generating station. Design Energy for this Khara SHP (2 x 0.75 MW) is 5.28 MUs.*
>
> ***"CUF"** for this Khara SHP (2 x 0.75 MW) is 40%."*

d) Regarding provision related to 'Scheduled Energy', since no scheduling of power would be undertaken through SLDC, the definition of 'Scheduled Energy' may be deleted through an SPPA. The proposed amendments to the definition of 'Force Majeure', 'Commercial Operation Date', 'Forced Outage', 'Metering Date' and 'Article 16- Force Majeure' of the PPA is as below:

> ***"Force Majeure"** shall have the meaning ascribed thereto in Article 16 of this Agreement;*
>
> ***"Commercial Operation Date"** Shall mean the date on which UPRVUNL has declared the successful commercial operation of the Project, i.e. 02.04.2025.*
>
> ***"Forced Outage"** Means an interruption of generating capacity that is not the result of:*
> - *A Force Majeure event;*

- *Any event or condition caused by Purchaser or attributable to an event or condition on Purchaser Facility; or*
- *Any Emergency or other curtailment or reduction pursuant to clause 16 in this Agreement.*

"Metering Date" *Shall mean mid-day (08:00 hrs) of the first day of each calendar month on JMR basis;*

Article 16: FORCE MAJEURE:

16.1 Definitions

16.1.1 In this Article, the following terms shall have the following meanings:

16.2 Affected Party

16.2.1 An affected Party means UPPCL or the UPRVUNL whose performance has been affected by an event of Force Majeure.

16.3 Force Majeure

16.3.1 *A 'Force Majeure' means any event or circumstance or combination of events those stated below that wholly or partly prevents or unavoidably delays an Affected Party in the performance of its obligations under this Agreement, but only if and to the extent that such events or circumstances are not within the reasonable control, directly or indirectly, of the Affected Party and could not have been avoided if the Affected Party had taken reasonable care or complied with Prudent Utility Practices:*

a) *Act of God, including, but not limited to lightning, drought, fire and explosion (to the extent originating from a source external to the site), earthquake, volcanic eruption, landslide, flood, cyclone, typhoon or tornado if and only if it is declared / notified by the competent state / central authority / agency (as applicable);*

b) *any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action if and only if it is declared / notified by the competent state / central authority / agency (as applicable); or*

c) *radioactive contamination or ionising radiation originating from a source in India or resulting from another Force Majeure Event mentioned above excluding circumstances where the source or cause of contamination or radiation is brought or has been brought into or near the Power Project by the Affected Party or those employed or engaged by the Affected Party.*

d) *Occurrence of Pandemic or epidemics.*

16.4 Force Majeure Exclusions

16.4.1 *Force Majeure shall not include (i) any event or circumstance which is within the reasonable control of the Parties and (ii) the following conditions, except to the extent that they are consequences of an event of Force Majeure:*

a. *Unavailability, late delivery, or changes in cost of the plant, machinery, equipment, materials, spare parts or consumables for the Power Project;*

b. *Delay in the performance of any contractor, sub-contractor or their agents;*

c. *Non-performance resulting from normal wear and tear typically experienced in power generation materials and equipment;*

d. *Strikes at the facilities of the Affected Party;*

e. *Insufficiency of finances or funds or the agreement becoming onerous to perform; and*

f. *Non-performance caused by, or connected with, the Affected Party's:*

i. *Negligent or intentional acts, errors or omissions;*
ii. *Failure to comply with an Indian Law; or*
iii. *Breach of, or default under this Agreement.*

16.5 Notification of Force Majeure Event

16.5.1 The Affected Party shall give notice to the other Party of any event of Force Majeure as soon as reasonably practicable, but not later than fifteen (15) days after the date on which such Party knew or should reasonably have known of the commencement of the event of Force Majeure. If an event of Force Majeure results in a breakdown of communications rendering it unreasonable to give notice within the applicable time limit specified herein, then the Party claiming Force Majeure shall give such notice as soon as reasonably practicable after reinstatement of communications, but not later than one (1) day after such reinstatement. The other Party shall respond on the claim of the Affected Party within 15 days of receipt of the said intimation of Force Majeure.

16.5.2 Provided that such notice shall be a pre-condition to the Affected Party's entitlement to claim relief under this Agreement. Such notice shall include full particulars of the event of Force Majeure, its effects on the Party claiming relief and the remedial measures proposed. The Affected Party shall give the other Party regular (and not less than monthly) reports on the progress of those remedial measures and such other information as the other Party may reasonably request about the Force Majeure Event.

16.5.3 The Affected Party shall give notice to the other Party of (i) the cessation of the relevant event of Force Majeure; and (ii) the cessation of the effects of such event of Force Majeure on the performance of its rights or

obligations under this Agreement, as soon as practicable after becoming aware of each of these cessations.

16.6 Duty to Perform and Duty to Mitigate

16.6.1 To the extent not prevented by a Force Majeure Event pursuant to Article 11.3, the Affected Party shall continue to perform its obligations pursuant to this Agreement. The Affected Party shall use its reasonable efforts to mitigate the effect of any Force Majeure Event as soon as practicable.

16.7 Available Relief for a Force Majeure Event

16.7.1 Subject to this Article 16:

(a) no Party shall be in breach of its obligations pursuant to this Agreement except to the extent that the performance of its obligations was prevented, hindered or delayed due to a Force Majeure Event;

(b) every Party shall be entitled to claim relief in relation to a Force Majeure Event in regard to its obligations, including but not limited to those specified under Article 4.5;

(c) For avoidance of doubt, neither Party's obligation to make payments of money due and payable prior to occurrence of Force Majeure events under this Agreement shall be suspended or excused due to the occurrence of a Force Majeure Event in respect of such Party.

(d) Provided that no payments shall be made by either Party affected by a Force Majeure Event for the period of such event on account of its inability to perform its obligations due to such Force Majeure Event."

e) Regarding Daily Capacity Index (DCI), the concept was retained from the PPA dated 28.12.2015 but has no practical relevance, as tariff payment under the present PPA is governed by the UPERC CRE Regulations, 2024 and is based on joint meter readings/energy accounts under Clauses 7 and 8 of the PPA. Accordingly, the DCI provision may be deleted through an SPPA.

f) Regarding the Point of Metering under Article 8, it is proposed that the same may be amended through an SPPA as follows:

"Article 8.0 POINTS OF METERING

The main and check meters at Khara End (33/11 kV substation of DPH Khara) of 33 kV Khara-Behat line to be installed and maintained by UPRVUNL. Installation and maintenance of main and check meters at locations other than the meters installed and maintained by UPRVUNL shall be the responsibility of UPPCL/STU. The meters shall be sealed after calibration by the concerned parties jointly."

g) Regarding third-party sale under Article 10, it is submitted that clause 10(iv) is intended to address a situation where UPPCL defaults in payment of the dues within the prescribed timeline under the PPA. In such an event, the provision enables UPRVUNL to suspend supply to UPPCL and undertake sale of power to a third party either within or outside the State, so as to mitigate the financial impact arising from the payment default. The objective of the aforesaid provision is to provide UPRVUNL with an alternate source of revenue in the event of prolonged payment default by UPPCL. Accordingly, the revenue realized from such third-party sale is in the nature of compensation for the loss of revenue caused due to the procurer's default. Therefore, providing for adjustment or sharing of such revenue with the defaulting procurer would defeat the very purpose of the provision and dilute the commercial remedy available to UPRVUNL in the event of procurer default.

h) Further, under the UPERC CRE Regulations, 2024, tariff for Small Hydro Projects is determined on a single-part tariff basis. Consequently, UPPCL is liable to make payment only for the energy procured from the generating station. In the event UPRVUNL exercises it's right to undertake third-party sale pursuant to Clause 10(iv), UPPCL would not be procuring such energy and, therefore, would not be liable to pay any tariff for the diverted energy. Accordingly, the absence of a revenue-sharing mechanism does not result in any additional financial burden or fixed cost implication on UPPCL. The provision was retained from the PPA dated 28.12.2015 to maintain consistency with the existing contractual framework. Since SLDC is not involved in scheduling power from the 1.5 MW Khara SHP, third-party sale may not be feasible under the present arrangement and Clause 10(iv) may be deleted through an SPPA.

i) Regarding Rebate and Late Payment Surcharge (LPS) provisions, the present PPA does not contain specific provisions relating to rebate and LPS, which is consistent with the previously executed PPA dated 28.12.2015 between the parties. UPPCL and UPRVUNL are Government of Uttar Pradesh undertakings and sister concern entities operating within the same State power sector ecosystem. The present PPA governs procurement of power from a State-owned generating station by the State distribution utility, and the commercial relationship between the parties has

historically been managed without incorporating separate contractual provisions for rebate and LPS. Accordingly, considering that the earlier PPAs, including the PPA dated 28.12.2015, did not contain specific provisions relating to rebate or Late Payment Surcharge to ensure consistency with the existing contractual framework. Further, clause 12 of the PPA was intended to safeguard the commercial interests of UPRVUNL in the event of persistent payment default by UPPCL. The provision does not confer an unrestrained right upon UPRVUNL to regulate power supply; rather, it prescribes a structured mechanism that can be invoked only upon the occurrence of a payment default. The proposed amendments in Article 10 of the PPA are as follows:

> ***"10.0 BILLING AND PAYMENT***
>
> *All charges under this Agreement shall be billed by UPRVUNL as per Clause 6 and shall be paid by UPPCL in accordance with the following provisions:*
>
> *(i) UPRVUNL shall deliver bills to the UPPCL generally within 10 days of the billing date for energy supplied for each month to UPPCL from Khara Small Hydro Power Station. The payments will be made by UPPCL within due date by cheque payable at Lucknow or through Real Time Gross Settlement or National Electronic Fund Transfer.*
>
> *(ii) UPRVUNL shall carry out billing and associated functions. The authority of UPPCL to whom the bills have to be submitted would be informed by UPPCL to UPRVUNL within a month of signing of the Agreement, failing which UPRVUNL would submit the bills to the Director (Finance) of UPPCL.*
>
> *(iii) UPPCL shall make adequate provisions in their approved budget for respective years during which this Power Purchase Agreement continues, to ensure regular payment of power purchased by UPPCL from UPRVUNL and shall also furnish a copy of the approved budget to UPRVUNL.*
>
> *(iv) Deleted*

j) Regarding regulation of Power Supply under Clause 12, regulation of power supply can be undertaken only where outstanding bills remain unpaid for more than sixty-days. Further, before regulating the power supply, UPRVUNL is required to serve a fifteen days' prior notice to UPPCL and undertake discussions with the management, thereby providing adequate opportunity to UPPCL to clear outstanding dues and avoid any disruption in power supply. The clause further provides that supply shall be resumed immediately upon payment of outstanding dues, thereby ensuring that regulation of supply is temporary. An identical provision exists in Clause 12 of the PPA dated 28.12.2015 was approved by the

Commission. The present provision was retained without substantive modification to provide a contractual remedy against prolonged payment default with procedural safeguards.

k) Regarding the approved budget under Clause 10, it is imperative to mention that an identical provision existed in the PPA dated 28.12.2015 and was retained to maintain consistency. However, no mechanism exists for obtaining budget approval towards billing for power purchase from UPRVUNL. Accordingly, the provision relating to 'approved budget' under Clause 10(iii) was proposed to be deleted through an SPPA.

l) Regarding Annexure-I of the PPA, it was inadvertently omitted from the Petition at the time of filing, however, complete PPA dated 20.02.2026 including Annexure-I, was placed on record.

m) Regarding time and cost overrun, this Khara SHP project experienced an overall time overrun of approximately 9 years and 9 months. The detailed chronology and particulars for the same was placed on record. The project had also involved an associated cost overrun. The amount under the first Agreement was Rs.1,095.31 Lakh and the amount under the second Agreement was Rs.255.66 Lakh plus applicable GST. The net payment against executed capital works and other miscellaneous expenditure was approximately Rs.943.42 Lakh, inclusive of taxes, after adjustment/recovery of Rs.310.00 Lakh from M/s APE Power Pvt. Ltd.

Analysis & Decision

9. UPPCL, by way of the instant Petition, is seeking approval of the Power Purchase Agreement dated 20.02.2026 executed with UPRVUNL for procurement of power from the 1.5 MW (2×0.75 MW) Khara Small Hydro Project for a period of forty years. UPPCL has also sought approval of provisional tariff as provided at clause 5.1 of Schedule-I of the UPERC CRE Regulations, 2024 for small hydro power plants commissioned during FY 2006-07.

10. The Commission notes that this 1.5 MW SHP project was developed as an expansion of the existing 72 MW (i.e., 3×24 MW) Khara Hydro Electric Power Station, utilizing certain

common facilities, including the existing personnel and administrative establishment. Upon UPRVUNL approaching UPPCL in December 2024 regarding this 1.5 MW SHP project, a PPA was executed between the parties on 16.06.2025. UPPCL had filed a Petition being Petition No. 2261 of 2025 before the Commission, for approval of PPA dated 16.06.2025. However, fresh PPA was signed on 20.02.2026 after incorporating necessary correction, in compliance with the Commission's directions vide its Order dated 21.11.2025 in Petition No. 2261 of 2025. The Commercial Operation Date (COD) of the project was 02.04.2025, which also serves as the effective date of the PPA dated 20.02.2026. On 12.10.2026, UPRVUNL filed its reply, stating that it has carefully reviewed UPPCL's submission, therefore, the Commission may allow the prayer sought by the UPPCL.

11. The Commission has examined the proposed amendments to the PPA dated 20.02.2026 by UPPCL through its submission filed on 06.10.2026. Accordingly, the Commission directs UPPCL to incorporate the proposed amendments as mentioned in paragraph 8 of this Order in the Supplementary PPA subject to the following:

a) It is observed that the parties in the PPA have interchangeably used the term '**Clause**' with '**Article**', therefore, as a matter of practice, the word '**Article**' should be used only while referring to the provisions of the PPA.

b) In Article 9 (i.e., Metering System), the word '**SPG**' shall be replaced with the word '**UPRVUNL**'.

c) In light of discussion at paragraph 8 (h) & (k) of this Order, Article 10 is to be stated as under:

"10.0 BILLING AND PAYMENT

All charges under this Agreement shall be billed by UPRVUNL as per Clause 6 and shall be paid by UPPCL in accordance with the following provisions:

(i) UPRVUNL shall deliver bills to the UPPCL generally within 10 days of the billing date for energy supplied for each month to UPPCL from Khara Small Hydro Power Station. The payments will be made by UPPCL within due date by cheque payable at Lucknow or through Real Time Gross Settlement or National Electronic Fund Transfer.

(ii) UPRVUNL shall carry out billing and associated functions. The authority of UPPCL to whom the bills have to be submitted would be informed by UPPCL to

UPRVUNL within a month of signing of the Agreement, failing which UPRVUNL would submit the bills to the Director (Finance) of UPPCL.

(iii) ***Deleted.***

(iv) ***Deleted.***

d) In Article 16 A.2.7, the word **'under clause 16 A.2.7'** shall be replaced with the word **'under clause 16 A.2.6'**.

e) In Article 16 A.2.10 to be stated as under:

"16 A.2.10 *Any notice service pursuant to this* ***Article 16 A, UPRVUNL*** *shall provide, amongst other things, precise details of the Change in Law and its effect on the Project Cost, supported by documentary evidences including Statutory Auditor Certificate to this effect so as to establish one to one correlation and its impact on the Project Cost."*

f) In Article 16 A.2.5 the word **'within a period of one-hundred eighty months'** to be replaced with the word **'within a period of one-hundred eighty days.'**

g) In Article 16.7.1(b), the word **'Article 4.5'** shall be properly numbered in terms of sequence in the PPA.

12. Clause 5 of Schedule-I of the UPERC CRE Regulations, 2024 regarding tariff for SHP is reproduced as under:

"5. Small Hydro based Generation Plants-

5.1 *The effective tariff for Small Hydro Power Plants commissioned during FY 2006-07 shall be given as below:*

Table 21: Total Tariff (Rs./kWh)

Year of Commissioning	***FY 2024-25***	***FY 2025-26***	***FY 2026-27***	***FY 2027-28***	***FY 2028-29***
FY 2006-07	*1.71*	*1.75*	*1.80*	*1.85*	*1.91*

5.2 *The tariff of the Small Hydro Power Plants has been determined at 35% CUF. For ex-bus scheduled energy corresponding to incremental annual CUF over and above 35%, incentive @ 50 paisa per unit shall be payable.*

5.3 ***The Commission shall determine project specific tariff for projects commissioned on and after 01.04.2024."***

13. The Commission further observes that the tariff of the Project shall be determined separately on a project-specific basis in terms Schedule-I of the UPERC CRE

Regulations, 2024. Pending such final tariff determination, provisional tariff as specified in 5.1 of the Schedule-I is allowed which was also agreed by the parties in Article 6.3 of the PPA dated 20.02.2026. **Also, it is an admitted fact that this 1.5 MW SHP project has experienced time overrun and cost overrun. Therefore, the granted provisional tariff is subject to adjustment, if any, based on final project specific tariff determination by the Commission.**

14. **In view of above discussion, the Commission approves the Power Purchase Agreement dated 20.02.2026 executed between UPPCL and UPRVUNL for procurement of power from the 1.5 MW (i.e., 2×0.75 MW) Khara Small Hydro Project, subject to incorporation of the amendments and corrections specified above at para 11 of this Order through a separate Supplementary PPA. UPPCL is to place on record a copy of the Supplementary PPA at the earliest.**

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

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

Place: Lucknow
Dated: 06.11.2026