

Suggestions to Uttar Pradesh Electricity Regulatory Commission on Draft Captive and Renewable Energy Generating Plants Regulations, 2014

The Uttar Pradesh Electricity Regulatory Commission has issued draft Captive and Renewable Energy Generating Plants Regulations, 2014. The Uttar Pradesh Government has recently announced Solar Power Policies for large scale as well as rooftop solar photovoltaic projects separately and Uttar Pradesh New and Renewable Energy Development Agency (UPNEDA) is implementing the targets envisaged under the aforementioned policies. Accordingly UPNEDA would like to submit its suggestions on the draft regulations for the consideration of Honourable Commission.

A. Draft Regulation 2. Scope and extent of application

The provision under draft Regulation 2. 2. is elaborated below,

2. The provisions of Availability Based Tariff (herein after referred to as 'ABT') in respect to functions, duties and obligations, as provided, for Generating Plants under ABT shall apply to these Generating Plants also, unless provided otherwise.

Suggestion

From the plain reading of the aforementioned provision it is not explicit whether the rooftop solar photovoltaic power 'generating plants' will also be required to comply with the provisions of availability based tariff in regard to functions, duties and obligations. The Honourable Commission might consider that the rooftop solar photovoltaic power generating plants shall be set up by various segment in capacity ranging from 1 kW to 500 kW and the proposed provision, if applicable, may discourage large scale adoption of rooftop solar photovoltaic power generating by such segments. It is humble submission of UPNEDA to make suitable proviso, as also intended, to appropriately address the aforementioned aspect while finalising the regulations.

B. Draft Regulation 6. Definitions

1. In these Regulations, unless the context otherwise requires:

h. "Contracted Capacity" means the capacity in MW as agreed to be supplied by the Generating Company to a Distribution Licensee under the Power Purchase Agreement;

Suggestion

The Hon'ble Commission may like to make redefine the Contracted Capacity as,

*h. "Contracted Capacity" means the capacity **in kW or MW, as the case may be**, as agreed to be supplied by the Generating Company **or Plant** to a Distribution Licensee under the Power Purchase Agreement;*

The solar photovoltaic plants may be installed by individuals and hence the Commission may like to make suitable scope in the regulations for the same wherever required.

p. *“Inter-connection Point” means a point at EHV substation of transmission licensee or HV/LV sub-station of distribution licensee, as the case may be, where the electricity produced from the generating station is injected into the Uttar Pradesh Grid;*

Suggestion

It is the first occasion, wherein the UPERC is making provision for adoption of small scale solar photovoltaic power plant and accordingly Hon’ble Commission may like to include suitable provisions to address aspects concerning such power generating plants to avoid any regulatory challenge later on. Here we would like to highlight that the grid is defined under the Electricity Act, 2003 as elaborated below,

“grid” means the high voltage backbone system of inter-connected transmission lines, sub-station and generation plants;

It appears from the reading of the definition of “grid”, as defined under the Electricity Act, 2003, that the small scale solar generating plants connected to the distribution system do not get qualified as a part of grid.

Further, for solar power generating plants of small capacities, inter-connection point should be defined as point of interaction of such generating plant with the distribution system of the licensee. Accordingly, the Hon’ble Commission may define the Inter-connection Point, separately or collectively, in such a way so that small scale solar photovoltaic plants developer are not discouraged because of additional expense on account of efforts and expenditure in laying lines for connecting their plant to LV side of sub-station.

C. Draft Regulation 11. General conditions for Captive Generating Plants

1. These Regulations shall apply to all existing Captive Generating Plants as well as proposed Captive Generating Plants having an installed capacity of 1 MW or above irrespective of their connectivity with the grid.

Suggestion

Following the Uttar Pradesh Rooftop Solar Photovoltaic Power Plant Policy, 2014 as well as these regulations, it is expected that the State shall witness many small solar photovoltaic power generating plants, implemented in various segments for captive consumption, of size less than 1 MW.

Accordingly, Commission may give appropriate consider to such facts and make suitable modifications wherever required for promotion of rooftop solar photovoltaic power plants implemented for captive consumption.

D. Draft Regulation 11. General conditions for Captive Generating Plants

2. Any person intending to set-up a Captive Generating Plant shall submit the detailed project report, scheduled date of commercial operation and half yearly progress report of construction of the plant to the Commission for information and record. The necessary information to be accompanied with the detailed project report shall be as per Annexure 1 of these Regulations:

Suggestion

UPNEDA would like to highlight here that, for the purpose of disbursement of subsidy and as a requirement from the Government of India, the developer needs to submit the detailed project report along with other relevant document. Accordingly, the

Commission may consider to make UPNEDA responsible for collecting the documents with regard to small scale rooftop solar photovoltaic power plants implementing for captive consumption.

E. Tariff Design

The Commission has specified reducing tariff for five (5) years if the generating plant is commissioned in FY 15. However, under draft Regulation 28 2. it has been suggested that the distribution Licensee shall enter into a power purchase agreement for a period of 20 years from the date of its commissioning.

Suggestion

The Commission might notice that the Government of Uttar Pradesh has announced Solar Power Policy, 2013 under which the developer is desired to quote a tariff fixed for first twelve (12) years of the useful life of the generating plant. In order to implement such policy successfully it would be appropriate if the Commission adopts approach suggested by the Government of Uttar Pradesh and specifies tariff at least levelled for twelve (12) years else the Commission may determine the tariff levelled for useful life of the solar generating plant.

In addition, the nodal agency has been mandated to undertake competitive bidding route for the allotment of capacity to the different developers and in such a case the levelled tariff specified by the Hon'ble Commission shall act as the ceiling limit for such competitive bidding processes.

Further, it will be difficult for any developer or a financial institution intending to provide debt for such power plant, to assess the financial feasibility with a tariff stream which is specified for a term shorter than the debt repayment period. It is accordingly suggested to provide levelled tariff for useful life of the solar power plant.

F. Parameters considered for the determination of tariff for solar generating plants

a. Return on Equity

While determining the tariff, a return on equity equivalent to pre-tax 16% has been considered by the Commission *which translates to 12% post-tax return on equity taking the present Minimum Alternate Tax rate and Corporate Tax rate.*

Suggestion

Para 5.3 a) of the tariff policy notified under Section 3 of the Electricity Act, 2003 provides for consideration on return on investment and the same is reproduced below,

Return on Investment

Balance needs to be maintained between the interests of consumers and the need for investments while laying down rate of return. Return should attract investments at par with, if not in preference to, other sectors so that the electricity sector is able to create adequate capacity. The rate of return should be such that it allows generation of reasonable surplus for growth of the sector. (emphasis added)

Further, under Section 62 of Electricity Act, 2003 the Appropriate Commission while specifying the terms and conditions for the determination of tariff shall be guided by the principle and methodologies specified by the Central Commission for determination of tariff. The Central Electricity Regulatory Commission after

undertaking the due consultation process has adopted normative return on equity as 20% per annum for first 10 years and 24% per annum from 11th year onwards till the useful life of the plant on pre-tax basis and translates to **16% post tax return on equity** taking into consideration the Minimum Alternate Tax and Corporate Tax. The same seems to be reasonable and also honours the provisions under the Tariff Policy. The same should be adopted by the Hon'ble Commission while finalising these regulations.

b. Cost of Debt

The Hon'ble Commission has considered 12.70% (SBI base rate as on 1.4.2014 plus 300 basis points)

Suggestion

It appears that while computing the tariff, the Commission has considered the SBI base rate applicable on April 1, 2013 instead of April 1, 2014. The base rate of State Bank of India as of April 1, 2014 is 10% and accordingly the cost of debt might be considered as 13% instead of 12.70%.

From	To	Base Rate
01-04-2013	18-09-2013	9.70%
19-09-2013	30-09-2013	9.80%
01-10-2013	06-11-2013	9.80%
07-11-2013	21-11-2014	10.00%

Source: <https://www.sbi.co.in/portal/web/interest-rates/interest-rates>

G. Metering Arrangement

The draft Regulation 38 '*Metering Arrangement*', first proviso suggests that in case of Solar and wind based generating plants the entire cost of metering shall be borne by the Licensee.

Suggestion

The Hon'ble Commission might notice that the Ministry of New and Renewable Energy while setting up the boundary lines for consideration of subsidy for small solar photovoltaic power plants also considers the cost of meter. Accordingly, the Commission might consider to consumer to bear the expenses towards meter, however the meter shall be procured and installed by the Licensee and the cost will be recovered by the Licensee in fixed term decided by the Commission.

H. Banking of Energy

The draft Regulation 40 '*Banking of Power*', clause i suggests that the banking charges for solar energy based generating stations shall be 6% of the energy banked.

Suggestion

As a promotional measure, the banking charges for solar energy based generation stations shall be nil for the control period of the proposed regulations. Further, in

case the Hon'ble Commissions decides to specify banking charges, the same should be specified in kind basis.