



**THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION  
LUCKNOW**

**Petition No. 2038 of 2023**

**QUORUM**

Hon'ble Shri Arvind Kumar, Chairman

Hon'ble Shri Vinod Kumar Srivastava, Member (Law)

Hon'ble Shri Sanjay Kumar Singh, Member

**IN THE MATTER OF**

A petition under Section 86(1)(f) of the Electricity Act, 2003 read with Section 60 of the Electricity Act, 2003 and Regulation 31 (a) (ii) of the Uttar Pradesh Electricity Regulatory Commission (Captive and Renewable Energy Generating Plants) Regulations, 2019 for appropriate direction to Respondents to allow banking up to 100% of the energy generated.

**AND**

**IN THE MATTER OF**

**Sunsure Solarpark Eight Pvt. Ltd.,**

B-002, Tower-B, Bestech Park View Spa Sector-47, Gurugram, Haryana – 122018.

..... Petitioner

**VERSUS**

**1. Uttar Pradesh Power Corporation Ltd.,**

(Through its Managing Director), Shakti Bhawan, 14 Ashok Marg, Lucknow, U.P. – 226001.

**2. Madhyanchal Vidyut Vitran Nigam Ltd.,**

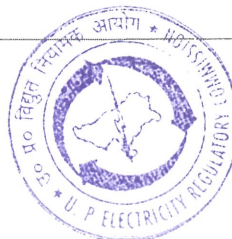
(Through its managing Director), 4-A, Gokhale Marg, Block I, Gokhale Vihar, Butler Colony, Lucknow, Uttar Pradesh – 226001.

**3. U.P. New & Renewable Energy Development Agency,**

(Through its Director) NEDA Bhawan, Vibhuti Khand, Gomti Nagar, Lucknow-226010.

..... Respondents

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### THE FOLLOWING WERE PRESENT

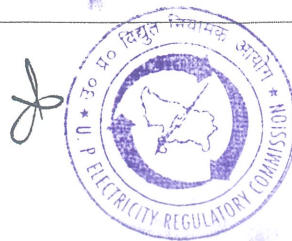
1. Shri Deepak Raizada, CE, UPPCL
2. Shri Sonu Kumar, Manager – Renewable, SLMG Beverages
3. Shri Vineet Kumar Rai, Assistant Manager – Renewable, SLMG Beverages
4. Shri Sakya Singha Chaudhuri, Counsel, Petitioner - Sunsire Solarpark Eight Pvt. Ltd.
5. Shri Shubham Hasija, Advocate, Petitioner - Sunsire Solarpark Eight Pvt. Ltd.
6. Shri Abhishek Kumar, Advocate, UPPCL

### ORDER

(DATE OF HEARING: 16.04.2024)

1. The Petitioner is a solar power generator and has a Solar PV electricity generating facility in Pailani, Uttar Pradesh with a total installed capacity of 10MW. The COD for the Petitioner's Project was achieved on 06.09.2023. It has been prayed to pass appropriate order(s) directing Respondent No. 1 / UPPCL to enter into a Banking Agreement with the Petitioner, allowing banking facility up to 100% in terms of the CRE Regulations.
2. During the hearing on 12.03.2024, the Commission had observed that an Order has been passed by the Commission in Petition No. 1994 of 2023, in the matter of Inox Air Products Pvt. Ltd. wherein, various issues related to banking and withdrawal of energy, similar to the present Petition, have been addressed. Then the counsel for the Petitioner had requested to grant some time to examine the details of the Inox Order. The counsel of Respondent also sought time, on the same ground, to make his submission. The Commission had granted two weeks time to both respondent and the petitioner to make their submissions. However, both Respondent as well as the Petitioner did not make any submissions.
3. On the date of present hearing i.e. 16.04.2024, the counsel for the Respondent submitted that the Government has recently issued a policy on Green Hydrogen

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wherein certain stipulations regarding banking have been provided, which will have direct implications on the CRE Regulations. According to him, these stipulations need to be studied before making a decision in the matter and therefore, requested to grant some time to evaluate. The Petitioner also apprised the Commission that compliance to Order dated 12.01.2024, wherein, the Commission had directed UPPCL to sign banking agreement for 25% of the quantum till the matter is finally decided by the Commission, has still not been done. In response to Commission's pointed query that why the Order was not complied with despite there being no ambiguity in the directions of the Commission, the counsel of Respondent submitted that the Respondent shall comply with the Orders in next few days.

4. As far as the argument made by the counsel of the Respondent regarding the Green hydrogen policy, the Commission is of the view that CRE Regulations, 2019 have been in place well before the Policy on Green Hydrogen issued by the Government. Moreover, the provision of this policy will only be applicable only if considered and adopted by the Commission at time of framing of new CRE Regulations. Accordingly, the Commission fails to appreciate why the green hydrogen policy is being linked with this matter by the Respondent. The Commission expressed its displeasure over the manner in which UPPCL is adopting a dilly-dallying approach by linking the Commission's Order with some extraneous issue.
5. The Commission enquired the Petitioner whether they have carried out any assessment of their banking requirement beyond 25% and in the light of dispensation approved by the Commission in Order dated 11.03.2024 in Petition No. 1994 of 2023. The Petitioner requested to grant some time to make submission in this regard. The Commission is also peeved over the fact that even the Petitioner does not have a clear idea of his banking requirement despite the time allowed for the assessment.
6. The Commission is perturbed with the conduct of UPPCL as even after lapse of three months, even the directions for interim arrangement are not being complied with. It

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is a trite law that orders of the court are to be obeyed. They are not guidelines, to be ignored or paid lip service to at the behest of the parties affected. The Commission is of the view that once the directions have been given by the Commission it should have been complied. On the contrary, instead of putting sincere efforts, the Respondent is unnecessarily delaying the matter. Thus, the Commission directs the Respondent to sign the banking agreement and submit compliance before the next date of hearing. At the cost of repetition, it is stated that UPPCL is now harbouring in the zone of contempt and hence it is advised to immediately implement the Order.

7. The Commission had granted sufficient time to both the parties to examine the dispensation that has been approved for banking in its Order dated 11.03.2024 in Petition No. 1994 of 2023. Therefore, with the view that litigation in the matter is not unnecessarily prolonged, the Commission provides one last opportunity to both the Petitioner and the Respondent to make their submissions in light of the observations made in this Order.

8. List the matter for next hearing on 09.05.2024.

**(Sanjay Kumar Singh)**

**Member**

**(Vinod Kumar Srivastava)**

**Member (Law)**

**(Arvind Kumar)**

**Chairman**

Place: Lucknow

Dated: 19.04.2024

