

BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION AT PANCHKULA

HERC/Petition No. 49 of 2024

Date of Hearing : 16.12.2024
Date of Order : 26.12.2024

In the Matter of

Petition under section 86 1(e) of Electricity Act, 2003 and Regulation 13 of HERC (Green Energy Open Access) Regulations, 2023 for Removal of Difficulty in taking open access for petitioner's behind the meter Captive Solar Power Plants.

Petitioner

M/s. Shree Cement Ltd.

Respondent

Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL)

Present on behalf of the Petitioner

1. Shri Amarjit Singh, Joint Vice President

Present on behalf of the Respondent

1. Ms. Sonia Madan, Advocate

Quorum

Shri Nand Lal Sharma
Shri Mukesh Garg

Chairman
Member

ORDER

Brief Background of the case

1. The present petition has been filed by M/s. Shree Cement Ltd with Uttar Haryana Bijli Vitran Nigam Limited as respondent invoking powers of this Commission to remove difficulty provided under Regulation 13 of HERC (Green Energy Open Access) Regulations, 2023 qua the permission of open access from petitioner's Behind the Meter Captive Solar Power Plants.
2. **Petitioner's submissions:-**
The petitioner has submitted as under:-
 - 2.1 That the petitioner, having its Cement production unit at Village-Khukhrana, PO – Assan Kalan in district Panipat, is an HT consumer (a/c no. 5038740000) of UHBVN. The production facility of the petitioner has a contract demand of 7400 KVA and draws power at 33 KV through an independent feeder from 132 KV/33 KV Matlauda sub-station.
 - 2.2 That the petitioner has set up Captive PV Solar Power Plant of 7945 KWp (5.54 MWac) behind the consumer meter with a primary objective of meeting power requirement of

its cement manufacturing operations. Out of the total solar plant capacity, 1247 KWp (1.1 MWac) is directly connected with the cement plant at 6.6 KV on LT side and 6698 KWp (4.44 MWac) connected to cement plant at 33 KV voltage level through a 33 KV dedicated transmission line.

- 2.3 That the petitioner is in process of augmenting solar capacity of solar plant by adding 1800 KWp (1.1 MWac). The additional capacity would be developed on the spare land available within petitioner's factory premises. This would bring its total captive solar capacity to 6.64 MWac against its present Contract Demand of 7400 KVA.
- 2.4 That in addition to consuming power from its captive solar power plant, the petitioner is also an Open Access Consumer and procures power under inter-state open access from Power Exchange (IEX) as and when required.
- 2.5 That being a consumer of the Respondent and an Open Access Consumer, the petitioner has installed following meters for billing of energy drawn from different sources:-

Meter S. No.	Type of Meter	Location of Meter	Purpose
HRT76692	Secure ABT 0.2s Class	Madlauda S/S End	Open Access Billing
X1259296	Secure 3-P tri-vector	Madlauda S/S End	Discom Billing
HRT78462	Secure 3-P tri-vector	Consumer End	Discom Billing (Standby)

- 2.6 That all the above meters have been tested and calibrated in the presence of officials from Respondent and HVPNL. The meters are also sealed by the Respondent.
- 2.7 That as per meter specifications issued by Respondent for 3 Phase 4 wire Tri vector energy meters to be installed for energy billing of HT consumers, one of the temper & fraud monitoring features of the meter is to log energy in forward direction only, even if the current is flowing in reverse direction. The relevant para of specification no. CSC-45/Rev-VI/DH/UH/P&D/2020-2021 issued in May 2020 dealing with the above subject matter is reproduced below for kind perusal of the Hon'ble Commission:
“Current Reversal/CT Polarity Reversal – The meter shall log energy in forward direction even if the current is flowing in reverse direction in one or more phases. The meter shall also be capable of detecting and recording occurrence and restoration with date and time if the current is flowing in reverse direction in one or more phases.”
- The above feature is active in both meter no. X1259296 and HRT78462 that are installed for the purpose of Discom billing.
- 2.8 That, though most of the power generated by the captive solar power plants is consumed to meet electricity requirement of cement operations, there are occasions when the petitioner has surplus power either on account of unplanned stoppage of cement plant or due to planned maintenance of the cement plant.
- 2.9 That, owing to the above concern and to prevent any injection into the grid, the petitioner is forced to suppress generation from its solar power plants, whenever there

is surplus energy available. This leads to loss of RE generation and lower plant utilization.

- 2.10 That the above is against the principle of 'Must Run' Project Status assigned to renewable energy plants in Regulation 10 (1) of HERC (Terms & Conditions for Determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2021. The relevant para of the regulation is reproduced below for easy reference:

“All renewable energy power plants, except for Biomass power plants of installed capacity 10 MW and above, shall be treated as 'MUST RUN' power plants. Biomass power with installed capacity of 10 MW and above shall be subjected to scheduling and dispatch as specified under Haryana Grid Code and other relevant regulations including amendments thereto.”

- 2.11 That this Hon'ble Commission, in order to ensure unhindered generation from RE generating plants and in compliance with Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022 and to facilitate open access for renewable energy generators/consumers has also notified HERC (Green Energy Open Access) Regulations, 2023. These Regulations are applicable for allowing connectivity and open access to electricity generated from all types of green energy sources. However, due to above feature of energy meters which records even the energy export as import defies this facility to petitioner's captive solar power plants, which is available under HERC (Green Energy Open Access), Regulations 2023 and prevents petitioner from taking Open Access for sale of surplus power from its captive solar power plants.

- 2.12 That with the proliferation of renewable energy, particularly solar generation, the concept of connecting power generation sources behind the consumer meter is gaining momentum in the state. It is pertinent to mention here that the concept is already prevalent among captive consumers in several other states including Punjab, Rajasthan, Maharashtra etc., where specific enabling provisions have been provided in the state regulations for setting up of behind the meter power plants with suitable metering infrastructure to separately measure import and export of power using a common service line.

In this regard, Regulation 92.1 of Rajasthan Electricity Regulatory Commission (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2020 provides as under:-

“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 utilize the same service line and installation for injection of power into the grid as well as drawal of power from the distribution licensee.”

- 2.13 Though there is no denial in setting up and operation of such power plants in the State and enabling provisions enumerated in HERC (Green Energy Open Access) Regulations, 2023 permitting Open Access to RE plants irrespective of their location, the technical feature provided in HT billing meters presents a constraint in operations of such power plants and to avail open access to ensure sanctity of Must Run status accorded to such power generating station.
- 2.14 That similar facility of export of surplus power from our behind the meter captive solar power plant has been permitted to us by APSLDC for our captive solar power plant located at Guntur, Andhra Pradesh.
- 2.15 That faced with above difficulty during the time when cement plant not operating, in injecting its surplus generation and obtaining open access for it's behind the meter captive solar power plants, the petitioner is filing this instant petition under Section 86 1 (e) and under Regulation 13 of HERC (Green Energy Open Access), Regulations 2023 for Removal of Difficulty.
- 2.16 That the following prayers have been made: -
- a) To direct the Respondent to measure both import and export of energy by petitioner's cement plant and captive solar power plants using existing ABT meter having S. No. HRT76692 installed at matlauda s/s. OR measure only export of energy by petitioner's captive solar power plants using existing ABT meter (S. No. HRT76692) and subtract the same from the total import recorded by 3-P Tri-vector meter (S. No. X1259296) i.e. Consumer Billing Meter to work out correct value of energy import i.e. energy supplied by the respondent for billing purpose.
 - b) Provide an opportunity for the petitioner to present its case in person and be permitted to make additional submissions, if any, at the time of hearing.
 - c) Any other order or direction which the Hon'ble Commission deems just and proper to fulfill the obligation of Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022. may kindly be passed.

3. Respondent's reply:-

- 3.1 That in January, 2020, the Respondent received a request from the Petitioner seeking connectivity for its 6.4 MW_{AC} Captive Solar Plant at bus-bar of the plant through a dedicated 33 kV line. Thereafter, representations dated 16.03.2021 and 19.05.2021

were also received. A perusal of the letters/representations would show that the Petitioner had intended to set up a captive solar plant and a 33kV dedicated line which in-turn would be connected to 33kV bus-bar of the Petitioner's cement plant. The cumulative capacity of the captive plant being within the Contract Demand of the Petitioner and the energy so generated was to be utilised in real time. Further, vide all three representations, it has been stated that the Petitioner would not claim any financial compensation in case any power flows from the plant of the Petitioner into the grid. The relevant part of one of the representations i.e. representation dated 19.05.2021 is reproduced below:

*“Furthermore, we would like to submit that there may be instances when cement plant load would be lower than the solar generation and therefore solar power may flow into the grid. **It is submitted that we would not be claiming any financial compensation for such inadvertent injection of solar power into the grid** and that may be treated as free power to UHBVN, subject to change in applicable regulations.”*

(Emphasis Supplied)

- 3.2 That the case of the Petitioner was similar to an *in-situ* captive plant for which no permission is required, except that a 33kV dedicated transmission line would be laid down from its solar power plant to its own 33kV bus-bar, which in turn would be connected to the Respondent's grid. It is submitted that 'open access' in the present case would not be required as no part of the transmission/ distribution system was to be used and accordingly, the case of the Petitioner would not fall under the purview of the Haryana Electricity Regulatory Commission (Terms and conditions for grant of connectivity and open access for intra-State transmission and distribution system) Regulations, 2012 (hereinafter referred to as the "OA Regulations, 2012") as applicable at the relevant point in time, or the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 (hereinafter referred to as the "Green OA Regulations, 2023") which have now been notified by this Hon'ble Commission.
- 3.3 That the proposal of the Petitioner was accepted subject to a number of conditions. The relevant part of the Memo No. Ch-15/CE/Comm1/C-II/Solar-102/Shree dated 26.07.2021 issued by the Respondent conveying the approval as well as enumerating the conditions to be complied, is reproduced for the ready reference of this Hon'ble Commission:
- a) *That all necessary approvals from competent authorities required for carrying out the proposed work shall be ensured by you prior to commencement of work;*
 - b) *That you shall ensure compliance of all Law/ Regulations in vogue;*
 - c) **That you shall ensure proper arrangement to restrict flow of power to grid without prior approval of Discoms.**

- d) *That you shall maintain and operate the captive plant and line as per prudent best industrial practices/ CEA Norms.*
- e) *That you shall ensure compliance of all safety norms at construction stage as well during operation of proposed line and generation plant;*
- f) **That you shall ensure that the 33 kV line should not infringe with the existing distribution and transmission system and shall not pose any operational and safety issues.**
- g) *That you shall undertake to bear full responsibility and associated cost thereof, if any, in case of any accident/ mishappening/ damages attributed to the proposed line and captive plant.*
- h) *That you shall undertake that in case of emergencies shut down of proposed line shall not be denied to Discom or any authorised representative of Discoms.*
- i) *That you shall bear all associated charges, levies, duties and other associated cost, if any, applicable as per the Regulations/ Law in vogue or amended thereof or re-enacted from time to time.*
- j) *That you shall submit route plan to SE/ Operation Circle, UHBVN, Panipat along with technical details and information related to line crossing.*

This No Objection shall be a facility to you and shall not be construed as a right. Such facility can be withdrawn at any time at the discretion of UHBVN”

(Emphasis Supplied)

It is reiterated that the aforesaid permission was granted to the Petitioner under special circumstances and not as a matter of right. The conditions laid down vide Memo dated 26.07.2021, duly accepted by the Petitioner and binding in nature. No deviation from the same is permissible.

- 3.4 That the Petitioner has approached this Hon'ble Commission, in essence, seeking the amendment/ relaxation of aforesaid terms agreed upon. In fact, the Petitioner having the status of a 'consumer' is seeking benefits of a captive 'Generator' without complying with the Regulations applicable to a Generating Plant. It is the case of the Respondent that the terms of the contract agreed upon between the parties cannot be changed at the wish and will of one of the parties. The basic rule of contract law is that, the promisor must perform exactly, what he/it has undertaken to do. The obligation to perform is absolute. Even otherwise, the grant of special treatment and a backdoor entry to grant of connectivity along with sale/purchase of electricity is impermissible in the eyes of law and also in view of the specific and binding terms of the contract (in the form of Memo dated 26.07.2021) subsisting between the parties. As such, the present

petition is liable to be dismissed on the sole ground of it being contrary to the terms agreed to/ contract between the parties.

- 3.5 That the present petition is also not maintainable as the Petitioner is seeking grant of special treatment and exemption from compliance of the applicable Regulations. It is pertinent to mention here that earlier the Petitioner had earlier approached this Hon'ble Commission by way of filing a petition bearing No. HERC/PRO-35 of 2019 seeking relaxation of Regulation 3.5 of the Haryana Electricity Regulatory Commission (Rooftop Solar Grid Interactive System based on Net Metering) Regulations, 2014 (hereinafter referred to as '**Regulations, 2014**') as per which:

"3.5 For open access consumers, the facility of net metering shall not be available and they will have to take recourse to Regulation 3.4 above."

However, the said petition was dismissed by this Hon'ble Commission, rightly so, while holding as under:

"The Commission has carefully examined the contents of the Petition, reply made by the Respondents, averments made by the representatives of both the parties during various hearing in the matter and observes that the relief/ relaxation being sought by the petitioner was subject matter of a Draft Regulation. However, after hearing all stake holders and considering the entire merits of the case, it has been decided not to provide the facility of net metering to Open Access Consumers. The Haryana Electricity Regulatory Commission (Rooftop Solar Grid Interactive System Based on Net Metering) Regulation, 2019 was notified on 25.10.2019. As per Regulation 3.5 "The Facility of Net metering shall not be available to Open Access consumers."

Similarly, the present petition is also liable to be dismissed and no special treatment is liable to be granted to the Petitioner.

- 3.6 That even otherwise, in case the present petition is allowed, the same would raise a number of safety concerns. The Answering Respondent would not have any control over the power flowing from the Petitioner's plant into the system. There is no scheduling of power as the Petitioner is merely a 'consumer', thus, the un-scheduled/ unplanned power flow in to the grid would hamper the safety of the grid. The back flow of energy into the grid may lead to accidents, interrupt/ interfere with the existing lines and may be dangerous for the Respondent's/HVPL's personnel working at the site. As such, the present petition is liable to be dismissed on the sole ground of being against the grid safety.
- 3.7 That, in case the present petition is allowed, the same would result in multiplicity of such similar petitions by different stakeholders, seeking injection of power in the grid, while bypassing the compliance of the Regulations in vogue.

- 3.8 That the present petition is also bad for non-joinder of necessary parties. The ABT meter referred to by the Petitioner relates to HVPNL and not the Answering Respondent. The Answering Respondent has no control over the same. It is humbly submitted that for any decision relating to the use of the ABT meter, HVPNL is required to be arrayed as a party Respondent. The submissions on behalf of HVPNL are necessitated, in view of the peculiarity of the relief sought. As such, the present petition is liable to be dismissed on the sole ground of non-joinder of necessary parties.
- 3.9 That the Petitioner has straightaway approached this Hon'ble Commission without filing any representation/ application and/or raising any such similar concern with the Answering Respondent. No opportunity has been provided to the Respondent to assess the case of the Petitioner. The alleged issues being faced by the Petitioner have never been brought to the notice of the Respondent. It seems that the petition filed by the Petitioner is only speculative in nature. In case the relief claimed is allowed, the same would result in wrongful gain for the Petitioner who would be entitled to benefits of a 'Generator' without payment of any charges and compliance of terms mandated by applicable Regulations.
- 3.10 That the Petitioner had submitted that "... *there are occasions when the Petitioner has surplus power either on account of unplanned stoppage of the cement plant...*". As such, the reasoning for the addition of solar capacity is unclear. It is incumbent upon the consumer having a captive plant to ensure that there is no surplus power being generated, that has to be frequently injected into the grid. It apprehended that the capacity is only being added for onward sale and not for self-consumption.
- 3.11 That the status of the Petitioner is that of a 'consumer', whereas the submission with respect 'Must-Run' status, sale of power through open access etc. are applicable only to a Generating Plant. The Petitioner is trying to get the benefit of the excess power generated without entering into any power purchase agreement with the Respondent herein. Such backdoor entry into sale of power is impermissible. Even otherwise, the arrangement between the parties is being dealt with in terms of Memo dated 26.07.2021, wherein it has been specifically mentioned that the Petitioner- "...*shall ensure proper arrangement to restrict flow of power to grid without prior approval of Discoms.*" The Regulations referred to by the Petitioner in the corresponding paras are not applicable to the facts and circumstances of the present case.
- 3.12 That the reliance of Petitioner on the Regulations of other States are worthy of no credence. The Regulations adopted by other States cannot be made applicable to the case of the Petitioner, without specific enactment of such Regulations by this Hon'ble Commission. Be that as it may, other States have also put in place 'Grid Support

Charges', 'Parallel Operation Charges'. However, no such charges are being claimed by the Respondent from the Petitioner.

Proceedings in the Case

4. The case was heard on 16.12.2024, in the court room of the Commission, wherein the parties mainly reiterated the contents of their petition/reply filed in the matter, which for the sake of brevity have not been reproduced here.

Commission's Analysis and Order

5. The Commission heard the arguments of the petitioner at length as well as perused the written submissions placed on record by the parties. The petitioner herein has approached this Commission seeking directions against the respondent to measure both import and export of energy by petitioner's cement plant and solar power plant using existing ABT meter having S. No. HRT76692 installed at matlauda sub-station or in the alternative measure only export of energy by petitioner's captive solar power plants using existing ABT meter (S. No. HRT76692) and subtract the same from the total import recorded by 3-P Tri-vector meter (S. No. X1259296) i.e. Consumer Billing Meter to work out correct value of energy import i.e. energy supplied by the respondent for billing purpose. However, during the hearing, the authorized representative of the petitioner submitted that they do not intend to sell the power to Haryana Discoms and instead will sell the same to Power Exchange (s) under open access.
6. Per-contra, Ms. Sonia Madan, the learned counsel appearing for the respondent relied heavily on the representation letters of the petitioner dated 23.05.2019, 13.01.2020 and 19.05.2021, wherein the petitioner has submitted that it would not claim any financial compensation in case any power flows from the plant of the Petitioner into the grid. The relevant part of one of the representations dated 19.05.2021 is reproduced below:-

*"The piece of land on which we intend to set-up the 6.4 MWac solar power plant is only around 4 KM away from the Cement plant. Therefore, for evacuation of power generated by the said solar plant, we would lay down a dedicated transmission line of 33 KV from the solar power plant connecting it to the 33 KV bus at switchyard of our cement plant (33 KV bus of cement plant is in turn connected with Haryana grid). It is pertinent to mention here that as per Section 9 (1) of Electricity Act 2003, captive power generator can construct, maintain and operate a dedicated transmission line for captive consumption and **there is no requirement of any approval for lying of dedicated transmission line.***

Further the dedicated transmission lines are defined under Section 2(16) as under:

"dedicated transmission lines means any electric supply-line for point to point transmission which are required for the purpose of connecting electric lines or electric plants of captive generating plant referred to in section 9 or generating station referred to in section 10 to any transmission lines or sub-stations or generating stations, or the load centre, as the case may be;"

The above proposed solar plant of 6.4 MWac and the dedicated transmission line fulfils the above requirements. **However, since our cement plant is connected to UHBVN grid as consumer, a request seeking no objection/approval/consent for the above proposal was submitted by us to concerned Sub-division SDO** vide our letter SCL/FY21/JPR/SCL-20/628 dated 18.12.2020 (Copy Enclosed). The proposal was forwarded to Chief Engineer (Commercial) by Chief Engineer (OP), Rohtak, for seeking advice in the matter, so that further necessary action can be taken. The matter is still under consideration at Chief Engineer (Commercial), UHBVN, Panchkula.

Furthermore, we would like to submit that there may be instances when cement plant load would be lower than the solar generation and therefore solar power may flow into the grid. **It is submitted that we would not be claiming any financial compensation for such inadvertent injection of solar power into the grid** and that may be treated as free power to UHBVN, subject to change in applicable regulations."

(Emphasis Supplied)

Ms. Madan, further argued that the abovementioned proposal of the petitioner was accepted, vide memo no. Ch-15/CE/Comml/C-II/Solar-102/Shree dated 26.07.2021, on the mutually agreed terms & conditions, reproduced hereunder:-

- a) That all necessary approvals from competent authorities required for carrying out the proposed work shall be ensured by you prior to commencement of work;
- b) That you shall ensure compliance of all Law/ Regulations in vogue;
- c) **That you shall ensure proper arrangement to restrict flow of power to grid without prior approval of Discoms.**
- d) That you shall maintain and operate the captive plant and line as per prudent best industrial practices/ CEA Norms.
- e) That you shall ensure compliance of all safety norms at construction stage as well during operation of proposed line and generation plant;
- f) **That you shall ensure that the 33 kV line should not infringe with the existing distribution and transmission system and shall not pose any operational and safety issues.**
- g) That you shall undertake to bear full responsibility and associated cost thereof, if any, in case of any accident/ mishappening/ damages attributed to the proposed line and captive plant.

- h) *That you shall undertake that in case of emergencies shut down of proposed line shall not be denied to Discom or any authorised representative of Discoms.*
- i) *That you shall bear all associated charges, levies, duties and other associated cost, if any, applicable as per the Regulations/ Law in vogue or amended thereof or re-enacted from time to time.*
- j) *That you shall submit route plan to SE/ Operation Circle, UHBVN, Panipat along with technical details and information related to line crossing.*

This No Objection shall be a facility to you and shall not be construed as a right. Such facility can be withdrawn at any time at the discretion of UHBVN”

(Emphasis Supplied)

Ms. Madan has further averred that a combined reading of the representation of the petitioner and the ibid letter of the respondent, is giving effect of a mutually agreed bidding contract between the parties, which both the parties are obligated to abide.

7. The Commission has examined the submissions of the petitioner as well as respondent herein and observes that the petitioner has constructed dedicated transmission line for captive use of power generated in its captive power plant and has not entered into any connectivity agreement or open access agreement with the respondent or Haryana Vidyut Prasaran Nigam Ltd (HVPNL). In fact, HVPNL has not even been arrayed as a party in the present petition. The petitioner in its pleadings has proffered itself to be an entity covered under the ambit of HERC (Green Energy Open Access), Regulations 2023. However, a plain reading of regulation 1.4 of the ibid regulation makes it clear that the same is applicable for allowing connectivity and open access to electricity generated from green energy sources, which apparently the petitioner does not intend to obtain for the obvious reasons i.e. to avoid the applicability of HERC DSM Regulations, annual determination of status as captive power generator, applicability of transmission and wheeling charges, applicability of terms and conditions associated with connectivity and open access agreements etc. Further, the petitioner itself, at the time of applying for approval to construct the dedicated transmission line, relinquished its rights to claim any financial compensation for any inadvertent injection of solar power into the grid. Further, the approval granted by the respondent vide memo no. Ch-15/CE/Comml/C-II/Solar-102/Shree dated 26.07.2021, containing various conditions cannot be taken for granted. So far as the prayer of the petitioner for separately recording the export of energy by petitioner’s captive solar power plants and import of energy by Consumer Billing Meter to work out correct value of energy supplied by the respondent for billing purpose, the same has already been rejected by

this Commission in its order dated 10.07.2020 (petition no. 35 of 2019), as the same is in contravention of Regulation 3.5 of the Haryana Electricity Regulatory Commission (Rooftop Solar Grid Interactive System based on Net Metering) Regulations, 2014 which provides that the facility of net metering shall not be available for open access consumers.

8. In terms of the above, the present petition is disposed of being devoid of merits.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 26.12.2024.

Date: 26.12.2024
Place: Panchkula

(Mukesh Garg)
Member

(Nand Lal Sharma)
Chairman