

Rajasthan Electricity Regulatory Commission

Petition No. RERC/2030/2022

Petition under section 98 "Power to Remove Difficulties" under Rajasthan Electricity Regulatory Commission (Terms and Conditions for Tariff Determination from Renewable Energy Sources) Regulations, 2020

Coram:

Dr. B.N. Sharma, Chairman

Shri Hemant Kumar Jain, Member

Dr. Rajesh Sharma, Member

Petitioner : M/s Shree Cement Ltd.

Respondent: Jaipur Vidyut Vitran Nigam Ltd.

Date of hearing : **31.08.2022**

Present : Sh. Amarjeet Singh, Representative for Petitioner.

Sh. Bipin Gupta, Advocate for Respondents.

Date of order **10.10.2022**

Order

Brief Background:

1. Shree Cement Ltd. (herein called as Petitioner) had filed this petition under Section 98 seeking to remove difficulties under Rajasthan Electricity Regulatory Commission (Terms and Conditions for Tariff Determination from Renewable Energy Sources) Regulations, 2020.

2. Jaipur Vidyut Vitran Nigam Limited ('JVVNL') (herein called as (herein called as Respondent) filed their reply on 29.08.2022.
3. The matter was heard finally on 31.08.2022. Sh. Amarjeet Singh, Representative appeared for Petitioner, Sh. Bipin Gupta, Advocate appeared for Respondent, JVVNL.
4. Petitioner in its petition, and during hearing has mainly submitted as under:
 - 4.1. Petitioner intends to install a Co-located captive PV Solar Power plant under Rajasthan Electricity Regulatory Commission (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2020 ('RE Regulations') issued by the Commission vide its notification dated 02.11.2020 at its Jobner unit, and having contract demand of 9 MVA.
 - 4.2. Regulation 3 of the RE Regulations deals with the scope and the extent of applicability of the above Regulations. Regulation 3.1 (b) provides for the scope of these regulation and states that the above regulation would apply to the Eligible projects as per eligibility criteria specified in regulation 4 of these Regulations.
 - 4.3. The Regulation 4 deals with the Eligibility Criteria. Regulation 4(b) provides that Solar PV power projects, floating solar PV project and Solar thermal power plant, which are based on technologies approved by MNRE would meet the eligibility criteria to be covered under the scope of the above Regulations".
 - 4.4. Thus, the combined reading of regulation 3.1(b) and 4(b) clearly established that the solar PV project would fall within the scope of these Regulations.
 - 4.5. The Regulation 3.4 of RE Regulations provides that applicability of terms and conditions other than those related to tariff determination would be applicable on renewable energy based Captive power plants (both Co-located and supplying power under open access), thereby, implying that

the RE Regulations would also govern RE plants which have not tied up power for sale to Discoms.

- 4.6. Regulation 92.1 provides for the permissible capacity of Captive solar PV power plant that can be installed by an entity, which is reproduced hereunder:

"92.1 The maximum permissible capacity of eligible individual new renewable energy-based captive power plant including renewable energy based plant installed behind the meter shall be limited to 100% of the Contract Demand:

Provided that eligible co-located individual renewable energy based captive power plant shall utilise the same service line and installation for injection of power into the grid as well as drawal of power from the distribution licensee."

- 4.7. Regulation 93 deals with aspect of Banking. For the purpose of ease, regulation 93.1, 93.2 and 93.3 of RE Regulations are reproduced hereunder:

"93.1 The terms and conditions of Banking specified in these Regulations shall be applicable for both existing Renewable Energy based plants and new Renewable Energy based plants.

93.2 For availing the banking facility, the Renewable Energy based captive power plant shall install ABT compliant Special Energy Meters (SEMs), capable of energy accounting for each block of 15 minutes.

93.3 Banking of Energy subject to a maximum ceiling of 25% of the energy injected by Renewable Energy Captive Generating Station during 15-minute time block basis at consumption

end shall be allowed only for captive consumption within the State:

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Provided also that for availing Banking Facility, Renewable Energy Captive Generating Station will enter into Wheeling and Banking Agreement with Distribution Licensee."

- 4.8. Combined reading of regulation 3, regulation 4, regulation 92 and regulation 93, it is explicitly clear that banking is permissible to a Captive Co-located solar power plant with a capacity equivalent to 100% of the Contracted Demand. This facility, however, is denied only on two conditions, namely :
- (a). Banking facility is denied to Renewable energy plants supplying power to third party under open access.
 - (b). Banking facility is denied on consumption from the Renewable Energy plant installed behind the meter without any bi-directional meter in the same premises.
- 4.9. M/s JVVNL is not extending banking facility to a Co-located Solar power plant on the grounds that the facility of banking is not allowed to Captive solar power plant located behind the meter i.e. Co-located Solar power plant. Such an interpretation is not in line with RE Regulations.
- 4.10. Regulation 93.3 puts a cap on banking quantum and provides that 25% of energy injected by Renewable plant on a 15 minutes time block basis at consumption end shall be banked for captive consumption.
- 4.11. A distant located and a co-located captive renewable power plant has been treated as equal in these Regulations and as such total generation/ injection for consumption, whether in the grid for a distant located consumption point or in the electrical system of a co-located consumption plant, would be considered for working out 25% of energy. Commission may confirm the above position so that no ambiguity remains while preparation

of energy accounts by a distribution licensee in case of a co-located captive renewable energy power plant.

- 4.12. The second proviso to Regulation 93.3 provides that for availing Banking facility, Renewable Energy Captive Generating station will enter into Wheeling and Banking Agreement with Distribution Licensee. In case Captive Co-located solar power plant facility of wheeling is not required as there is no flow of power between two points as is happening in the case of a distant located power plant. Therefore, in case of Captive Co-located solar power plant, a generator needs to enter only into a banking agreement with the Distribution Licensee and not a wheeling agreement.
- 4.13. In view of different interpretation being assigned to the provisions of RE Regulations, Commission is requested to seek objective and correct interpretation of the above cited Regulations, under the provision of Removal of difficulties.
- 4.14. The prayer made by the petitioner are as under:
 - I. Pass such suitable directions/ order clarifying that facility of banking is permissible to a Captive Co-located solar power plant.
 - II. Pass appropriate order to the effect that a Distribution Licensee is required to execute a banking agreement, only and not a wheeling agreement, in case of a Co-located RE Plant.
 - III. Pass on order to the effect that in case of a co-located renewable energy captive power plant, 25% for the purpose of banking would be determined on the basis of energy generated/ injected in its own electrical system rather what has been exported into the grid.
5. Respondent, JVVNL in their reply and during hearing has mainly submitted as under:

- 5.1. The petitioner generating plant is not going to be directly connected to the grid first but its generating plant would be supplying generated electricity to its own cement plant, therefore in the case of petitioner his connection could be governed under provisions of the RERC Net Metering Regulation, if plant is less than 1 MW and Petitioner will have to follow provisions of Net Metering for feeding the excess generated units of its generating plant in the grid.
- 5.2. Petitioner cannot feed power in the system if plant is more than 1 MW without open access and therefore, when petitioner is not going for open access Petitioner cannot claim any relief for clarification in the RE Regulations.
- 5.3. When his case is not governed by the RE Regulations, the petitioner cannot claim removal of difficulties under these Regulations by way of the present petition.
- 5.4. Commission framed the RE Regulations wherein the petitioner had put all his suggestions and after hearing the petitioner, the Regulation 92 & 93 were modified from the existing draft Regulations and therefore, now the petitioner by way of present petition cannot claim that if the petitioner intends to install a co-located plant then he should not be forced to enter into wheeling and banking agreement.
- 5.5. The intent of the RE Regulations was clear that the renewable energy captive generating plant either located at distant place or co-located, will have to feed the entire energy in the system and such a consumer will have to enter into a wheeling and banking agreement and therefore, seeking a new form of feeding in the energy in the grid by way of present removal of difficulties is nothing but abuse of process of law.

Commission's View:

6. Commission has considered the submissions of the Petitioners and Respondents.
7. The Petitioner by way of the present petition filed under Regulation 98 of the RE Regulations is seeking Removal of Difficulties. According to it, the Respondent is not extending them banking facility on the ground that the same is not allowed to the captive solar power plant located behind the meter. i.e., co-located solar power plant. Further, according to the petitioner as per the provision of reg 3,4,92 and 93 banking is permissible to a captive co-located solar power plant with a capacity equivalent to 100% of the contracted demand.
8. It is further submitted that regulation 93.3, which puts a cap of 25%, treats distant located and a co-located captive renewable plant as equals and as such total generation/injection for consumption whether in the grid for a distant located consumption point or in the electrical system of a co-located consumption plant, should be considered for working out 25% of energy for which commission may confirm the above position so that no ambiguity remains as regards preparation of energy accounts by the Distribution Licensee in case of a co-located captive renewable energy power plants. It is their further argument that in case Captive Co-located solar power plant facility of wheeling is not required as there is no flow of power between two points as is happens in the case of a Distant located power plant. According to them, therefore, in case of Captive Co-located solar power plant, a generator needs to enter only into a banking agreement with the Distribution Licensee and not a wheeling agreement.
9. Per Contra, it is preliminary submission of the respondent that instant petition is not maintainable under Removal of Difficulties under RE Tariff Regulations till the petitioner shows that it is governed under these Regulations, where intention of setting up the plant does not confer any right to them to file a petition and thus, the Petition being premature Discoms to be rejected.

10. Respondent further submitted that going by arguments of the Petitioner; if their plant is less than 1 MW then provisions of Net Metering have to be followed for feeding the excess generated units of its generating plant in the grid. On the other hand, if their plant is more than 1 MW capacity, except the open access regulations their plant cannot feed power in the grid. In such condition when Petitioner is not going for open access, it cannot claim any relief for clarification in RE Tariff Regulations.
11. Respondent argued that when the Petitioners case is not governed by the RE Regulations, it cannot claim removal of difficulties under these Regulations by way of the present petition. It is further submitted that Commission framed the RE Regulations wherein the petitioner had put all his suggestions and after hearing the petitioner, the Regulation 92 & 93 were modified from the existing draft Regulations and therefore, now the petitioner by way of present petition cannot claim that if the petitioner intends to install a co-located plant then he should not be forced to enter into wheeling and banking agreement. The intent of the RE Regulations was clear that the renewable energy captive generating plant either located at distant place or co-located, will have to feed the entire energy in the system and such a consumer will have to enter into a wheeling and banking agreement and therefore, seeking a new form of feeding in the energy in the grid by way of present removal of difficulties is nothing but abuse of process of law.
12. It is submitted that, if all the provision are read harmoniously then Petitioner intent to request for Banking Agreement without wheeling Agreement is contrary to the RE Regulations.
13. Before proceeding further it would be worth going through the relevant provisions of the Regulations.

“3 Scope of Regulation and extent of application

3.4 The terms and conditions other than related to tariff determination as specified in these Regulations shall also be

applicable for Renewable Energy based captive power plants (both co-located and supplying power under open access), Renewable Energy plants supplying power to third party under Open Access and Renewable Energy plants installed behind the meter from the date of notification of these Regulations."

93 Banking

"93.1 The terms and conditions of Banking specified in these Regulations shall be applicable for both existing Renewable Energy based plants and new Renewable Energy based plants.

93.2 For availing the banking facility, the Renewable Energy based captive power plant shall install ABT compliant Special Energy Meters (SEMs), capable of energy accounting for each block of 15 minutes.

93.3 Banking of Energy subject to a maximum ceiling of 25% of the energy injected by Renewable Energy Captive Generating Station during 15-minute time block basis at consumption end shall be allowed only for captive consumption within the State:

Provided that no banking facility shall be allowed for Renewable Energy plants supplying power to third party under open access and for consumption from the Renewable Energy plant installed behind the meter without any bi-directional meter in the same premises:

Provided also that for availing Banking Facility, Renewable Energy Captive Generating Station will enter into Wheeling and Banking Agreement with Distribution Licensee."

14. It is apparent from the above that Petitioners plant being a co-located and installed behind the meter is covered under the RE Regulations.

15. Further, Regulation 92 provide specific conditions for Renewable Energy based Captive Power plants including co-located renewable energy based power plants, which among other provide for the maximum permissible capacity of eligible individual new renewable energy-based captive power plant including renewable energy based plant installed behind the meter shall be limited to 100% of the Contract Demand.
16. From the perusal of the provisions of Banking provided the Regulations it is observed that terms and conditions of banking specified in the Regulations shall applicable for both existing Renewable Energy based plants and new Renewable Energy based plants. For availing the banking facility, the Renewable Energy based captive power plant shall install ABT compliant Special Energy Meters (SEMs), capable of energy accounting for each block of 15 minutes.
17. As per the conditions laid down under the Banking provisions no banking facility shall be allowed for Renewable Energy plants supplying power to third party under open access and for consumption from the Renewable Energy plant installed behind the meter without any bi-directional meter in the same premises. It is observed from the foregoing that a RE plant co-located and installed behind the meter is entitled for banking provided it fulfils the condition of captive consumption and along with other condition specified in the Regulation, a bidirectional meter is to be installed in the same premises for RE plants installed behind the meter.
18. As per the second proviso of Regulation 93.3 a RE captive generating station is required to enter into wheeling & banking agreement with Distribution Licensee.
19. However, the petitioner in their case have prayed that a Distribution Licensee is required to execute a banking agreement, only and not a wheeling agreement, in case of a Co-located RE Plant.

20. It is observed that the Petition revolves around the banking of energy generated by the co-located behind the meter Renewable energy based Captive generators. The Renewable Energy Sources which include solar and wind are infirm sources of generation as they depend on the availability of wind and sunlight.
21. In case of solar generators, their generation varies as the day progresses and generates at rated capacity at noon time and then starts reducing during the afternoon and stops generating with the setting up sun. In contrast in case of conventional plants (coal fired gas fired etc), the generation follows the load meaning thereby the generation of electricity is in accordance with the requirement of load.
22. In case of renewable energy sources solar in particular situation is different as the generation depends on the availability of solar, which means the solar generator generates only and only when adequate sunlight is available so much so that at times it generates electricity during periods when it is not required by the captive user.
23. The electricity has to be consumed as and when it is generated. In such a case energy generator banks it with distribution licensee who supplies this energy to its consumers. However, for returning the banked energy the Licensee has to purchase additional electricity from other sources.
24. The basic premise of the banking is that a Renewable Energy generators inject the surplus power into the grid and withdraw the same at the time of their need. When the surplus power is pumped into the grid from a RE captive power plant, this is to be wheeled to other consumption points. On other hand when the banked energy is drawn by the RE captive generator, the Distribution Licensee has to wheel back additional power in the grid to cater this demand. In the above case, the grid of the Distribution Licensee acts as sink and source respectively, where banked energy has to be wheeled to point of RE captive sources to the point of consumption and

from point of generation to point of consumption. Even in case of co-located plants the same process has to be followed by Discoms to provide banking facility.

25. In view of the above and provisions of the Regulations , a co-located Captive RE generator cannot claim that since it is not connected directly to the grid, it is required to execute only banking agreement and not the wheeling Agreement. The condition of executing wheeling and Banking Agreement for availing Banking facility has been provided in the RE Regulations framed after considering all aspects and submissions of the stakeholders. In our view, the same has to be complied with by a RE based captive generator, be it a co-located behind the meter or distantly located.
26. In terms of the above, we are of the considered view that a Renewable Energy Captive Generating Station, whether co-located behind the meter or otherwise, intending to avail the Banking facility has to fulfil all the terms and conditions of Banking specified under the Regulations including entering into wheeling and Banking Agreement with Distribution Licensee.
27. Petitioner has also prayed that in case of a co-located renewable energy captive power plant, for the purpose of banking 25% would be determined on the basis of energy generated/ injected in its own electrical system rather what has been exported into the grid. As regards banking of energy, the Commission is of the view that regulation 93.3 provides for banking based on a certain percentage of the energy injected into the grid and the energy consumed by the captive consumer itself without injecting the same into the grid cannot be counted for working out the quantum of energy for the purpose of banking.
28. In view of the provisions of the Regulations, energy cannot be banked if it is not injected into the system of Licensee and energy has to be banked strictly in terms of provisions of the Regulations, accordingly, the prayer of the petitioner cannot be granted.

29. In view of above we hold as under:-

- (1) A Renewable Energy Captive Generating Station, whether co-located behind the meter or otherwise, intending to avail the Banking facility has to fulfil all the terms and conditions of Banking specified under the Regulations including entering into wheeling and Banking Agreement with Distribution Licensee.
- (2) The prayer regarding execution of only banking agreement cannot be granted as it travels beyond the provisions of the RERC (Terms and Conditions for Tariff Determination from Renewable Energy Sources) Regulations, 2020.
- (3) The prayer regarding considering all energy for the purpose of banking even though the same is not injected into the grid cannot be granted as it also travels beyond the provisions of the RERC (Terms and Conditions for Tariff Determination from Renewable Energy Sources) Regulations, 2020.

30. The petition is disposed of in above terms.

(Dr. Rajesh Sharma)
Member

(Hemant Kumar Jain)
Member

(Dr. B. N. Sharma)
Chairman