POLICY

ON

HYDROPOWER DEVELOPMENT

BY

PRIVATE SECTOR

IN

THE STATE OF UTTARAKHAND

(25 MW to 100 MW)

POLICY ON HYDROPOWER DEVELOPMENT BY PRIVATE SECTOR IN THE STATE OF UTTARAKHAND (25 MW & ABOVE)

4.1 SCOPE AND OBJECTIVES OF HYDROPOWER DEVELOPMENT IN UTTARAKHAND

Uttarakhand has a hydropower potential of the order of 25000 MW against which only 3140 MW has been harnessed so far. Keeping in mind the national objective of increasing power generation through environmentally appropriate means, and the target of 3000 MW for the hydropower sector in the 11^{th} Plan period, the Government of Uttarakhand (GoU) has framed a hydropower policy as below. The objectives of this policy are to attract investors for the development of the State's water resources in an environment-friendly manner, and to generate revenues for the State from development of its hydel resources while ensuring project viability.

4.2 PARTICIPATION & OPERATIVE PERIOD

This policy shall be in operation from the date of its publication as notified by Government Order. All projects awarded within this period under this policy will be governed by this policy for their entire duration. All Hydropower projects/stations estimated to have an installed capacity of 25 MW and larger shall be eligible under this policy.

Uttarakhand invites any qualified, non-Uttarakhand State Government agency to bid for identified projects for the development of this sector. These will be termed as Independent Power Producers (IPP). This would include any Private Sector Entities, Central Power Utilities, State Governments or any other Government entities and their Joint Ventures.

4.3 PRE QUALIFICATION

There shall be a pre-qualification by the GoU of the bidders for the projects in the state based on a) past experience with development, construction and operations of hydro projects or other power sector experience and b) financial capacity to mobilise required resources and bring in or raise their equity contribution. The Applicants will have to qualify on both these counts to be pre-qualified for the competitive bidding process for project allotment. The weightage to be given to the sub-categories of these attributes to be evaluated, the guidelines for evaluation and the passing score on attributes/ in aggregate required for pre-qualification shall be specified in the bid documents inviting bids for pre-qualification.

4.4 PROJECTS

4.4.1 The Uttarakhand Jal Vidyut Nigam Ltd. (UJVNL) will undertake to prepare the pre-feasibility studies in a time bound manner. The evacuation requirements including details of nearest sub-station will be specified in the pre-feasibility studies.

4.4.2 The GoU shall stipulate for each project, as part of the Bid conditions, a maximum number of years for completion of the project implementation i.e. outer limit for project completion, which would be binding on all bidders.

4.4.3 The projects shall be offered for a period of forty five (45) years from the date of the award at the end of which they shall revert to the Government of Uttarakhand or extended further on mutually agreed terms, as per the decision of the Government of Uttarakhand.

4.4.4 The project assets would be maintained by the successful concessionaire in a condition that would ensure a residual life of the project at the rated capacity for at least 30 years at any point of time. During the 10^{th}, 20^{th}, 30^{th} and 40^{th} years of operations, as well as during the last year of concession, the GoU or one of its appointed agencies would carry out a mandatory inspection of the project site to ensure that the project assets are maintained to the required standards to ensure the specified generation capability and residual life of the plant.

4.4.5 If such inspections find that the plant capacity and/or life are being undermined by inadequate maintenance, the GoU would be entitled to seek remedial measures from the concessionaire. If the concessionaire fails to comply with the requirements, the GoU would have the right to terminate the concession by payment of compensation to be computed as follows. The termination compensation value would be based on estimated net cash flows to equity shareholders for the next ten years or residual period of concession, whichever is lesser, discounted at a suitable rate. Both the estimate of cash flows as well as the discount rate would be approved by the Uttarakhand Electricity Regulatory Commission (UERC) which will also factor the costs of refurbishment, renovation, repairs, etc. required to bring the project assets to the standards specified.

4.4.6 All projects would need to conform to the R & R policy of the GoU, which would be made available prior to the Bidding process.

4.5 PROCESS OF ALLOTMENT

4.5.1 The sites shall be advertised in order to seek potential bidders. Applications should be accompanied by a non-refundable draft of Rs.5 lakhs, payable to the Uttarakhand Jal Vidyut Nigam Ltd. (UJVNL).

4.5.2 All interested parties will be subject to pre-qualification as provided in Paragraph 4.3.

4.5.3 All pre-qualified bidders will be provided with the pre-feasibility studies prepared by the UJVNL.

4.5.4 Bids shall be invited for premium payable upfront to the Government of Uttarakhand per MW in the case of each project/site, subject to a minimum threshold premium of Rs.5 lakhs per MW. Bids received below the threshold premium will be rejected.

4.5.5 Projects will be allotted to the bidders making the highest bids. The successful bidder shall be required to deposit the premium /other amount due within a reasonable period of receiving intimation regarding his bid being successful. The exact time period shall be specified in the bid documents for invitation of Bids. The successful bidder, however, may be permitted to provide 50% of the bid amount in excess of the threshold as a bank guarantee encashable at the time of actual or scheduled financial closure, whichever is earlier. The proportion of bank guarantee may be modified by the GoU prior to bidding, if required.

4.5.6 If there is more than one identical bid which emerges as the best bid for any site/station, a gradation list based on a simple average of the technical and financial scores in the pre-qualification criteria shall be the basis for allotment.

4.5.7 In case of any project failing to attract any acceptable bids despite being bid out the GoU may consider allotting the site to a GoU agency.

4.6 SALE OF POWER

The IPP can contract to sell power to any consumer/s outside Uttarakhand, to the Uttarakhand Power Corporation Ltd. (UPCL), or for the captive use of new industrial consumers in Uttarakhand. The UPCL will specify the conditions under which any consumer or group of consumers is deemed to be a captive user. Sales to the UPCL will be mutually negotiated and approved by the ERCU.

4.7 WHEELING CHARGES

The infrastructure and facilities of UPCL will be made available to all IPPs for wheeling the generated energy. Wheeling charges for wheeling the generated energy outside the State and to captive users within the State will be as determined by the ERCU. However, for those projects which are bid out prior to the determination of this rate by the ERCU, the wheeling charges (for the entire concession period) would be 10% of net energy supplied at the interconnection point. The wheeling charges will be payable to the UPCL, and will include compensation for all costs, infrastructure charges and losses that may be incurred by the UPCL. The UPCL will prepare a standard wheeling agreement draft consistent with this policy statement. This will be made available prior to any bidding for projects. No wheeling charges are applicable in cases of sales to the UPCL.

4.8 GRID INTERFACING/ TRANSMISSION LINE

4.8.1 The IPP shall be responsible for laying lines for connectivity to the nearest grid sub-station at the appropriate voltage, which will be 132 kV or higher depending on the capacity of the power station and distance from the power station to the Grid. UPCL will determine the specifications for the evacuation facilities required. This would be specified for each project prior to the bidding for the project.

4.8.2 For certain projects where the evacuation costs are very high, the GoU may agree to finance a part of the costs, the quantum and terms of which shall be made available as part of the pre-Bid information.

4.8.3 For certain projects where the infrastructure costs like access roads, bridges, etc. are very high, the GoU may decide to share such costs with the IPP. The likely extent of GoU sharing of infrastructure costs would be indicated as part of the pre-Bid information.

4.8.4 IPPs would be free to structure the evacuation facilities in a different company if they so desire.

4.9 BANKING

No banking of power will be permitted.

4.10 TAXES, ROYALTY & OTHER CHARGES

4.10.1 On all projects governed by this policy, for the first 15 years, royalty at the rates of 12% of net energy wheeled (after deducting wheeling charges) or supplied directly without wheeling would be charged. Beyond the 15th year of operation, a royalty of

18% of net energy wheeled or supplied directly without wheeling will be made available to the GoU free of charge by all IPPs.

4.10.2 No further levies, taxes, charges other than those stipulated in this policy would be levied by the State Government and its agencies or the Regulator on the IPPs governed by this policy, for a period of ten years from the date of this policy.

4.11 INCENTIVES BY STATE GOVERNMENT

4.11.1 No entry tax will be levied by the State Government on power generation, transmission equipment and building material for projects.

4.11.2 As part of bid conditions, GoU could offer select projects an option to defer royalty payments of the first 8 years of project operation with the condition that the deferred royalty shall be valued at the weighted average sales realisation of UPCL per unit of input power fed into UPCL's grid system at 132 kV and below. The deferred royalty would be recovered from the project company by GoU from the 9th to the 15th year and will attract interest at the rate of 12.5% per annum applicable at six monthly intervals on the total outstanding amounts. The project company would have the option to avail of such deferment or have the flexibility to structure partial royalty deferment or for shorter periods with quicker repayment, if it so desires, within six months of achieving financial closure. The deferred royalty dues to GoU would be secured by a charge on the assets and cash flows of the IPP, which would however be subordinated to the charge of senior lenders and working capital bankers to the IPP.

4.12 TRANSFER OF ALLOTMENT

Free transfer of shares will be permitted in the companies allotted projects as per the procedure laid down in this document.

4.13 TIME LIMIT FOR EXECUTING THE PROJECT

4.13.1 IPP shall prepare and submit the detailed project reports and all other information and make the necessary applications for obtaining the statutory clearances and approvals of the State and Central Governments and the Regulator (as applicable) after carrying out the required confirmatory surveys and investigations as per prevailing regulations/ norms within 3 years from the date of allotment. The IPP shall be responsible for ensuring completeness of all submissions to concerned authorities. Failure to do so within the stipulated time frame shall be treated as non-compliance with the requirement stipulated in this paragraph.

4.13.2 The IPP shall achieve the financial closure within 1 year from the date of receipt of all statutory approvals and clearances given by the State and Central governments. Financial closure would imply firm commitments for financing the entire project, with all pre-disbursement conditions having been fulfilled.

4.13.3 The GoU shall stipulate for each project, as part of the Bid condition, a maximum number of years for completion of the project implementation. The project shall be made operational within this time-frame.

4.13.4 The failure to reach any of the milestones mentioned in 4.13.1 or 4.13.2 above will result in automatic cancellation of the allotment of the site, and forfeiture of any up-front premium amounts paid. No compensation would be payable to the IPPs in such instance.

4.13.5 Failure to reach the milestone as in 4.13.3 above, after project has commenced construction, would result in a liability to pay a penalty by the IPP to the GoU, computed at the equivalent royalty revenue that would have been payable to the GoU had the project met the milestone.

If the project has failed to start construction even after lapse of the timeframe in 4.13.3 above, it would result in automatic cancellation of the allotment of the site, and forfeiture of any up-front premium amounts paid. No compensation would be payable to the IPPs in such instance.

4.13.6 The IPP may surrender the allotment back to GoU if on completion of the DPR, within the stipulated time-frame, it has grounds to establish that the project is not techno-economically viable. On such surrender, the bank guarantees provided by the IPP in lieu of upfront premium would be released and any premium amount paid in excess of the threshold premium of Rs.5 lakhs/MW, would be refunded to the IPPs by the GoU.

4.14 ROLE OF UJVNL

The GoU would facilitate projects through UJVNL, which will be responsible for the following, with regard to project facilitation:

(i) Carrying out data collection and preparation of preliminary techno-economic study to obtain reliable basic data on the project required to attract bidders,

(ii) Carrying out preliminary survey to, prima facie, identify the extent of environmental and social issues likely to be involved in a project prior to bidding,

(iii) Obtaining through the PTC an assessment of market situation and potential buyers for each project,

(iv) Marketing the project sites to attract bidders,

(v) Assisting projects in obtaining the necessary project clearances from the State Government agencies in a time-bound manner,

(vi) Monitoring the development of allotted projects/and of delivery as per time schedules.

(vii) UJVNL may also facilitate projects and participate in their equity (as a minority holder) or provide other assistance to any of the bid projects to facilitate financial closure or implementation. However, such assistance by UJVNL would be mutually negotiated between the allottee and UJVNL after the allotment is made and would not be mandatory on UJVNL. UJVNL participation as a joint venture partner would be subject to Board and Shareholders approvals, and no pre-conditions relating to UJVNL joint venture participation can be attached to bids received.

4.15 ROLE OF UPCL

The UPCL will be responsible for the preparation of wheeling agreements (Para 4.7) and assessment of evacuation requirements (Para 4.8).

4.16 REGULATORY OVERSIGHT

Aspects of this policy that require Regulatory approvals from the concerned regulator would be subject to such approvals being given and would apply in the manner approved by the Regulator.

4.17 DUE DILIGENCE

The Applicant/IPP shall be responsible for carrying out due diligence with regard to his compliance responsibilities under various applicable Central/State/other laws, rules and regulations, and ensure compliance with the same.

4.18 POWER TO RESOLVE DIFFICULTIES

In the event of a dispute, the interpretation of these guidelines made by the Government of Uttarakhand shall be final. In all such matters, to the extent practicable, an opportunity shall be given to affected stakeholders to be heard, before the Government takes any decision.

THE WAY FORWARD

The Government of Uttarakhand has earmarked following project sites for allocation to private developers. The Government shall be advertising and inviting participation for developing these projects in lots through sequence of RFQs and RFPs.