



**ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION**  
4<sup>th</sup> Floor, Singareni Bhavan, Red Hills, Hyderabad 500 004

WEDNESDAY, THE TWENTY SIXTH DAY OF FEBRUARY  
TWO THOUSAND AND TWENTY

:Present:

**Sri Justice C.V. Nagarjuna Reddy, Chairman**

**O.P.No. 49 of 2017**

**Between:**

M/s. Southern Rocks & Minerals Pvt Ltd  
Regd. Office at H.No.6-3-884/F/1, Pothula Towers (Annex)  
4<sup>th</sup> Floor, Beside Kalanikethan Wedding Mall  
Begumpet, Punjagutta, Hyderabad – 500 016  
Plant at Cheruvukommupalem, Pellur (V), Ongole  
Prakasam District, Andhra Pradesh

... **Petitioner**

**A N D**

1. The State Load Dispatch Center  
AP Transco, Vidyut Soudha  
48-12-4/1, Eluru Rd, Gunadala  
Vijayawada, Andhra Pradesh 520008  
rep. by its Chief Engineer
2. The Southern Power Distribution Company of  
Andhra Pradesh Ltd., (APSPDCL)  
Corporate Office, Kesavayanagutta, Tirupathi  
Represented by its Chairman & Managing Director
3. The Chief General Manager  
P & MM, IPC, APSPDCL, 19-13-65/A  
Kesavayana Gutta, Tirupati – 517 501

... **Respondents**

This Original Petition has come up for hearing finally on 18-02-2020 in the presence of Sri Challa Gunaranjan, learned counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the respondents. After carefully considering the material available on record and after hearing the arguments of the learned counsel, the Commission passed the following:

**ORDER**

The Original Petition is filed by M/s. Southern Rocks & Minerals Pvt Ltd (for short “the petitioner”) for the following reliefs:

- a. Declare the action of the respondents in treating the date of synchronization of petitioner's solar power plant (1.03 MW) as 30.04.2014 and consequently declining to extend the benefits of the AP Solar Power Policy, 2015 as adopted in Regulation No.2 of 2016 vide letter no.CGM/R&IA/GM (R/AO/AAO/HT/F Southern/D.NO.554/17) dated 21.04.2017, issued by the 2<sup>nd</sup> respondent as arbitrary and illegal;
- b. Declare the date of commission of petitioner's solar power plant as 16.06.2016 in terms of the commissioning certificate issued by the 2<sup>nd</sup> respondent and consequently declare that the petitioners solar power plant is eligible for all the benefits and incentives as extend under GO Ms.No.8 dated 12.02.2015 as adopted in Regulation No.1 of 2016 and Regulation No.2 of 2016;
- c. Direct the respondents to allow banking facility to the petitioner's solar power plant in terms of Regulation No.2 of 2016 and to pay for the energy injected into the grid from 30.04.2014 till commissioning of the plant, i.e., 16.6.2016.
- d. Direct the respondents to allow scheduling of banked energy from the date of commissioning onwards, i.e., 16.6.2016 without regard to LTOA dated 20.1.2017, enabling the petitioner to utilize the same for captive use in its Granite unit vide Service Connection No.ONG-249.
- e. And pass such other order or orders as this Hon'ble Commission may be pleased to pass in the interest of justice.

2. The averments of the petitioner as stated in the petition are briefly stated hereunder:

That this Commission has issued and notified the Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions of Open Access) Regulation,

2005 (Regulation No.2 of 2005) on 01-07-2005, that the said Regulation contained the guidelines for the licensees and open access users in the State of Andhra Pradesh in the matter of availing open access by the users including generating companies and licensees, that this Commission also issued Andhra Pradesh Electricity Regulatory Commission (Interim Balancing and Settlement Code) Regulation, 2006 (Regulation No.2 of 2006) on 11-06-2006, providing guidelines to the licensees and intra-state open access users in the State of Andhra Pradesh in the matters of scheduling of open access transactions, meter readings, energy accounting & settlements at entry points and exit points, banking conditions for mini-hydel and wind power projects etc., that the Government of Andhra Pradesh issued Solar power Policy, 2012 vide G.O.Ms.No.44 dated 16-11-2012 *inter-alia* to promote generation of solar power in the State, that the objective of the Solar Policy is to encourage, develop and promote solar power generation in the State with a view to meet the growing demand for power in an environmentally and economically sustainable manner. That Regulation No.2 of 2006 first amended vide Regulation No.1 of 2013 and notified on 02-05-2013 and same was again amended vide Regulation No.2 of 2014 and notified on 01-04-2014 to be in line with the Solar Power Policy of the Government of Andhra Pradesh as mentioned above, that in the later amendment Regulation, for the first time definition of banked energy has been included in clause 2 (c) of principal Regulation and also in Appendix-3, that Government of Andhra Pradesh has issued a new Solar Power Policy, 2015 vide G.O.Ms.No.8 dated 12-02-2015 superseding the earlier Solar Power Policy, 2012 to meet the twin objectives of energy security and clean energy development in exercise of its powers under Section 108 of the Electricity Act, 2003, that in order to give effect to the said policy directive, this Commission has

issued Regulation No.1 of 2016 amending Regulation No.2 of 2005, whereby the incentives provided by the said policy were extended to the projects which were commissioned during 12-02-2015 to 11-02-2020, that some of the incentives granted are such as exemption of transmission and distribution charges for wheeling of power from solar project for captive use/third party sale, exemption of distribution losses for projects injecting at 33 kV or below voltage level, granting of intra-state open access for whole tenure of the project or 25 years whichever is earlier and granting of such approval within 21 days or else it would be construed as deemed approval and lastly exemption of Cross Subsidy Surcharge for third party sale. That immediately this Commission has issued Regulation No.2 of 2016 amending Regulation No.2 of 2006, *inter alia* extending the benefits and incentives for those projects which were commissioned from 12-02-2015 to 11-02-2020, that by this amendment, clause 8.5 was introduced whereby the scheduled consumers sourcing power from solar power plants were entitled to avail reduction in contracted demand and further Appendix-3 was substituted, whereby the energy injected into the grid from the solar power plant from the date of synchronization to the commercial operation date shall be considered as deemed banked energy.

That in order to meet captive needs for its granite cutting and polishing industry, the petitioner established a solar PV power plant with a capital cost of Rs.7.95 crores, that it has submitted its application dated 15-04-2013 along with required documents before CGM (Operations), APSPDCL to accord permission and provide feasibility report for grid connectivity of the proposed solar PV plant @ 11 kV potential; the CGM (Operations), APSPDCL vide letter dated 03-05-2013 accorded initial technical feasibility and later the Executive Director P & MM, IPC, APSPDCL also vide his letter dated 11-09-2013 confirmed that the 2<sup>nd</sup>

respondent approved the technical feasibility subject to the conditions specified therein and one of the conditions was that the energy meters should be provided for recording gross energy generation, captive consumption, auxiliary consumption and energy export / import at the interconnection point. That the petitioner having obtained necessary technical approvals has gone ahead and completed the project in all respects including installation of meters which were inspected by the officers of the 2<sup>nd</sup> respondent, that initially the petitioner's plant was synchronized to the grid on 30-04-2014 as evident from the letter dated 16-05-2014 addressed by the Divisional Engineer (Meters & Protection), Ongole to Senior Engineer Operations, Ongole, that it was noticed during initial months operation of solar plant that about 30-35% of solar energy was spilling into the grid over and above captive utilization, that in addition to the energy spilling into the grid, the petitioner was made to pay the monthly consumption charges to the Discom for the units recorded in the meter and that the petitioner therefore requested the 2<sup>nd</sup> respondent to allow banking and settlement of the excess energy which was injected into the grid by its solar plant due to mismatch of generation and consumption levels of energy which is not accounted for anywhere and vide letter dated 14-07-2014, the petitioner requested the 2<sup>nd</sup> respondent to give the detailed data regarding utilization of units spilled into the grid from its solar plant. That the petitioner vide letter dated 26-09-2014 once again requested the 2<sup>nd</sup> respondent to provide banking of the unutilized power generated by it and that the 3<sup>rd</sup> respondent vide letter dated 01-10-2014 informed the petitioner that the banking facility would be only allowed only after entering into Long Term Open Access Agreement (LTOA) with it. That Regulation No.2 of 2016 allowed banking facility to the Solar and other Non-Conventional Energy generators without stipulation of any pre-conditions. That

unknowingly the petitioner approached the 1<sup>st</sup> respondent for according NOC for entering into LTOA, that the officials concerned opined that the existing line of the petitioner is not suited for granting NOC as the captive plant has both entry and exit points connected to the same line and they have accordingly suggested to lay a separate line with independent entry and exit points with new HT service connection for solar plant. That accordingly the petitioner requested the 3<sup>rd</sup> respondent to grant permission / approval for laying 11 kV dedicated feeder from its solar power plant to interconnecting point at 33 / 11 kV Cheruvukommupalem SS on existing 11 kV dedicated line and that accordingly, the CGM (P&MM, IPC), APSPDCL vide his Memo dated 21-04-2015 requested the SE/Operation/APSPDCL to treat the said request as new application and process as per the applicable rules. That accordingly the Superintending Engineer, Operation Circle, Ongole vide letter dated 03-07-2015 accorded load approval and sanction of extension of HT supply for evacuation of 1.03 MW solar power by allotting new connection with a CMD of 70 kVA under HT Category-I by laying the dedicated feeder. That under the supervision of the officers concerned of the 2<sup>nd</sup> respondent, the petitioner laid 11 kV independent dedicated lines from its solar plant to 33 / 11 kV Cheruvukommupalem SS by incurring a total expenditure of Rs.37,83,967/- towards statutory payment made to APTRANSCO, APSPDCL and NREDCAP for obtaining LTOA permission, registration fee, security deposits and other charges.

That after completion of erection of 11 kV dedicated feeder, the petitioner vide its letter dated 09-05-2016 requested the 3<sup>rd</sup> respondent to accord permissions/instructions to the authorities concerned to charge the line for evacuation of 1.03 MW solar power energy urgently so that the petitioner can obtain open access permission and enter into LTOA immediately, that acting

upon the said representation, the CGM (P&MM&IPC), APSPDCL vide Memo dated 10-05-2016 requested the Superintending Engineer, Operation Circle, Ongole to issue work completion certificate in respect of the dedicated feeder laid by the petitioner, that the Superintending Engineer, Operation, Ongole vide his letter dated 18-05-2016 submitted detailed work completion report in respect of the subject line to the 3<sup>rd</sup> respondent and that having been satisfied with the report of the Superintending Engineer (Operation), Ongole, CGM (P&MM,IPC), APSPDCL vide Memo dated 07-06-2016 ordered for synchronizing 11 kV line at 33 / 11 kV Cheruvukommupalem SS for evacuation of power at 11 kV level from the petitioner's solar power plant. That the commissioning certificate was issued to the petitioner in respect of its 11 kV dedicated feeder on 16-06-2016, that on insistence by the Superintending Engineer, Operation, Ongole, the petitioner obtained registration certificate from NREDCAP on 17-07-2016 as per the A.P. Solar Power Policy, 2015 and thereafter the Superintending Engineer, Operation, Ongole and NREDCAP officials signed the commissioning certificate which was sent by the Superintending Engineer, Operation Circle, Ongole to CGM (P&MM,IPC), APSPDCL vide his letter dated 20-07-2016 for taking further necessary action.

That after certain correspondence and based on the report of the Superintending Engineer, Divisional Electrical Engineer (Operation), Ongole division vide letter dated 20-10-2016 recommended to the CGM (P&MM,IPC), APSPDCL that new date of synchronization i.e., 16-06-2016 should be taken into account as it was done after creation of dedicated feeders for consumer and solar generator separately for evacuation of solar energy. That on receiving the requisite reports, the Executive Director, HRD & Planning, APTRANSCO accorded approval for entering into LTOA for transmission of 1.03 MW power from the

solar power plant of the petitioner to its manufacturing unit. However, in the said approval, the date of synchronization of the plant was taken as 30-04-2014. That the petitioner immediately addressed letter dated 28-12-2016 to the CMD, APTRANSCO informing that when the application for LTOA was made on 22-07-2016 covering the period from 01-08-2016 to 31-07-2021 and Regulation No.2 of 2005 stipulated a time-frame of 21 days for its consideration, they were not justified in granting LTOA for approval belatedly after 4 months of the statutory period and particularly when the Regulation provides for deemed approval. In the said letter a request was made that the approval should be given with effect from the date of application and the benefits to follow accordingly.

That the LTOA was entered with the petitioner as per the approval on 20-01-2017, that the petitioner vide its letter dated 23-01-2017 requested the 2<sup>nd</sup> respondent to provide unutilized energy details and banking of unutilized energy and its settlement from the date of synchronization to the date of LTOA, that after procuring the details of the same, the CGM (R&IA), APSPDCL vide his letter dated 08-03-2017 informed that as per Regulation No.2 of 2016 and G.O.Ms.No.8 dated 12-02-2015, the petitioner's deemed banked energy after deducting 2% banking charges worked out based on the JMR readings from 16-06-2016 to 20-01-2017 is 554258 units and requested the 1<sup>st</sup> respondent to adjust deemed banked energy units from the petitioner's scheduled consumer as desired by it in terms of Regulation No.2 of 2016. That in spite of the said recommendation, the 2<sup>nd</sup> respondent vide impugned letter dated 21-04-2017 refused to adjust the deemed banked energy for the period from 16-06-2016 to 20-01-2017 on the ground that the date of synchronization of the petitioner's project was 30-04-2014 which is prior to 12-02-2015, the date on which deemed banking came into existence and that therefore the petitioner is not entitled for



adjustment of deemed banked energy as per the Solar Policy, 2015 and Regulation No.2 of 2016. The petitioner has questioned this rejection as illegal and improper.

3. On behalf of the respondents, 2<sup>nd</sup> respondent filed a detailed counter affidavit. In the nutshell, the stand of the respondents is that there could only one date of synchronization of the project and that any modification of transmission arrangement that has taken place for the project during the course of time cannot be considered as synchronization and that as synchronization has taken place on 30-04-2014 during which time the then existing policy did not provide for deemed banking, the petitioner is not entitled to the said benefit and that until LTOA was entered on 20-01-2017, the petitioner is not entitled for the benefit of banking of energy. The respondents further averred that after 20-01-2017, there is no dispute between the parties about the banked energy. While refuting the petitioner's claim about 30 to 35% of solar energy spilled into the grid over and above the captive utilization, the respondents relied upon para 3 (b) of T.O.O. (CE/TRANS)/Ms.No.10 dated 15-04-2013 issued by APTRANSCO, as per which any unscheduled power injected to the grid by solar captive plant is considered as inadvertent power. The respondents accordingly pleaded that any units injected by the petitioner over and above their captive consumption are to be considered as unscheduled and hence the same was inadvertent power. They have further averred that spilled over units would be considered only if it is covered by any open access agreement and power is scheduled and that the CGM / P&MM&IPC, APSPDCL vide his letter dated 01-10-2014 has informed the petitioner that banked energy terms and conditions would be applicable after entering into LTOA agreement with APSPDCL. Referring to the Note file for LTOA approval circulated on 26-08-2016 by CE / SLDC wherein he raised a query as to whether to consider 30-04-2014 or 16-06-2016 as the date of synchronization for consideration of exemption for distribution losses incentive,

the issue was referred to DE / (MRT & Vigilance) / APTRANSCO, who, on examination has proposed as under:

- i. The date of synchronisation of solar plant of M/s Southern Rocks plant is 30.04.2014 only.
- ii. The solar plant premise and the consumer premise are to be separated physically & electrically.
- iii. The incentives applicable to the solar plant if any shall be as per the AP solar power policy-2012 only.
- iv. The LTOA should be processed only after ascertaining the consumer and solar plant premises are having separate establishments as per provisions of GTCS.”

In the counter affidavit, the respondents further pleaded that taking into consideration the above aspects, LTOA approval was accorded to the petitioner vide letter dated 18-11-2016 adopting the date of synchronization as 30-04-2014. That after obtaining the work completion report from the Superintending Engineer / Operation / APSPDCL / Ongole vide letter dated 07-06-2016, the CGM / P&MM&IPC / APSPDCL has clearly mentioned in his Memo No.342/16 dated 07-06-2016 to synchronize the “11 KV line at 33/11 KV Cheruvukommupalem SS for evacuation of power at 11 KV from 1.03 MW solar power plant” and not the “synchronization of solar power plant” as their solar power plant was already synchronized on 30-04-2014 and that the same was also clarified by the Vigilance wing of APTRANSCO and the Executive Director / HRD&PIg/APTRANSCO vide letter dated 18-11-2016 has accorded approval for open access duly considering the date of synchronization of the solar power plant as 30-04-2014.

4. The petitioner filed a reply affidavit controverting the material aspects contained in the counter affidavit, specific reference to which is not necessary.

5. From the respective pleadings of the parties, the only point for consideration is whether the date of synchronization of the petitioner's power plant with the respondents' grid shall be taken as 16-06-2016 for the purpose of "Deemed Banked Energy" ?

6. I have heard Sri Challa Gunaranjan, learned counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the respondents. I have also perused the record. From the petitioner's own pleadings, it is evident that after completing the establishment of 1.03 MW solar PV power plant, it was synchronized to the grid of the respondents on 30-04-2014. In this context, letter No.DE/M&P/OGL /F.No./D.No.160/14 dated 16-05-2014 of the Divisional Engineer, Meters & Protection, APSPDCL, Ongole addressed to the Superintending Engineer, Operation, APSPDCL, Ongole as referred to by the petitioner in para 8 of the O.P. requires perusal which to the extent it is relevant reads as under:

"After completion of all the statutory inspections & checks with regards to the metering and protection protocol duly adhering to the approval, the synchronization was carried out on 30.04.2014 at 12:30Hrs".

7. Consequent on synchronization of the petitioner's plant to the grid, power generated from the petitioner's solar plant was being injected. In that regard, the petitioner itself has pleaded as under:

"It is submitted that petitioner noticed during initial months operation of solar plant that about 30-35% of solar energy was spilling into grid over and above captive utilization. It is further submitted that in addition to the energy spilling into the grid petitioner was made to pay the monthly consumption charges to the Discom for the units recorded in the meter. The details of the same are annexed

to this petition and the contents of the same may be read as part and parcel of the present petition. The petitioner therefore requested the 2nd respondent for allowing banking and settlement of the excess energy which was injected to grid by its solar plant due to mismatch of generation and consumption levels of energy which is not accounted for anywhere. The petitioner also vide letter dated 14.7.2014 requested the 2nd respondent to give the detailed data regarding utilization of units spilled into the grid from its solar plant”.

From the above admitted position, there can be no doubt that the petitioner’s plant was synchronized with the grid on 30-04-2014. However, in the context of entering into LTOA, the parties felt the necessity of a separate dedicated 11 kV line, which was eventually laid and on completion of the said line, Divisional Engineer, Operation, Ongole addressed letter dated 20-10-2016 to the Superintending Engineer, Operation, Ongole. It was *inter-alia* stated in the said letter that the petitioner’s solar power plant was synchronized with the grid on 30-04-2014 and they were drawing power to their industry from the grid and pumping their energy into the grid, that when the petitioner represented for banking energy pumped into the grid, Discom clarified that under the existing set up, it is not in a position to allow banking of energy without LTOA and that on the advice given by the department, the petitioner has laid a separate line. The Divisional Engineer, however, felt that though solar power plant was synchronized with the grid on 30-04-2014, as it was for common captive use not fit for open access, a new date of synchronization i.e., 16-06-2016 is considered as justifiable by allowing the solar power plant under open access following creation of dedicated feeder. However, APTRANSCO vide its approval dated 18-11-2016 has considered the date of synchronization of the plant as 30-04-2014 only and not as 16-06-2016, as opined by the Divisional Electrical Engineer, Operation Division, Ongole.

8. After carefully considering the respective stands taken by the parties, this Commission is of the considered opinion that there cannot be two dates of synchronization of the plant. The words "synchronization" connotes letting the power generated from the power plant into the grid. There cannot be any dispute about the fact that the power generated by the petitioner was first let into the grid on 30-04-2014 and the petitioner has specifically pleaded to the same effect in para 8 of the O.P. as reproduced hereinabove. The significance of the date 16-06-2016 is however confined to commissioning of the 11 kV dedicated feeder erected by the petitioner only. Mere fact that the power generated by the petitioner was injected into the grid through a dedicated feeder on 16-06-2016 would not obliterate the admitted fact that the petitioner's solar power plant was synchronized through pre-existing feeder of the respondents on 30-04-2014 itself. This fact was even admitted by the Divisional Engineer, M & P Division, APSPDCL, Ongole vide his letter dated 16-05-2014, which is heavily relied upon by the petitioner. This Commission is therefore not inclined to treat the date of synchronization of the petitioner's solar power plant as 16-06-2016 as claimed by the petitioner ignoring the admitted fact that the petitioner's solar power plant was already synchronized on 30-04-2014 which fact was also mentioned vide APTRANSCO's approval letter dated 18-11-2016 for LTOA. The point is accordingly held against the petitioner.

9. Learned counsel for the petitioner submitted that if the petitioner's date of synchronization is treated as 30-04-2014, it is entitled to the benefit of banked energy and other incentives as were available vide G.O.Ms.No.39 dated 26-09-2012 and G.O.Ms.No.44 dated 16-11-2012 read with Regulation No.1 of 2013 and 2 of 2014. From the perusal of the reliefs prayed in the O.P., it is evident that the petitioner has not claimed any alternative relief based on the date of synchronization as 30-04-2014. Once this Commission does not find the petitioner's plea that the date of

synchronization is 16-06-2016 is acceptable, in the absence of alternative reliefs claimed by the petitioner, it is not in a position to examine the petitioner's plea based on previous G.Os. and Regulations as referred to above. The petitioner is however left with availing appropriate remedies as available to it as per law.

**10.** In the premises as above, the Original Petition is dismissed.

This order is corrected and signed on this the **26<sup>th</sup> day of February, 2020**

**Sd/-**  
**Justice C.V. Nagarjuna Reddy**  
Chairman