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**ଓଡ଼ିଶା ବିଦ୍ୟୁତ୍ ନିୟାମକ ଆୟୋଗ**  
**ODISHA ELECTRICITY REGULATORY COMMISSION**  
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**Present: Shri G. Mohapatra, Officiating Chairperson**  
**Shri S. K. Ray Mohapatra, Member**

**Case No. 63/2024**

Distributed Solar Power Association (DiSPA)

.....Petitioner

Vrs.

GRIDCO & Another

..... Respondents

**In the matter of:** Application by Distributed Solar Power Association (DiSPA) under Section 86(1)(e) and Section 42 of the Electricity Act, 2003 read with Regulations 12 to 15 of the OERC (Promotion of Renewable Energy through Green Energy Open Access) Regulations, 2023 read with Clause 14 of the Methodology for Allocation of Quantum of Green Energy for Banking Purposes dated 24.05.2024 formulated by GRIDCO- Respondent seeking directions and clarifications in respect of banking of energy by the consumers of green power in the state of Odisha.

**For Petitioner:** Shri Avijeet Lala, Learned Advocate along with Shri Devank Maheshwari, Learned Advocate

**For Respondents:** Shri R.K. Mehta, Learned Sr. Advocate along with Ms. Harapriya Behera, DGM (Electrical) and Shri Ravi Kumar Pandey on behalf of M/s. GRIDCO Ltd. and the Representative of SLDC.

**ORDER**

**Date of Hearing: 26.11.2024**

**Date of Order: 08.01.2025**

1. The Petitioner- DiSPA has filed the present petition purportedly under Section 86 (1) (e) and Section 42 of the Electricity Act, 2003 read with Regulations 12, 13, 14 & 15 of the Odisha Electricity Regulatory Commission (Promotion of Renewable Energy through Green Energy Open Access) Regulations, 2023 read with Clause 14 of the Methodology for Allocation of Quantum of Green Energy for Banking purposes dated 24.05.2024 formulated by GRIDCO Ltd.-Respondent No-1.
2. The Petitioner has prayed before the Commission to:
  - “(a) issue clarification that consumers have the discretion to bank 30% of either the monthly generation by the generator or 100% of the monthly consumption of power from distribution licensee under Regulation 11 (5) (b) of the OERC GEOA Regulations;
  - (b) issue direction that the security Deposit under Cause 5 of the Methodology shall be valid only till the commencement of the green energy banking;
  - (c) issue direction that the condition for encashment of Security Deposit under Clause 5 (d) (iii) of the Methodology shall be upon failure to commence green energy banking;
  - (d) issue clarification/ modify Clause 10 (e) of the Methodology that in case of delay in commencement of green energy banking for reasons

*attributable to the selected applicant then extension “shall” be provided to the said applicant on mutual basis, limited to a maximum period of six (06 months);*

- (e) issue clarification that under Regulation 11 (5) (d) of the OERC GEOA Regulations, the banked energy shall be permitted to be drawn during Normal Hours/ Solar Hours/ Off Peak Hours in terms of Time of Day slots defined under OERC Tariff Order dated 13.02.2024;*
- (f) direction to publish the draft banking agreement along with the settlement procedure for energy banking for public consultation;*
- (g) pass such other order(s) as this Hon’ble Commission may deem fit in the facts and circumstances of the case.”*

**Background:**

3. The generation from Renewable Energy (RE) Sources (Solar, Wind) are variable & intermittent in nature. The surplus power generated from RE plants can be banked. The basic premise of the RE banking is to bank energy during surplus generation and utilize/draw the banked energy during the lean RE period.
4. The Ministry of Power, Govt. of India had notified the Electricity Rules, 2022 on 06.06.2022 relating to Green Energy Open Access (GEOA) including banking of green energy with the objective to promote generation of Renewable Energy. Pursuant to the above Rules, the Commission had notified OERC (Promotion of Renewable Energy through Green Energy Open Access) Regulations, 2023. The objectives of these Regulations is to promote Green energy through Open Access allowing banking of the same and also to promote production of Green Hydrogen (GH) or Green Ammonia (GA) or its derivatives in the State of Odisha.
5. As per second Proviso to Regulation 11(5)(b), a nodal agency designated by the Govt. of Odisha, is to formulate the methodology/ procedure for allocation of quantum of Green Energy for Banking to applicant(s). Pursuant to the above, the Department of Energy (DoE), Govt. of Odisha (GoO) had designated GRIDCO Ltd. as the Nodal agency and constituted a Committee, vide notification dated 04.04.2024, to formulate the said methodology and subsequently GRIDCO issued the methodology for allocation of quantum of Green Energy for banking to the applicant(s) and submitted the document to the Commission for information.
6. The Petitioner-DiSPA has submitted the following:
  - (a) The Petitioner-DiSPA, is an industry association of leading solar power developers, independent power producers, EPC service providers and solar energy consultants. DiSPA focusses on the growth and development of solar energy sector and associated areas and works closely with the national solar federations and other industry associations in matters of development of solar power.

- (b) GRIDCO is engaged in business of bulk power purchase and bulk sale of power to four (4) Distribution licensees (TPWODL, TPNODL, TPSODL & TPCODL) and trading of surplus power through power exchange.
- (c) In the present petition, the petitioner has not invoked the adjudicatory jurisdiction of the Commission involving disputes between the parties. Petitioner has referred to few judgments relating to cause of action, maintainability & merits of case and has claimed a clear cause of action to file the present petition and same is not merely an academic exercise.
- (d) The quantum of bankable power will determine the plant size, technology employed, and the tariff negotiated/price offered to the customers and Green Energy Open Access. Hence, the petitioner has requested for clarification relating to banking as it would have impact on the executed PPA and investment in RE sector in the State of Odisha.
- (e) The Respondent-GRIDCO has issued the Methodology without any public consultation and without approval of this Commission
- (f) Although the banking application procedure has commenced in Odisha, the draft of the Standard banking agreement to be signed with the selected applicant(s) is yet to be released.
- (g) The State Load Despatch Center, Odisha (SLDC) has also not issued the detailed procedure concerning settlement of banked energy.
- (h) The Regulation 11 (5) (b) of the GEA Regulations, 2023 is ambiguous, since it does not definitively provide that which among the two options would be considered as the ceiling to quantum of banked power. Such lack of clarity could lead to inconsistent application of the banking facility and confusion among the stakeholders. These two options together were not identified by the Ministry of Power in GEA Rules. Since the banking facility is provided only to the consumer availing GEA, such consumers ought to have the discretion to bank 30% of the monthly generation by the generator or 100% of the monthly consumption of power from distribution licensees. Allowing the Consumers to opt for either of the two bench marks under the above Regulation will facilitate the banking of renewable power since the consumers would be in a better position to optimize their energy management strategies as per their energy profiles. Banking is not a standalone commercial transaction, but is a physical support to renewable generation on account of their generation being infirm and periodical in nature. Therefore, while putting the 30% limitation on banked energy benefits DISCOMs, the discretion to choose between the options should rest with the consumer. The Commission may issue a clarification that the consumer is eligible to

exercise its discretion in opting for either of the two approaches to calculate quantum of power banked and such discretion to be exercisable at the time of making the application for banking.

- (i) With regard to Security Deposit under Clause 5 of the Methodology, it is submitted that since the provision of furnishing of Security Deposit of Rs.5 lakhs per MW with a validity period of three years from the date of commencement of green energy banking will cause unnecessary financial hardship and operational liquidity concern to the applicants/consumers and maintaining Security Deposit for such length of time shall add to the overall cost of power procurement, which is contrary to the objective of the Electricity Act, 2003, for promotion of Renewable power. The Security Deposit must be kept valid only till the commencement of banking and not beyond as it is unnecessary. Moreover, banking agreement will carry provisions with respect of payment security mechanism/performance bank guarantee and applicants will have to maintain two bank guarantees which will have severe cost implications on the consumers/applicants.
- (j) The condition in “Failure to off take power as per the stipulated time line” is ambiguous and does not find reference anywhere in the methodology. Further clarification is required regarding encashment of SD.
- (k) The consumer must be given an opportunity to rectify delay, if any, in commencement of banking instead of leaving it to the sole discretion of GRIDCO. The extension of a maximum period of six months must be given to the consumer under Clause 10 (e) of the Methodology to ensure commencement of banking.
- (l) Referring to the Regulation 11 (5) (d) of the Regulations, 2023, vis-à-vis, the OERC Tariff Order dated 13.02.2024, the clarification is required regarding Time of Day slot (ToD slot) for off peak hours as there is lack of alignment between the Regulation and the Tariff Order as referred to.
- (m) The banking agreement and the settlement procedure should be released for public consultation to give opportunity to the stakeholders to raise concerns or suggestions, as the case may be.

7. While questioning the bonafides of the Petitioner and challenging the maintainability of the petition, the Respondent-GRIDCO Ltd vide its objection has pleaded, inter-alia, as follows:

- i) No cause of action has been disclosed by the Petitioner to approach this Commission and the questions raised and the reliefs sought for through the petition do not fall within the jurisdiction of this Commission as per the Electricity Act, 2003.

- ii) Since the Draft Regulations, 2023 was published for public consultation inviting comments/objections/suggestions etc. and the Commission had also held public hearing before final publication, it is no more now open for the Petitioner to seek for any change, correction or clarification in the aftermath of the final publication of the same.
- iii) The Petitioner can challenge before appropriate forum if aggrieved by any of the provisions of the Regulations/Methodology.
- iv) The Methodology having been prepared by the duly constituted Committee (comprising members from Energy Department, Industry Department, OPTCL, GRIDCO & SLDC) by DoE, GoO in accordance with the proviso-2 of the Regulations 11 (5) (b) of OERC's GEOA Regulations, 2023, giving due weightage to project status, connectivity details, tied up RE Generation status of Banking Applicants for apportionment of RE banking quantum among various Applicants within Banking limit stipulated in above Regulation and the same having been concurred by the State Government, and there being no legal requirements for seeking approval thereto from the Commission and public consultation & ratification. The sanctity or effectiveness of the same cannot be questioned.
- v) The SLDC being entrusted with the job of functioning a mechanism for scheduling of injection and drawl of energy linked to banking of RE and the same is an integral part of the Banking Agreement and the Draft mechanism submitted by the SLDC on 29.08.2024 for approval by this Commission is yet to be finalized. After finalization of the scheduling mechanism, Draft Banking Agreement shall be released and shared with selected Applicants.
- vi) No clarification is called for regarding the quantum of Green Energy banking covered under Regulation 11 (5) (b) inasmuch as the said Regulations is self clarificatory. The term "limited to" contained in said Regulation corresponds to both the options, connoting the meaning of considering the quantum among the two options which ever is less. The interpretation of above Regulation by the Petition is mis-conceived and untenable.
- vii) The primary objective of Security Deposit being to ensure seriousness and commitment of the Applicant and act as a deterrent towards unnecessary squatting of power by individual Applicants and the Methodology having been formulated keeping in view both the clusters i.e. Green Hydrogen/Green Ammonia/Other derivative consumers as well as other Green Energy Open Access consumers

having significant variation of Gestation period, the suggestion of the Petitioner for limiting the validity of Security Deposit is not tenable.

- viii) The modification as sought for by the Petitioner in Clause 10(e) of the Methodology by replacing the word “May” with ‘Shall’ is conceptually not called for inasmuch as the extension of time for commencement of Green Energy Banking can be granted on mutually agreed basis after submission of substantial documentary evidence by the consumer of Green Energy, and the claim for extension, if treated as a matter of right of the consumer, will result in unnecessary delay.
  - ix) The Commission has already defined “Off peak TOD” vide the Tariff Order as “all the hours except peak hours”, no clarification in that regard is necessary.
8. The Respondent- SLDC has submitted that a draft mechanism/procedure and formats for scheduling of transactions linked to banking of RE has been prepared keeping in view the methodology framed by GRIDCO, the Nodal agency for allocation of quantum of RE for banking purpose. The draft document has been sent to the Commission for approval.
9. Heard the Petitioner and Respondents through hybrid mode and considered their written submissions and arguments during hearing. The Commission observes that the Petitioner has requested for clarification on (a) Certain Regulations under OERC’s GEOA Regulations, 2023 (i.e.) Regulation 11(5) regarding quantum of green energy banking & off-peak period (b) Certain issues relating to the methodology formulated by GRIDCO for allocation of quantum of Green Energy Power for banking to the applicant(s) (i.e.) Clause 5(d) & 10(e) regarding security deposit & banking agreement.
10. The Regulation 11(5) of OERC’s GEOA Regulations, 2023 deals with quantum of green energy that can be banked and formulation of methodology/procedure by Nodal agency for allocation of quantum of green energy power for banking to applicant(s), the extract of which is produced below:
- “(b) The quantum of energy Banked by the RE generator or consumer of Green Energy shall be limited to 30% of the total monthly generation by the generator (within the State) or monthly consumption of electricity from Distribution Licensee by the consumer of Green Energy. The energy banked by the RE generator(s) or consumer(s) within the State shall be limited to the energy equivalent to 200 MW in a month cumulatively for all RE generators or consumers within the State except the consumer consuming power for production of Green Hydrogen or Green Ammonia or its derivatives..... xxxxxx”*

From above provision, it is clear that quantum of Green Energy to be banked by RE generator or consumer shall be limited to 30% of the total generation or consumption of

electricity on monthly basis and the banking is linked to Green Energy only with objective to promote development of RE generation being infirm & intermittent in nature and production of GH/GA/their derivatives in the State of Odisha. Hence the consumer(s) can bank upto 30% of Green Energy (**produced within the State**) consumption under Open Access on monthly basis subject to total energy equivalent to 200 MW in a month cumulatively for all RE generators or consumers within the State. The treatment of banking for consumer(s) of GH/ GA/ its derivatives is given separately in the same Regulation.

11. It is true that the term “Off peak hours” has not been defined in the Regulation referred to by the Petitioner. But, subsequent to notification of the Regulations, the Commission, in exercise of its power under Section 61 to 64 of the Electricity Act, 2003, has issued the Tariff Order for the FY 2024-25 and for the purpose of operationalizing this Banking Regulation, the Commission, vide paragraph 245 of the RST Order dated 13.02.2024 passed in Case No.116 of 2023, Case No.119 of 2023, Case No.122 of 2023 and Case No.125 of 2023 has defined the “peak hours” as 6.00 PM to 12 PM midnight. Axiomatically the balance hours/period of the day including solar hours are to be considered as Off-peak hours.
12. The OERC’s GEOA Regulations, 2023 was notified by this Commission after following the standard procedure. The draft document was put on the public domain of the Commission for 45 days inviting comments/ observations/ suggestions/ objections of general public & stakeholders on the said Regulations and subsequently a public hearing was also conducted. Then the draft was modified based on valuable suggestions/input of stakeholders & general public. It is also not out of place to mention that no cause of action has arisen within the purview of the said Regulations so as to warrant any issue-based decision by this Commission. Be that as it may, in view of the elucidation made above, there is no need of any further clarification or direction in relation to the OERC’s GEOA Regulations 2023.
13. Now, advertent to the points raised by the Petitioner concerning the Methodology of Banking devised by Respondent-GRIDCO, the Commission at the outset observes that it has least role to play in that respect at this stage. M/s GRIDCO Ltd. has been designated as Nodal Agency by the State Government by virtue of the 2<sup>nd</sup> proviso of the Regulations 11(5), (b) to formulate the Methodology for allocation of quantum of Green Energy for banking purpose and the same was informed to the Commission. In furtherance of the process, the Department of Energy, Government of Odisha constituted a committee comprising of Members from Energy & Industry Department, OPTCL, GRIDCO & SLDC. The methodology was devised after detail deliberation considering relevant

aspects and the same has received the concurrence from the State Government. Admittedly, there is no provision under the OERC's GEOA Regulations for prior public consultation or seeking for approval from this Commission for giving effect to the Banking Methodology or the procedures to be followed. Notwithstanding the same, the Commission is conscious that devising of the Methodology is aimed at facilitating the development of RE generation and production of Green Hydrogen/GA/its derivatives in the State of Odisha. In view of the above objective, the Commission feels it appropriate to direct GIRDCO Ltd. - the Respondent No.1 to consider the suggestions & specific concerns raised by the Petitioner regarding Security Deposit and the Banking Agreement etc. in the Methodology and address the same, if felt necessary in larger interest of the State.

14. The Case of the Petitioner is accordingly disposed of.

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

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