

**ODISHA ELECTRICITY REGULATORY COMMISSION  
BIDYUT NIYAMAK BHAWAN  
PLOT NO. 4, CHUNOKOLI, SHAILASHREE VIHAR,  
BHUBANESWAR-751021**

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**Present: Shri G. Mohapatra, Officiating Chairperson  
Shri S. K. Ray Mohapatra, Member**

**Case No. 31/2024**

M/s Jindal Stainless Ltd. Vrs	.....	Petitioner
M/s GRIDCO Ltd & Others	.....	Respondents

**In the matter of:** Miscellaneous petition filed by M/s JSL under Regulations 10.2, 15.1 and 17.1 of OERC (Procurement of Energy from Renewable Sources and its compliance) Regulations, 2021 read with Regulation 4.1 and 4.2 of the said Regulations and Section 86(1)(e) of the Electricity Act, 2003 seeking direction to carry forward the RPO Obligation for the past years and to allow fungibility provision of Hon'ble CERC enabling JSL to purchase REC to meet various kinds of RPO and to allow for purchase of Green Tariff Premium from TPNODL to meet its RPO compliance.

**For Petitioner:** Shri Bibhu Charan Swain, the Authorized Representative of M/s JSL.

**For Respondents:** Shri B.K. Das, Sr. G.M., GRIDCO Ltd., Ms. Shawati Mohapatra, AGM (RE), GRIDCO Ltd.; and Ms. Malancha Ghose, DGM (RA), TPNODL.

**ORDER**

**Date of Hearing: 21.05.2024**

**Date of Order: 25.06.2024**

1. This petition has been filed by M/s JSL under Regulations 10.2, 15.1 and 17.1 of OERC (Procurement of Energy from Renewable Sources and its compliance) Regulations, 2021 read with Regulation 4.1 and 4.2 of the said Regulations and Section 86(1)(e) of the Electricity Act, 2003 seeking direction to carry forward the RPO Obligation for the past years and to allow fungibility provision of Hon'ble CERC enabling JSL to purchase REC to meet various kinds of RPO and to allow for purchase of Green Tariff Premium from TPNODL to meet its RPO compliance. The Petitioner has prayed the Commission to: (a) allow to carry forward the RPO compliance requirement of the petitioner from FY 2011 -12 to 2023-24 to the next financial year i.e. FY 2024-25; (b) allow the petitioner to purchase REC to comply with various form of RPO like Solar, Non-Solar, Wind, HPO, ESO and Co-generation Obligation; and (c) allow for purchase of Green Tariff Premium from TPNODL to meet its RPO compliances of various kinds.
2. The Petitioner M/s. JSL has submitted the followings:

- a) The Petitioner is having 2x125 MW and 13 MW Captive Thermal Generating Plants at Jajpur, Odisha and is procuring power through Open Access. The Petitioner is an obligated entity as per OERC (Procurement of Energy from Renewable Sources and its compliance) Regulations, 2021 for purchasing RE power.
- b) The Petitioner used to procure Renewable Energy based on market conditions, its availability and ability to import power considering generation from its captive power plants, in order to comply with the RPO Regulations. The Petitioner requires about 261395 nos. of RECs to meet the RPO. Since there is limited availability of Non-Solar Energy, Co-generation and Hydro Power in Odisha, the Petitioner wants to meet the corresponding RPO either through purchase of RECs from Power Exchanges or through purchase of Green Tariff Premium (GTP) from the DISCOMs i.e. TPNODL. Moreover, currently there is a constraint of ICT overloading, for importing additional renewable energy through open access over and above the contract demand, in OPTCL New Duburi Grid Sub-station where the Petitioner's plant is connected.
- c) CERC in its order dated 09.12.2022 in case No.15/SM/2022 has directed all the obligated entities to seek approval of respective SERCs to meet various types of RPO i.e. Wind/ HPO/ Solar/ DRE/ ESO/ Non-Solar etc. through purchase of single type of REC. In view of the same, the Petitioner filed the present petition before the Commission to allow JSL for meeting its past and current RPO compliances of various kind by purchase of single type of REC.
- d) There is constraint in the RST Order for FY 2024-25 which provides that CGP can not avail this GTP for RPO Compliances which needs further clarification. Further, Para 86 and Para 222 of Retail Supply Tariff Order of TPNODL for FY 2023-24 read with Para 315 of Bulk Supply Tariff Order of GRIDCO for FY 2023-24, there is a provision that all consumers including CGP can avail Green Tariff Premium.
- e) The Petitioner is ready to avail the GTP from DISCOM for the FY 2024-25.
- f) The Petitioner vide its letter dated 15.04.2024 has made a request to TPNODL to enter into power supply agreement for Green Tariff Premium and to guide the Petitioner for the process of availing Green Power from DISCOM under GTP tariff for RPO compliance.
- g) As the disposal of the present petition by the Commission and signing of agreement between the Petitioner and TPNODL will take certain time, therefore, OERC may direct TPNODL to sign the Green Tariff Premium agreement with the Petitioner with effect from 1<sup>st</sup> April, 2024 and the Petitioner hereby undertake to pay 20 paise/unit extra for its consumption from TPNODL for FY 2024-25 provided that the entire

consumption from TPNODL is considered as Green Power and Petitioner is allowed to meet its RPO compliance by procuring RE power from TPNODL under GTP.

3. The Respondent-M/s. GRIDCO Ltd. has submitted the followings:
  - a) As per Regulation 10.1 and 10.2 of the OERC (Procurement of Energy from Renewable Sources and its compliance) Regulations, 2021, non-compliance to RPO would attract penalty and the RPO shall not be allowed to be carried forward.
  - b) The Petitioner has neither provided any information on the RPO compliance status of the past years nor has it mentioned about any genuine difficulty faced by it in compliance of RPO for the respective years. Therefore, the Commission may direct the Petitioner to provide information on the RPO compliance status of the past years along with any genuine difficulty faced by it in compliance of the same.
  - c) Regulation 5.1 and 5.2 of the OERC (Procurement of Energy from Renewable Sources and its compliance) Regulations, 2021 enables the Obligated Entities to fulfil their RPO by purchasing REC. In line with the Notification of MoP, GoI dated 20.10.2023, the Petitioner is eligible for purchase of REC of any kind for RPO compliance w.e.f. 01.04.2024. However, the RPO compliance for previous years through purchase of REC can be dealt in line with the OERC RPO Regulations for the respective years.
  - d) Considering the provisions in the DISCOM Tariff Order for FY 2024-25, since M/s JSL is having its own Captive Thermal Generating Plants, it is not eligible for availing the Green Consumer Certification facility.
4. The Respondent-M/s. TPNODL has submitted the followings:
  - a) The Commission has allowed Green Tariff under Para 241 of the RST order for FY 2024-25 which states that this facility shall not be available to the consumers having CGP. For this matter, the Commission's observations made in the previous RST Order for FY 2023-24 may be referred to, wherein the Commission had stated that a consumer having CGP can be provided Green Tariff to fulfill its RPO, however, it cannot be issued a Green Consumer Certification, as 100% of its consumption is not from Renewable power. However, RST Order of FY 2024-25 is not clear on whether industries having CGP can be permitted to avail the Green Tariff allocated to DISCOM on payment of the Green Tariff Premium.
  - b) In Para 315 of BSP Order for the FY 2023-24, the Commission in order to facilitate DISCOMs to provide renewable power to the green consumers, apportioned total renewable power purchase by GRIDCO in favour of DISCOMs. Further, in the BSP order of GRIDCO for FY 2024-25, out of the total projected renewable energy of 3580.62 MU available to GRIDCO for the year, 1193.51 MU, 778.60 MU, 1138.85

MU & 469.66 MU are allocated to TPCODL, TPNODL, TPWODL & TPSODL respectively for Green Tariff. The DISCOMs can issue 'Green Consumer Certificate' to the consumers desirous of availing such certificates in their respective area of operation within the above ceiling limit of renewable energy. However, the surplus renewable energy with one DISCOM can be shared with the DISCOM having deficit renewable power under intimation to GRIDCO.

- c) The total allocated quota of renewable energy in favour of TPNODL for the FY 2023-24 was 768.42 MU. However, only 17 nos. of consumers have availed the Green Consumer Certificate for 1.11 MU during the financial year 2023-24 with payment of premium charge of 25 paise/unit, and 767.31 MU out of the total RE Share of TPNODL was left unallocated. Out of the said 17 nos. of consumers, only State Bank of India had availed the scheme for its 16 nos. of connections with total consumption of 0.029 MU (in 5 months). Other one is the Petitioner itself availing the scheme for its pump house connection with total consumption of 1.081 MU (in three months).
  - d) The Commission may issue necessary direction on whether the approved Green Energy of DISCOM can be allocated to CGP consumers to meet their RPO obligation without issuing Green Consumer Certificate.
5. The Petitioner-M/s. JSL in its Rejoinder has submitted the followings:
- a) It prays for carry forward of all its past RPO noncompliance to the next financial year i.e. 2024-25 on the genuine grounds of difficulties as follows:
    - (i) That being a CGP, the petitioner company cannot make export & import at the same time.
    - (ii) That there are constraints of Interconnecting Transformer (ICT) at OPTCL New Duburi S/S.
    - (iii) That Open Access NOC was denied by OPTCL for the month of April, 2024, May, 2024 due to ICT constraints and a curtailed NOC provided for June, 2024 respectively.
    - (iv) That NOC of Open Access of Inter State Transmission System (ISTS) for procuring 100 MW RE RTC is pending with OPTCL and;
    - (v) That there was hold on REC trading at exchange and the issue of REC fungibility needs to be addressed by State Commission.
  - b) As per Regulation 5(3)(a) of OERC Green Energy Open Access Regulation 2023, it is provided that the obligated entity like Petitioner can procure RE Power from either GRIDCO or DISCOM to meet its RPO compliance and the obligated entity needs to place requisition either to GRIDCO or DISCOM for the same. Accordingly, JSL has

placed its requisition before TPNODL to supply Green Tariff Premium. It may be noted that during the tariff hearing process, JSL has also made similar request before the Commission to supply RE power and Green Tariff Premium by TPNODL to JSL during the Retail Supply Tariff hearing of TPNODL for FY 2024-25.

- c) The Regulation 5(3)(a) of OERC Green Energy Open Access Regulation 2023 allows the obligated entity to choose its supplier for procuring RE power to meet its RPO compliance and it is not mandatory for JSL to procure RE power from GRIDCO alone. Hence the observation of GRIDCO that JSL will have to procure RE Power from GRIDCO alone is not in accordance with Regulation & hence may be set aside.
  - d) The Green Open Access Rules, 2022 were notified in 6<sup>th</sup> June, 2022 by MoP, GoI for promoting generation, purchase and consumption of green energy including the energy from waste-to-energy plants through open access. In the said rule at para 4(2)(c) it is also provided that any obligated entity can meet RPO by requisition from distribution licensee.
6. Heard the Petitioner and Respondents through Hybrid mode and considered their submissions. We observe that the Petitioner has prayed for the followings:
- (a) To allow to carry forward the RPO compliance requirement of the petitioner from FY 2011-12 to FY 2023-24 to the next financial year i.e. FY 2024-25.
  - (b) To allow the Petitioner to purchase REC to comply with various form of RPO like Solar, Non-Solar, Wind, HPO, ESO and Co-generation Obligation.
  - (c) To allow for purchase of Green Tariff Premium from TPNODL to meet its RPO compliance of various kinds.

7. Now, we shall discuss the issues with reference to the above prayers of the Petitioner.

**(a) Carrying forward RPO compliance requirement of previous years to next financial year:**

M/s Jindal Steel Limited (JSL) is having 2x125 MW and 13 MW Captive Thermal Generating Plants at Jajpur, Odisha and procuring power through Open Access. The Petitioner is an obligated entity for RPO compliance as per the OERC (Procurement of Energy from Renewable Sources and its Compliance) Regulations as notified by the Commission from time to time. Now, the Petitioner has prayed for carrying forward RPO compliance requirement for the period from FY 2011-12 to FY 2023-24 to the next financial year i.e. FY 2024-25. We observe that as per Regulation 10.2 of OERC (Procurement of Energy from Renewable Sources and its compliance) Regulation 2021, carrying forward the unmet capacity of RPO by the obligated entities from one financial year to

another is not allowed unless there is genuine difficulty because of non-availability of certificates. The Petitioner has submitted the grounds for RPO non-compliance for the past period in Para 5 above where the Petitioner has expressed its difficulties in purchasing RECs as well as procuring renewable energy through open access. Further, as per the Petitioner, after meeting the RPO during past period with available renewable energy, there is further requirement of about 261395 nos. of RECs to meet various types of RPO. Considering the above difficulties of the Petitioner, we allow the prayer of the Petitioner to carry forward the RPO compliance requirement from FY 2011-12 to FY 2023-24 to the next financial year i.e. FY 2024-25. However, any surplus renewable energy after meeting RPO requirement in a year cannot be carried forward to subsequent year for adjustment against RPO requirement of subsequent years.

**(b) Purchase of REC to comply with various form of RPO like Solar, Non-Solar, Wind, HPO, ESO and Co-generation Obligation:**

The Petitioner-M/s JSL has submitted that there is limited availability of non-solar energy, co-generation and Hydro power in Odisha and wants to purchase single type of REC from power exchange to meet its various types of RPO as per the Order dated 09.12.2022 of CERC passed in Case No. 15/SM/2022. With reference to Regulation 5.1 & 5.2 of OERC (Procurement of Energy from Renewable Sources & its Compliance) Regulations, 2021; CERC (Terms and Conditions for Renewable Energy Certificates for Renewable Energy Generation) Regulations, 2022 and subsequent amendments thereon; and in line with CERC's order dated 09.12.2022 passed in Case No.15/SM/2022, we allow the Petitioner to purchase single type of REC to meet various types of RPO (i.e. wind/ HPO/ solar/ DRE/ ESO/ Non-solar, etc.).

**(c) Purchase of Renewable Energy at Green Tariff Premium from TPNODL to meet its RPO compliance of various kinds:**

The contention of the Petitioner, in its submission, is that it can avail Green Tariff Premium from DISCOM for the FY 2024-25 so as to comply with its RPO. We observe that in the RST Order for the FY 2023-24, the Commission had allowed the industries having CGPs to purchase their obligated quantum of renewable power from DISCOMs to fulfill their RPO by payment of premium of 25 paise/ kWh over and above the normal tariff available to them. However, in the RST Order for the FY 2024-25, the Commission has not allowed the industries having CGPs to purchase renewable power from DISCOMs on payment of premium to

meet their RPO. In this regard, Para 241 of the RST Order of DISCOMs for FY 2024-25 may be referred which is reproduced below:

*241. “The Consumers of any category can get a Green Consumer Certification by DISCOMs, if 100% of their power requirement is met from renewable sources by DISCOMs. The Consumer has to pay additional 20 paise per unit as premium over and above the normal rate of Energy Charges. This facility shall be in force for one year from the effective date of this order. The Consumer has to apply the concerned DISCOM in advance for this purpose. This facility shall not be available to the Consumers having Captive Generating Plant (CGP). For this matter, our observations made earlier may be referred to.”*

From the submission of the Petitioner, it appears that there is confusion regarding interpretation of the last sentence “*For this matter, our observations made earlier may be referred to*” of the above paragraph. We would like to clarify that “*For this matter...*” means for the matter relating only to Green Consumer Certification as mentioned in the aforesaid paragraph. It is also to mention here that RST and BST Order issued by the Commission for each financial year is based on elaborate public hearing.

It may further be mentioned that, though the total renewable energy available to GRIDCO has been apportioned in favor of each DISCOM in the BSP Order of GRIDCO for FY 2024-25. In the instant case, since the allocated green power to TPNODL (i.e. 778.60 MU) would be accounted for RPO Compliance of DISCOM/ GRIDCO, there will be double accounting, if certain quantum of such power is sold to M/s. JSL for compliance of its RPO. Hence, in view of the above observations, the purchase of renewable power at Green Tariff Premium from a DISCOM (here TPNODL) by the industries having Captive Generating Plant (here M/s. JSL) is not allowed. The OERC RE Open Access Regulations 2023 at Regulation 5(3)(a) provides for purchase of green energy through Open Access either from distribution licensee or from GRIDCO by the obligated entities which is quoted below:

*“Any consumer may elect to purchase Green Energy either upto a certain percentage of its consumption or entire consumption through open access and place requisition accordingly with respective distribution licensee/GRIDCO, and GRIDCO shall procure and supply such quantity of Green Energy and the consumer shall have the flexibility to give separate requisition for solar, wind, Hydro and other forms of Green energy”*

Therefore, Open access facility for purchase of green power is always available with the Petitioner but he cannot purchase green energy through retail supply mode which is contrary to the provisions of the Regulation. The Electricity (Promoting Renewable Energy through Green Energy Open Access) Rules 2022

by the Ministry of Power at 4(C)(a) also reinforces the above OERC Regulations. The Petitioner should not confuse between supply of power through Open Access and Retail Supply. Further, the Government of Odisha in their RE Policy, 2022 at Para 23.5 has clearly stated that:

*“To support adoption of RE by industries in the State, GRIDCO shall act as an aggregator to procure power as per prevailing Regulations from RE projects and to supply the same to industries. GRIDCO shall charge a trading margin. Aggregation of demand shall help in achieving better tariffs through economies of scale. No cross subsidy surcharge shall be applicable in this case. Profits out of trading business shall be used to set-off past losses of GRIDCO. OERC shall suitably consider this in the Regulations and orders.”*

Therefore, M/s JSL may request GRIDCO directly for purchase of renewable power to meet its RPO requirement.

8. Further, the Petitioner has submitted that there is transmission constraint for importing additional renewable power through Open Access over and above the Contracted Demand (CD) due to ICT overloading in OPTCL's Grid sub-station at New Duburi. In this context, it may be mentioned here that the renewable power can be purchased through open access within the CD as per our Open Access Regulations. Further, the Petitioner may approach SLDC for Short Term Open Access or OPTCL for Long Term Open Access.
9. In the matter of RPO compliance requirement from FY 2011-12 to FY 2023-24 and purchase of RECs, the Petitioner is directed to provide all information/ data relating to year-wise RPO compliance status of the past years to the Nodal Agency (presently GRIDCO) for verification and submitting report to this Commission as per the OERC (Procurement of Energy from Renewable Sources and its compliance) Regulation 2021. If required, GRIDCO may obtain necessary data from the Office of the EIC-cum-PCEI, Government of Odisha for verifying the information/ data submitted by the Petitioner- M/s. JSL. GRIDCO may accordingly update its database of RPO compliance to give effect to the carry forward of RPO allowed to M/s JSL in this Order.
10. With above observations and directions, the case is disposed of.

Sd/-  
**(S.K. Ray Mohapatra)**  
Member

Sd/-  
**(G. Mohapatra)**  
Officiating Chairperson