



**ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION**

4<sup>th</sup> Floor, Singareni Bhavan, Red Hills, Hyderabad 500 004

O.P.No.33 of 2015

Dated: 18-06-2016

Present

**Sri Justice G. Bhavani Prasad, Chairman**

**Dr. P. Raghunath, Member**

**Sri P. Rama Mohan, Member**

**Between:**

M/s. Indo National Limited  
GNT Road, Tada (Village) – 524 401  
SPSR Nellore (District), Andhra Pradesh

... Petitioner

**A N D**

1. The Chairman and Managing Director of  
Transmission Corporation of Andhra Pradesh  
(AP TRANSCO), Vidyuth Soudha, Somajiguda  
Hyderabad

2. The Chairman and Managing Director of  
Southern Power Distribution Company of  
Andhra Pradesh Limited (APSPDCL)  
Kesavayana Gunta, Tirupati – 517 503

... Respondents

The petition has come up for hearing finally on 04-06-2016 in the presence of Sri M. Devendranath Reddy, Consultant of 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 both parties, the Commission passed the following:

**ORDER**

A petition to direct the respondents to consider and allow banking facility to the petitioner as per Regulation No.2 of 2006 and such other appropriate orders.

2. The petitioner states that it established a 1 MW solar power plant at their factory premises at Tada and the decision to set up its own solar PV plant of 1 MW capacity for captive use was taken by the petitioner, though heavy investment is involved, in view of its Renewable Power Purchase Obligation as obligated entity

which has to ensure that minimum percentage of total consumption of electricity comes from Renewable Energy sources. For 2013-14, it had to meet a purchase obligation of 11,219 kVAh of solar power or purchase Renewable Energy certificates or put up its own solar power project of 1 MW. The Commission issued Regulation No.1 of 2012 mandating compliance with the Renewable Power Purchase Obligation in accordance with the Electricity Act, 2003 and the Andhra Pradesh Solar Power Policy, 2012 through G.O.Ms.No.39 Energy Department, dated 26-09-2012 enables setting up of solar power projects for captive use or for sale of electricity. G.O.Ms.No.44 Energy Department, dated 16-11-2012, which amended the same, provided for the details of banking of energy and in consequence, the Commission amended the Andhra Pradesh Electricity Regulatory Commission (Interim Balancing and Settlement Code) Regulation No.2 of 2006 through amending Regulation No.2 of 2014. The petitioner applied for grid connectivity approval on 10-04-2013 and technical feasibility was approved by the 2<sup>nd</sup> respondent for 1 MW Solar PV Power Plant on 01-10-2013. The sanction of 11 kV dedicated feeder and its commissioning and synchronization of the power plant for captive use took time and the connection to the grid was only on 21-06-2014. The Long Term Open Access application filed on 24-01-2015 was refused to be processed by a letter dated 25-04-2015 of the 1<sup>st</sup> respondent. This solar power plant was synchronized after the amending Regulation No.2 of 2014 and between June, 2014 to November, 2015, around 3,21,384 kVAh units were exported to the 2<sup>nd</sup> respondent, the benefit of which was not given either by way of energy banking or net metering. The petitioner would have got about Rs.18,79,321/- as per the existing tariff for that period from the solar power project with a life of 25 years. The details are furnished in tabular form and the details of payment of CC charges based on the demand notices issued by the 2<sup>nd</sup> respondent are also given. Based on the meter readings at 33 kV/11 kV substations at Tada recorded monthly, energy banking facility may be accorded with effect from 03-06-2014 the date of synchronization.

3. The respondents in their counter affidavit stated about the events from the registration of solar application on 16-04-2013 upto synchronization of the plant with the grid on 03-06-2014 within 9 months from issuance of technical feasibility. The application for Long Term Open Access dated 24-01-2015 could not be processed for allowing banking of energy due to the generator and the consumer having the

same dedicated line and metering. As there is no valid Open Access Agreement between the petitioner and the licensee, the question of settlements does not arise. The petitioner was clearly informed by the letter dated 25-04-2015 that Open Access permission will be given only if entry and exit points are connected to transmission/distribution net work separately through separate feeders. Necessary action will be taken only after compliance with the requisite conditions and entering into an Open Access Agreement by the petitioner.

4. The petitioner in its rejoinder claimed that Open Access Regulations are different from the Energy Banking Regulations and approval is sought for Energy Banking and not Open Access. The petitioner never contemplated to go for third party sales or sale to the 2<sup>nd</sup> respondent and it was only on the advice of the officers of the 2<sup>nd</sup> respondent that the petitioner applied for Long Term Open Access on 24-01-2015. All the meters installed at the interconnection point were tested by the personnel of the department as per their procedures. Energy injected into the grid from the date of synchronization to Commercial Operation Date will be considered as deemed energy banking and the unutilized banked energy shall be considered as deemed purchase at the pooled power purchase cost as determined by the Andhra Pradesh Electricity Regulatory Commission for the applicable year. Energy settlement shall be done on monthly basis. The solar power project cost was Rs.855 lakhs while the benchmark capital cost fixed by Central Electricity Regulatory Commission for 2013-14 is Rs.800 lakhs. The Central Government, the State Government and the Commission have a policy of promoting clean and green energy generation. Hence, the petitioner desired to be allowed energy banking facility as per the Regulations of the Commission.

5. The point for consideration is whether the petitioner has to be permitted the energy banking facility, as requested.

6. The Interim Balancing and Settlement Code for Open Access Transactions as on the date of its notification in Regulation No.2 of 2006 on 11-08-2006 was applicable only to Open Access generators, scheduled consumers and Open Access consumers and banking facility was allowed under Regulation 12 thereof only for Wind and Mini Hydel power generators subject to the conditions specified in Appendix-3. By the first amendment Regulation 1 of 2013 notified on 02-05-2013,

solar energy was included as a source of Renewable Power, while actual electricity injected by them shall be deemed to be the scheduled energy as per second proviso to clause 4.1. The banking facility allowed to solar power generators with effect from coming into force of the Regulation 1 of 2013 is governed by Appendix-3 of Regulation 2 of 2006. A.P. Solar Power Policy, 2012 under G.O.Ms.No.39 Energy Department dated 26-09-2012 applicable till 2017 directs banking of 100% of energy to be permitted during a calendar year and the subsequent Solar Power Policy, 2015 under G.O.Ms.No.8 Energy Department, dated 12-02-2015 by the Government of Andhra Pradesh with an operative period of 5 years, with G.O.Ms.No.44 dated 16-11-2012 amending the 2012 policy in between, also provided for energy banking for all captive and Open Access scheduled consumers. While so, in pursuance of 2012 Solar Policy under G.O.Ms.No.39 as amended by G.O.Ms.No.44, the Commission notified second amendment Regulation 2 of 2014 on 01-04-2014 amending the principal Regulation 2 of 2006. By this amendment, the definition of Banking was included in clause 2 (c) and Appendix-3 was amended thus amending terms and conditions for banking facility allowed to Wind, Solar and Mini Hydel power generators. After the Solar Policy of 2015 of the State Government, this Commission notified third amendment Regulation 2 of 2016 keeping in view a communication from the Government of Andhra Pradesh under Section 108 of the Electricity Act, 2003. In tune with the Solar Power Policy, 2015, the amendment was brought into force with effect from 12-02-2015. Under Appendix-3, energy injected into the grid from the solar power project covered by the 2015 Solar Policy from the date of synchronization to the date of Commercial Operation shall be considered as deemed banking energy and the banking year is now equated to the financial year. It is specifically provided that the purchase price payable by the Discom for unutilized banked energy will be equivalent to 50% of the pooled cost of power purchase applicable for that financial year as determined under Regulation 1 of 2012. The unutilized banked energy during the operative periods of the policy was considered as deemed purchase with Discom being directed to settle such purchase transactions with the generators by 31<sup>st</sup> March of each year.

7. The request of the petitioner in respect of the banking facility has to be considered by the respondents in the above regulatory background. Since inception,

Regulation 2 of 2006 applied to extension of banking facility as per Appendix-3 with solar power generation also being brought within its scope by Regulation 1 of 2013. Regulation 2 of 2014 and Regulation 2 of 2016 made the banking facility available to the solar and other specified power generators with practically no preconditions attached. While the statutory mandate under sections 86 (1) (e) and 61 (h) of the Electricity Act, 2003 to the Commission is to promote co-generation and generation of electricity from Renewable Sources of Energy, even the Central and State Governments in evolving National Policies are bound to keep in view the Renewable Sources of Energy as seen from sections 3 and 4 of the said Act. What the petitioner is claiming is allowing it benefits under Regulation 2 of 2006 as amended from time to time and the Solar Power Polices of 2012 and 2015 of State Government. While the parties are not at dispute on the facts and figures, what all the petitioner is praying for is to be allowed banking facility as per Regulation 2 of 2006 and the counter affidavit of the respondents rather based on absence of entry and exit points and the generator and the consumer having the same dedicated line and metering does not appear sufficient to negative the rights in favour of the petitioner under Regulation 2 of 2006 as amended from time to time. The period sought to be covered by the request of the petitioner was subsequent to the amending Regulation 2 of 2014 and when the metering facility to accurately record the import and export of energy at the point of grid interface is claimed by the petitioner to be available, which is not denied or disproved by the respondents, there appears no practical hindrance in extending the benefit of Regulation 2 of 2006 as amended from time to time to the petitioner. Under the circumstances, the respondents are to be directed to allow energy banking facility to the petitioner as per Regulation 2 of 2006, as amended from time to time.

8. Therefore, the respondents are directed to allow the energy banking facility to the petitioner as per Regulation 2 of 2006 as amended from time to time in respect of the petitioner's 1 MW solar PV captive power plant at Tada, Sri Potti Sri Ramulu Nellore District, Andhra Pradesh. The petition is allowed accordingly, without costs.

This order is corrected and signed on this the **18<sup>th</sup> day of June, 2016.**

Sd/-  
**P. Rama Mohan**  
Member

Sd/-  
**Dr. P. Raghu**  
Member

Sd/-  
**Justice G. Bhavani Prasad**  
Chairman