BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION AT PANCHKULA

HERC/Petition No. 34 of 2026

Date of Hearing	**:**	**05.08.2026**
Date of Order	**:**	**26.08.2026**

In the Matter of

Petition under sections 86 (1) (e), 86 (1)(f) and 86 (1) (k) of the Electricity Act, 2003 read with Regulations 65, 66, 67 and 68 of the HERC (Conduct of Business) Regulations, 2019 seeking directions from this Hon'ble Commission for resolution of procedural difficulties relating to availment and operationalization of banking of green energy under the HERC (Green Energy Open Access) Regulations, 2023, and for exercise of the Commissions power to relax and or power to remove difficulty in respect of the allied procedural requirements prescribed under Annexure – III thereof, including directions to the respondent distribution licensee not for banking and to permit continuation of scheduling and provisional adjustment of banked energy during the pendency of the present proceedings.

Petitioner (s)

1. Distributed Solar Power Association, through its Chairman, A-57, DDA Sheds, Okhla Ind., Phase – II, New Delhi-110020.
2. CMES Power 2 Pvt. Ltd., through its Manager Director, FF, Cleanmax Enviro Energy Solutions Pvt. Ltd. The Peach Tree Complex, Sushant Lok Phase – I, Gurugram, Haryana – 122009.
3. CLEAN Max Maya Pvt. Ltd., through its Managing Director, 13A, Floor-13, Plot No. 400, The Pergrine Aprt., Swatantrya Veer Savarkar Marg, Kismat Cinema, Prabhadevi Mumbai – 400025.
4. Clean Max Terra Pvt. Ltd., through its Management Director, 13A, Floor – 13, Plot No. 400, The Pergrine Aprt., Swatantrya Veer Savarkar Marg, Kismat Cinema, Prabhadevi Mumbai – 400025.
5. Clean Max Sirius Pvt. Ltd., through its Managing Director, 13A, Floor – 13, Plot No. 400, The Pergrine Aprt., Swatantrya Veer Savarkar Marg, Kismat Cinema, Prabhadevi Mumbai – 400025.
6. Clean Max Decimus Pvt. Ltd., through its Managing Director, 13A, Floor – 13, Plot No. 400, The Pergrine Aprt., Swatantrya Veer Savarkar Marg, Kismat Cinema, Prabhadevi Mumbai – 400025.
7. Clean Max Nabia Pvt. Ltd., through its Managing Director, 13A, Floor – 13, Plot No. 400, The Pergrine Aprt., Swatantrya Veer Savarkar Marg, Kismat Cinema, Prabhadevi Mumbai – 400025.
8. Clean Max Arcadia Pvt. Ltd., through its Managing Director, 13A, Floor – 13, Plot No. 400, The Pergrine Aprt., Swatantrya Veer Savarkar Marg, Kismat Cinema, Prabhadevi Mumbai – 400025.

Respondents

1. Dakshin Haryana Bijli Vitran Nigam Ltd. (DHBVNL) through its Managing Director Vidyut Sadan, Vidyut Nagar, Hisar, Haryana – 125005 Email Id: md@dhbvn.org.in.

2. Uttar Haryana Bijli Vitran Nigam Ltd. (UHBVNL) through its Managing Director, Vidyut Sadan, IP No. 3 & 4, Sector – 14, Panchkula (Haryana)- 134113, India Email Id: md@uhbvn.org.in

Present on behalf of the Petitioner (s)
1. Mr. Mridul Gupta, Advocate
2. Mr. Divyansh Singh, Advocate

Present on behalf of the Respondents
1. Mr. Raghujeet Madan, Advocate
2. Ms. Aerika Singh, Advocate
3. Mr. Lovepreet, Advocate

Quorum

Shri Mukesh Garg — **Officiating Chairman**
Shri Shiv Kumar — **Member**

ORDER

Brief background of the case

1. The present petition has been filed by M/s. Distributed Solar Power Association and other captive solar power project developers, under Sections 86(1)(e), (f), and (k) of the Electricity Act, 2003, seeking directions for resolution of procedural difficulties relating to availment and operationalization of banking of green energy as well as procedural impediments arising from Annexure-III under the HERC (Green Energy Open Access) Regulations, 2023.
2. The petitioner has submitted as under:-

2.1 That Petitioner No. 1, Distributed Solar Power Association, is an industry association representing developers, generators and stakeholders engaged in the development, operation and promotion of distributed and renewable solar power projects across India, including within the State of Haryana. DISPA has been actively involved in policy advocacy and regulatory engagement with Central and State Electricity Regulatory Commissions, Distribution Licensees and other authorities for facilitating effective implementation of renewable energy policies and removal of procedural and operational barriers affecting solar and other green energy projects. Petitioner No. 1 is filing the present Petition in the larger interest of its members and the renewable energy sector at large, as the procedural issues raised herein have industry-wide implications for operationalization of banking of green energy under the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023.

2.2 That Petitioner No. 2, CMES POWER 2 PVT. LTD., is a company incorporated under the Companies Act, 2013 having its corporate office at First Floor, Cleanmax Enviro Energy Solutions Private Limited, The Peach Tree Complex, Sushant Lok Phase-1, Gurugram, Haryana- 122009 and registered office at 13A, Floor 13, Plot-400, The Peregrine Apartment, Kismat Cinema, Prabha Devi, Mumbai City, Mumbai, Maharashtra- 400025. It is a subsidiary of Cleanmax Enviro Energy Solutions Private Limited.

2.3 That Petitioner Nos. 3 to 8 viz. Clean Max Maya Pvt. Ltd., Clean Max Terra Pvt. Ltd., Clean Max Sirius Pvt. Ltd., Clean Max Decimus Pvt. Ltd., Clean Max Nabia Pvt. Ltd. and Clean Max Arcadia Pvt. Ltd., are Special Purpose Vehicle companies incorporated under the Companies Act, 2013, belonging to the renewable energy sector, engaged in setting up and operating Renewable Energy based Captive Power Projects in the State of Haryana, in the solar park of Petitioner No. 2. These Petitioners have individually applied for banking of green energy under the GEOA Regulations and have been subjected to identical procedural impediments, documentary demands and delays by the Respondent Distribution Licensees, as evidenced from the communications placed on record.

2.4 That the Respondents are the concerned Distribution Licensees and are responsible for distribution of electricity, scheduling, settlement and issuance of login credentials for open access consumers within its area of supply.

2.5 That the Haryana Electricity Regulatory Commission has notified the GEOA Regulations in exercise of its powers under Sections 42, 61 and 86 of the Electricity Act, 2003 with the express objective of facilitating procurement, scheduling and consumption of renewable energy through open access. Regulation 7 of the GEOA Regulations expressly permits banking of renewable energy by eligible Renewable Energy based Captive Power Projects as an integral facility. However, the procedural framework prescribed under Annexure-III to the GEOA Regulations mandates that an applicant must first obtain Open Access approval and complete multiple documentary compliances before even applying for banking. Documentary compliances mentioned in petition are creating obstacles to bona fide developers from availing banking facilities.

2.6 That in terms of the existing procedure LTOA Approval is a sine-qua-non for application for banking. LTOA Approval takes around 60-90 days from filing of LTOA Application. Developers 60-90 days get wasted in this procedural bottleneck. As a consequence of the procedural sequencing prescribed under Annexure-III, although injection of power into the grid is permitted and liabilities towards transmission, wheeling and other open access charges commence immediately upon grant of Long-Term Open Access, banking remains non-operational until approval and execution of the banking agreement. This results in an intervening period during which renewable energy generated by the Petitioners is injected into the grid, regulatory charges accrue, but the Petitioners is unable to schedule, utilise or bank such energy despite fulfilling all substantive eligibility conditions.

2.7 That inability to operationalise banking during the aforesaid intervening period effectively denies utilisation of renewable energy, notwithstanding that banking is recognised under the GEOA Regulations and Annexure-III as an integral mechanism linked with real-time scheduling and energy accounting. The said procedural framework, therefore, creates a disconnect between regulatory approval and actual utilisation of renewable energy, resulting in avoidable operational and financial prejudice to the Petitioners and under-utilisation of green energy.

2.8 That the procedural difficulty is exacerbated by the allied documentary requirements prescribed under Annexure-III at the banking application stage, including submission of Chartered Accountant certificates, original audited balance sheets, Memorandum and Articles of Association, ownership details, board resolutions and undertakings, the preparation and certification of which ordinarily require significant time even for fully compliant captive power projects. Completion of these compliances only after grant of Long-Term Open Access further delays operationalisation of banking.

2.9 That in comparable regulatory frameworks adopted by other State Commissions, including Gujarat and Rajasthan, banking of renewable energy is structured as an operational outcome linked directly with scheduling and energy accounting upon grant of open access, and does not result in any post-approval operational gap during which renewable energy is injected without an operative banking or settlement mechanism. The present procedural framework under Annexure-III of the GEOA Regulations stands in contrast to such facilitative approaches.

2.10 That in this background, the Petitioners addressed a detailed representation to the Respondent Distribution Licensee vide letter dated 09.03.2026, highlighting the procedural difficulties arising from the existing banking framework and seeking procedural relaxation and sequencing flexibility without dilution of substantive eligibility requirements. The Respondent No. 1 vide letter dated 09.04.2026 advised the

Petitioners to approach this Hon'ble Commission for relief under its power to remove difficulty, leading to the filing of the present Petition seeking appropriate directions from this Hon'ble Commission for resolution of the procedural impasse and effective operationalisation of banking of green energy.

2.11 That Section 86(1) (e) of the Act provides for this Hon'ble Commission to promote generation of electricity from renewable energy sources. Section 86(1)(f) of the Act empowers this Hon'ble Commission to adjudicate disputes between licensees and generating companies, or refer to such disputes for arbitration. Section 86(1)(k) empowers this Hon'ble Commission to discharge its functions in accordance with this Act. The relevant provisions read as follows:

"Section 86. Functions of State:
(1) The State Commission shall discharge the following functions, namely:--…
(e) promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;
(f) adjudicate upon the disputes between the licensees, and generating companies and to refer any dispute for arbitration;
(k) discharge such other functions as may be assigned to it under this Act."

2.12 That Regulations 65, 66, 67 and 68 of the HERC (Conduct of Business) Regulations, 2019 provide this Hon'ble Commission with inherent powers and general power to amend. Relevant provisions are extracted below:

"Saving of inherent power of the Commission
65. *Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for ends of justice or to prevent the abuse of the process of the Commission.*
66. *Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Act a procedure at variance with any of the provisions of these Regulations if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters.*
67. *Nothing in these Regulations shall, expressly or impliedly, bar the Commission to deal with any matter or exercise any power under the applicable legal framework for which no Regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit.*
General power to amend
68. *The Commission may, at any time and on such terms as to costs or otherwise as it may think fit, amend any defect or error in any Proceedings before it, and all necessary amendments shall be made for the purpose of determining the real question or issue arising in the Proceedings."*

2.13 That this Hon’ble Commission has notified the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 (“GEOA Regulations”) in exercise of its powers under Sections 42, 61 and 86 of the Electricity Act, 2003, inter alia, to facilitate procurement, scheduling and consumption of renewable energy through open access within the State of Haryana.

2.14 That Regulation 7 of the GEOA Regulations permits banking of renewable energy by eligible Renewable Energy based Captive Power Projects, subject to compliance with the conditions specified therein and execution of necessary agreements with the concerned Distribution Licensee.

Relevant paragraphs are being reproduced hereinafter:

“CHAPTER 3 BANKING

Banking:

RE based captive generating plants, in which not less than twenty six per cent of the ownership is held by a single captive user, may bank power, up to contract demand for captive/own use on payment of the banking charges along with the transmission and distribution losses (Technical loss)for availing the open access on the transmission or distribution network of the licensees for banking and drawl of banked power from the Discoms after entering into the banking agreement with the Discoms concerned at the terms and condition specified as under:

(1) The energy banked shall not be permitted to be carried forwarded to next billing cycle. The banked power shall be utilized within the same billing cycle failing which the unutilized energy at the end of the billing cycle shall lapse, and no compensation whatsoever shall be claimed/ paid for such lapsed banked energy and the renewable energy generating station shall be entitled to get renewable energy certificates to the extent of the lapsed banked energy.

(2) Banking shall be permitted on a billing cycle basis on payment of charges in kind @ 8% of the energy banked.

(3) The permitted quantum of banked energy by the Green Energy Open Access consumers shall be up to thirty percent of the total monthly consumption of electricity from the distribution licensee by the consumers.

(4) The banking shall be allowed throughout the billing cycle; however, the drawl of banked power shall not be allowed during the peak load hours as mentioned in the ToD tariff approved by the Commission

(5) The RE power shall be adjusted on a first charge basis in order of consumption of energy by a consumer. The banking will be counted on daily basis for the purpose of monthly account.

(6) Settlement of wheeled energy at consumer end shall be in the following order of priority:

a. RE generation after deduction of losses.
b. Captive Power
c. Banked Energy
d. Open Access Power through Exchange / Bi-lateral transactions
e. Discom power

(7) *The energy accounts of all banking transactions shall be maintained by SLDC. The licensee shall prepare a detailed procedure for banking along with model banking agreement within a period of 30 days of the notification of these regulations.”*

2.15 That the procedural framework governing banking is prescribed under Annexure-III titled *“Procedure/Guidelines for Banking of Green Energy Power”*, issued pursuant to the GEOA Regulations and required to be read in conjunction with the said Regulations.

2.16 That Clause C of Annexure-III (Application for Banking) mandates that an eligible applicant will apply for banking in the prescribed form and further stipulates that, prior to applying for banking, the applicant:

- must have secured connectivity,
- must have entered into a connectivity agreement, and
- must have been granted open access by the nodal agency in terms of the GEOA Regulations, 2023.

Relevant paragraphs are being reproduced hereinafter:

“C. Application for Banking:

The eligible applicant shall apply for banking in the prescribed application form (enclosed as Annexure-A) at least a month prior to the commencement of wheeling/Banking and shall furnish the complete particulars about the Captive Generator & the consumers to whom the power is to be wheeled. Prior to applying for banking, the applicant should have secured connectivity, should have entered into connectivity agreement for open access with the Transmission licensee and Distribution licensee and should have been granted open access by the nodal agency as per HERC (Green Energy Open Access) Regulations, 2023.

The banking of power shall be governed by relevant provisions of HERC (Green Energy Open Access) Regulations, 2023 and subsequent amendments thereof.

Documents to be submitted along with the Application.

a. Copy of connectivity agreement.

b. ***Copy of Open Access approval from nodal agency i.e. HVPNL;***

c. Copy of the Board Resolution of the company authorizing filing of application and designating an authorized person for filing the same, where the Applicant is a company.

d. Copy of Accreditation/approval of the project by Department of New & Renewable Energy Government of Haryana/ HAREDA;

1. CA certificate for not less than twenty-six per cent of the ownership is held by a single captive user and signed by the same person who audited the balance sheet;

2. Audited Balance Sheet by CA for the last three financial years (duly certified by Chartered Accountant with his membership number and UDIN Certification), in original,

3. Copy of MOA & AOA indicating the list of Directors with their equity share holding pattern duly authenticated/ certified by Statutory Auditor (power generation must be mentioned in the nature of business clause)
4. Current Ownership details of Company along with equity share holding with voting rights duly certified by company secretary (with his membership number and UDIN Certification).
5.Board Resolution
6. Undertaking for more than 51% Consumption for the first year of banking.
7. All the submitted documents need to be signed by authorized signatory.
After scrutiny, nodal agency shall intimate the deficiencies in the application, if any, to the applicant within ten days of receipt of application. The applicant shall rectify the deficiency within ten days thereafter. If no reply received from applicant after ten days from intimation, then application shall stands cancelled on discretion of DISCOMs."

2.17 That Clause C(b) of Annexure-III expressly requires submission of a copy of the Open Access approval issued by the nodal agency (HVPNL) as a mandatory document to be enclosed with the banking application to be processed by the Respondent-Discoms.

2.18 That by virtue of the aforesaid requirements under Annexure-III, the filing and processing of a banking application by the Respondent is procedurally conditioned upon prior grant of Long-Term Open Access ("LTOA"), thereby creating a mandatory sequential dependency between grant of LTOA and initiation of the banking process for the Petitioners.

2.19 That upon grant of LTOA under the GEOA Regulations read with the applicable Open Access framework, the generator is permitted to inject power into the grid and the Petitioners, as consumer, becomes liable to pay applicable transmission, wheeling and related open access charges from the effective date of such LTOA.

2.20 That notwithstanding grant of LTOA, the banking application of the Petitioners can be submitted only thereafter in terms of Clause C of Annexure-III, and the processing and approval of such banking application by the Respondent involves scrutiny, deficiency intimation and execution of a banking agreement as contemplated under Clauses C and E of Annexure-III.

2.21 That there is a significant gap between commencement of the payment of charges and approval of banking facilities. Relevant paragraphs are being reproduced hereinafter:

"E Banking Agreement*:*

After approval of banking from the nodal agency, the applicant shall enter into a tripartite banking agreement with the concerned DISCOMs and HVPNL at the terms and condition specified in the agreement as provided at Annexure-B in the HERC (Green

Energy Open Access) Regulations, 2023.

The Agreement shall become effective upon the execution and delivery thereof by the Parties here to and unless terminated pursuant to other provisions of the Agreement shall be valid till 30th April following the date of signing of the agreement and further extendable year on year basis on the request of applicant subject to the validity of the captive status of the generator as per Electricity Act, 2003, Electricity Rules, 2005 and as per HERC Regulations/ Orders as amended from time to time and terminated if in case the HERC withdraws the facility of Banking and breach any condition of Captive status or non fulfilment of captive status."

2.22 That during the interregnum between grant of LTOA and approval/execution of the banking agreement by the Respondent, renewable energy generated by the Petitioners is injected into the grid and open access related charges are incurred, however, the Petitioners remains unable to schedule, consume or bank such energy.

2.23 That the inability to operationalize banking during this intervening period results in effective denial of utilization of renewable energy to the Petitioners, despite compliance with the substantive eligibility conditions prescribed under Regulation 7 of the GEOA Regulations.

2.24 That the GEOA Regulations and Annexure-III recognize banking as an integral facility available to Renewable Energy based Captive Power Projects, intended to enable adjustment and utilization of surplus renewable energy generated by the Petitioners, subject to execution of necessary agreements with the Respondent-Discom.

2.25 That Clause D of Annexure-III expressly links banking with energy accounting and adjustment mechanisms, while Clause D (7) mandates that energy accounts of all banking transactions shall be maintained by the State Load Dispatch Centre ("SLDC").

"D. Banking:

RE based captive generating plants, in which not less than twenty six per cent of the ownership is held by a single captive user, may bank power, up to contract demand for captive/own use on payment of the banking charges along with the transmission and distribution losses (Technical loss)for availing the open access on the transmission or distribution network of the licensees for banking and drawl of banked power from the Discoms after entering into the banking agreement with the Discoms concerned at the terms and condition specified as under:

(1) The energy banked shall not be permitted to be carried forwarded to next billing

cycle. The banked power shall be utilized within the same billing cycle failing which the unutilized energy at the end of the billing cycle shall lapse, and no compensation whatsoever shall be claimed/ paid for such lapsed banked energy and the renewable energy generating station shall be entitled to get renewable energy certificates to the extent of the lapsed banked energy.

(2) Banking shall be permitted on a billing cycle basis on payment of charges in kind @ 8% of the energy banked.

3) The permitted quantum of banked energy by the Green Energy Open Access consumers shall be up to thirty percent of the total monthly consumption of electricity from the distribution licensee by the consumers.

(4) The banking shall be allowed throughout the billing cycle; however, the drawl of banked power shall not be allowed during the peak load hours as mentioned in the ToD tariff approved by the Commission.

(5) The RE power shall be adjusted on a first charge basis in order of consumption of energy by a consumer. The banking will be counted on daily basis for the purpose of monthly account.

6) Settlement of wheeled energy at consumer end shall be in the following order of priority:

a) RE generation after deduction of losses.

b) Captive Power

c) Banked Energy

d) Open Access Power through Exchange / Bi-lateral transactions

e) Discom power

7) The energy accounts of all banking transactions shall be maintained by SLDC."

2.26 That the availability and effectiveness of the banking facility is intrinsically linked with scheduling and energy accounting under the applicable regulatory framework, the State Grid Code and the forecasting and scheduling regulations, and any delay in approval of banking by the Respondent directly impacts the ability of the Petitioners to utilize the generated energy.

2.27 That in the absence of banking approval, renewable energy injected into the grid by the Petitioners cannot be appropriately accounted or adjusted against consumption, thereby rendering the scheduling and settlement framework ineffective for the affected period.

2.28 That the requirement of submission of Open Access approval at the application stage for banking, as prescribed under Clause C read with Clause C(b) of Annexure-III, is procedural in nature and does not constitute a substantive eligibility condition under Regulation 7 of the GEOA Regulations.

2.29 That this procedural requirement results in a time lag between grant of LTOA and operationalization of the banking facility by the Respondent, thereby creating a gap between regulatory approval and actual utilization of renewable energy by the Petitioners.

2.30 That the regulatory framework envisages timely processing and efficient implementation of open access transactions; however, the present procedural sequencing prescribed under Annexure-III leads to delay in approval and execution of banking arrangements even after grant of LTOA.

2.31 That during this period, renewable energy generated by the Petitioners continues to be injected into the grid and charges continue to accrue, while the Petitioners remains unable to utilize such energy, resulting in financial and operational prejudice.

2.32 That the Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022, issued by the Ministry of Power, emphasize promotion of renewable energy and reduction of procedural barriers in availing green energy open access. The present procedural requirement under Annexure-III operates contrary to the aforesaid objective by introducing avoidable delay in operationalization of banking facility despite grant of LTOA.

2.33 That in the present framework under Annexure-III of the GEOA Regulations, the requirement of submission of Open Access approval at the banking application stage creates a procedural bottleneck resulting in delay in operationalization of banking facility by the Respondent. The delay directly impacts the ability of the Petitioners to schedule and utilize renewable energy even after grant of LTOA.

2.34 That the procedural framework can be aligned with the objectives of the GEOA Regulations by permitting submission of acknowledgement or reference of the LTOA application at the banking application stage, while linking the effectiveness of banking to grant of LTOA. Such alignment would ensure immediate utilization of renewable energy by the Petitioners upon grant of LTOA, without diluting any regulatory requirement, and would remove the existing procedural inefficiency arising from Annexure-III.

2.35 That in this background, the Petitioners addressed a detailed representation to the

Respondent No. 2 vide letter dated 09.03.2026, highlighting the procedural difficulty arising from the requirement under Annexure-III mandating submission of Open Access approval at the stage of filing banking application, the resultant delay in operationalization of banking post-LTOA grant, and the adverse impact on scheduling, utilization and settlement of renewable energy. In the said letter, the Petitioners also furnished point-wise clarifications and explanations and requested the Respondent to process the Petitioner's banking request in a manner consistent with the objectives of the GEOA Regulations.

2.36 That it is clarified that waiver of the allied procedural requirements prescribed under Annexure III to the GEOA Regulations, are not being sought. The Petitioners are seeking removal of the procedural difficulty arising from the sequencing of such requirements, so that the allied compliances may be completed, verified or confirmed contemporaneously or in a time-bound manner, without frustrating or delaying the operationalisation of banking upon grant of Long-Term Open Access, in furtherance of Regulation 7 of the GEOA Regulations.

2.37 That the following recommendations are identified to mitigate the impediments caused by the allied procedural requirements.

Documents to be submitted along with the Application (for Banking) Annexure- III)

Sl.	**As Provision of the Procedure**	**Issues / Comments**	**Suggestions**
1.	Copy of Open Access approval from nodal agency i.e. HVPNL. Ref page : 66 in Annexure-III	Under the existing procedural framework prescribed in Annexure III to the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023, an applicant is required to submit a copy of the Long Term Open Access approval as a mandatory document at the stage of application for banking of green energy. As a consequence of this requirement, the applicant is procedurally precluded from filing an application for banking contemporaneously with, or prior to, the issuance of the LTOA approval, even where all other eligibility conditions stand fulfilled. This requirement directly impacts the ability of the applicant to seek simultaneous processing of wheeling and banking approvals. In the absence of an LTOA approval copy, the banking application cannot be filed or taken up for scrutiny, resulting in a situation where wheeling approval and banking approval cannot run in parallel. Consequently, even though the regulatory framework permits both wheeling and banking as allied facilities under Green Energy Open Access, the procedural sequencing leads to fragmentation in their processing.	It is submitted that, for the purpose of filing applications for wheeling and banking of green energy, the requirement of submission of an acknowledgement or reference number evidencing filing of the Long Term Open Access application would be sufficient to enable processing of such applications. Requiring only acknowledgement of the LTOA application, rather than the final approval itself, would allow the

Sl.	As Provision of the Procedure	Issues / Comments	Suggestions
		It is further noteworthy that the procedure itself contemplates submission of a banking application at least one month prior to the commencement of supply of power. However, the commencement of supply of power under the Green Energy Open Access framework is linked to the effective date of LTOA approval. In practical terms, therefore, the applicant is required to apply for banking before the commencement of supply, while simultaneously being required to enclose an LTOA approval document that can only be generated after the LTOA is issued. The requirement of submitting an LTOA approval copy at the banking application stage thus renders the provision relating to advance submission of the banking application ineffective. Since the LTOA approval is itself a prerequisite for commencement of supply, the applicant is placed in a procedural situation where compliance with one requirement necessarily results in non-compliance with the other, despite the applicant's readiness and intent to comply with the regulatory framework. Due to this procedural constraint, the applicant is unable to obtain banking approval contemporaneously with the LTOA approval. As a result, even after the LTOA becomes effective and power supply is permitted to commence, the banking facility remains non-operational until a separate banking application is filed, scrutinised and approved post-LTOA. This results in a time lag between commencement of supply and availability of the banking mechanism. During this interregnum, power injection into the grid is permitted pursuant to the LTOA approval, and applicable open access, transmission and wheeling charges become payable. However, the applicant remains unable to utilise the banking mechanism envisaged under the GEOA Regulations, despite the procedure itself recognising banking as an integral component linked with wheeling, scheduling and energy accounting. In view of the above, it is submitted that the existing documentation requirement under Annexure III, insofar as it mandates submission of an LTOA approval copy at the stage of filing the banking application, creates an inherent procedural bottleneck. This bottleneck prevents simultaneous processing of wheeling and banking applications and delays operationalisation of banking, notwithstanding that the regulatory framework otherwise permits advance planning and timely utilisation of green energy through Green Energy Open Access	applicant to initiate the wheeling and banking processes in a timely manner, without diluting any substantive eligibility requirement under the applicable regulatory framework. Such an arrangement would facilitate concurrent processing of LTOA, wheeling and banking applications by the concerned authorities, thereby ensuring that regulatory approvals envisaged under the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 are available in a coordinated and operationally aligned manner. This would also be consistent with the procedural objective of enabling seamless commencement of green energy supply under the open access framework. It is clarified that the Petitioners does not contend that mere filing or acknowledgement of the LTOA application should confer any substantive right to inject power or avail banking. The grant of Open Access approval by the nodal agency would continue to remain

Sl.	As Provision of the Procedure	Issues / Comments	Suggestions
			the determining eligibility condition for the commencement and effectiveness of wheeling and banking facilities, in accordance with the GEOA Regulations and other applicable regulations. In this context, it is submitted that the distinction between *eligibility to apply* and *eligibility for operational effectiveness* merits recognition. While submission of acknowledgement of the LTOA application may be treated as sufficient for making an application for wheeling and banking, the actual operationalisation of such wheeling and banking arrangements may appropriately be made conditional upon issuance of the LTOA approval by the nodal agency. Further, it is submitted that the effectiveness date of banking ought to be clearly defined and aligned with the date of effectiveness or issuance of the LTOA and the allotment of the relevant charging code. Such clarity would ensure certainty in scheduling, energy accounting and settlement mechanisms, and

Sl.	As Provision of the Procedure	Issues / Comments	Suggestions
			would prevent disputes relating to adjustment of energy injected or banked prior to formal operationalisation. Adoption of the aforesaid procedural sequencing would remove the existing procedural bottleneck without compromising regulatory oversight, and would ensure that banking becomes operational from the same effective date as wheeling and open access. This would further the object of the GEOA Regulations by enabling efficient utilisation of renewable energy from the very inception of open access supply, while maintaining full compliance with statutory and regulatory requirements.
2.	CA certificate for not less than twenty-six per cent of the ownership is held by a single captive user and ***signed by the same person who audited the balance sheet,***	Annexure III to the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 prescribes submission of a Chartered Accountant certificate certifying that not less than twenty-six per cent of the ownership is held by a single captive user, and further requires that such certificate be signed by the same Chartered Accountant who has audited the balance sheet of the applicant company. This stipulation gives rise to practical difficulty, particularly in cases where the audited balance sheets of companies are undertaken by large accounting firms, including multinational audit firms and firms commonly referred to as the "Big 4". In such circumstances, issuance of an additional standalone certificate by the same auditing firm or the individual audit partner is often not feasible within the timelines envisaged for processing banking applications. Certification of shareholding and ownership structure is a function distinct from statutory financial audit. A	The provision may be amended as: CA certificate for not less than twenty-six per cent of the ownership is held by a single captive user and by *<u>registered Chartered Accounting duly signed along with his registration Number</u>.*

Sl.	As Provision of the Procedure	Issues / Comments	Suggestions
		Chartered Accountant issuing a certificate on captive shareholding verifies primary corporate records such as the register of members, allotment records, share certificates, filings made with the Ministry of Corporate Affairs and other statutory documents, and does not rely on audit conclusions relating to financial statements. A shareholding certificate issued by a Chartered Accountant, bearing the membership number and a valid Unique Document Identification Number (UDIN) generated in accordance with the guidelines of the Institute of Chartered Accountants of India, carries equal legal and professional validity irrespective of whether the issuing Chartered Accountant is the same individual who audited the balance sheet or a different practicing Chartered Accountant. No substantive regulatory distinction exists between certificates issued by different licensed Chartered Accountants, so long as the certificate is issued by a duly registered professional, supported by UDIN and based on verification of statutory records. Requiring certification only by the same auditor who conducted the balance sheet audit does not add any additional safeguard with respect to verification of captive ownership. In view of the above, the procedural requirement may be rationalised to permit submission of a Chartered Accountant certificate certifying captive ownership issued by any registered Chartered Accountant, duly signed with membership number and UDIN. Such rationalisation would remove avoidable procedural difficulty, facilitate timely processing of banking applications and would not dilute regulatory scrutiny or enforcement of captive consumption requirements under the Electricity Act, 2003 and the Electricity Rules, 2005.	
3.	Audited Balance Sheet by CA for the last three financial years (duly certified by Chartered Accountant with his membership number and UDIN Certification), ***in original.***	Annexure III to the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 requires submission of audited balance sheets for the preceding financial years “in original” as part of the documentation for processing of banking applications. This requirement, as presently worded, gives rise to interpretational and practical difficulty in implementation. In practice, there exists only one original set of audited financial statements for a company, which is adopted by the shareholders and thereafter filed with statutory authorities, including the Registrar of Companies. Certified copies of the same audited balance sheet are subsequently placed in the public domain in accordance with the provisions of the Companies Act, 2013. The expression “in original”, when interpreted to mean submission of the sole original audited balance sheet itself, creates an impracticable situation, as such original documents are neither customarily circulated nor capable of repeated submission to multiple authorities. Companies ordinarily submit certified copies of audited financial statements, duly authenticated by statutory	The provision may be considered with submission of: Copy of audited Balance Sheet by CA for the last three financial years (duly certified by Chartered Accountant with his membership number and UDIN Certification) duly signed and stamped in original by the authorised signatory. Further, these documents may find no relevance for the banking approval

Sl.	As Provision of the Procedure	Issues / Comments	Suggestions
		auditors or authorised signatories, for regulatory and compliance purposes. The difficulty is further compounded where the audited balance sheets are already available on public records and government portals, and their authenticity is verifiable from such filings. Insistence on physical submission of an "original" balance sheet, as distinct from a duly certified copy signed in original by the authorised signatory, therefore leads to avoidable rejection or delay in processing banking applications. The underlying regulatory objective of requiring audited balance sheets is to verify the financial standing and corporate compliance of the applicant, which is adequately met through submission of copies of audited balance sheets certified by a Chartered Accountant, bearing membership number and UDIN, and duly signed and stamped in original by the authorised signatory of the company. In this context, rational interpretation of the documentation requirement would entail acceptance of certified copies of audited balance sheets, as opposed to insistence on physical originals, thereby removing procedural difficulty without compromising regulatory verification or scrutiny under the GEOA Regulations.	and shall be removed.
3.	Copy of MOA & AOA indicating the list of Directors with their equity share holding pattern duly authenticated / certified by Statutory Auditor (power generation must be mentioned in the nature of business clause).	i. In the matter of power generation clause, the same can be a part of the MoA since MoA defines the nature of business whereas AoA is set of bylaws and cannot have clause of nature of business. Thus for the said there needs to be conjoined reading of both MoA and AoA. ii. Power generation clause can be part of the MoA for the project developed as an single user SPV as it has been made specifically for a specific purpose. However, in the event if the power generation is being done by the consumer himself with his 100% equity and generator and consumer are same entity the power generation may not be there in the MoA as the generator and consumer may be hospital, educational institution, manufacturing facility and not in the business of power generation. further in such cases the solar power plant has not been developed for any business, but has been developed for their energy conservation, sustainability compliance, CSR and for self-consumption for the own power usage where there is no sale or commercial transaction among the generator and consumer. Further, every company registered under the Company's Act 2013 is mandated for *energy conservation, sustainability and CSR Obligations*, where the Companies Act 2013, specifically under Section 134(3)(m) read with Rule 8(3) of the Companies (Accounts) Rules, 2014, companies are mandated to report details on energy conservation in their Board's Report. This requires disclosing	The provision may be considered with submission of: Submission of a duly certified true copy of the Memorandum of Association (MoA) of the Company, clearly evidencing the main objects / nature of business, which shall expressly include 'power generation' where the project is developed through a single-user SPV. The MoA shall be duly authenticated / certified by the Statutory Auditor. No requirement of submission of the Articles of Association (AoA), as the same pertains solely to the internal management and governance of the Company and is not relevant for

Sl.	As Provision of the Procedure	Issues / Comments	Suggestions
		initiatives taken to save energy, adoption of *alternative energy sources*, and capital investments in energy-saving equipment. Further, Energy conservation is tied to environmental sustainability and corporate social responsibility (CSR) initiatives, which are emphasized to mitigate environmental impacts. The same is compiled through development of the said solar power plant. Further, as per Schedule VII of Companies Act 2013 there are many activities that are categorized under CSR and one of them is "ensuring environment sustainability" which further includes projects like the adoption of renewable energy, like solar, which helps buildings becoming sustainable by using electricity from the solar panels as it also forms a part of you CSR activities by reducing carbon footprint. iii. In the matter *mention of list of directors with their equity share holding pattern in the MoA and AoA*, when the project is being developed as a Special Purpose Vehicle "SPV", in line with the requirement of the Electricity Act- 2003 read with Electricity Rules- 2005, there is an requirement of equity infusion of the consumer in the generating SPV, thus, the share-holding and directors of the SPV later changes with respect to the shareholders at the time of incorporation of the said SPV. Thus, the name of the present shareholders and directors after equity infusion do not appear in the MoA and AoA, as the said documents contain only the names of the original subscribers and first Directors at the time of incorporation of the Company only. Subsequent changes in shareholding and the composition of the Board of Directors of the Company have been duly effected in compliance with the provisions of the Companies Act, 2013 and duly recorded with the Registrar of Companies by filing the prescribed statutory e-forms, including Form PAS-3 (return of allotment) for changes in shareholding and Form DIR-12 for changes in the Board of Directors, along with other applicable filings, from time to time. Thus, the same supporting documents may be considered and read along with the MoA of the generating company as its integral part for the fulfilment of the said requirement.	establishing the nature of business. Where applicable, submission of a separate certificate indicating the latest list of Directors and equity shareholding pattern, duly authenticated / certified by a Chartered Accountant, shall be sufficient.
4.	Current Ownership details of Company along with equity share holding with voting rights duly certified	Annexure III to the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 requires submission of current ownership details of the company along with equity shareholding and voting rights, duly certified by a Company Secretary with membership number and UDIN certification. This requirement poses practical difficulty in the context of renewable energy projects developed through Special Purpose Vehicles (SPVs).	The provision may be considered with submission of: Current Ownership details of Company along with equity share holding with voting rights duly certified by company

Sl.	As Provision of the Procedure	Issues / Comments	Suggestions
	by company secretary (with his membership number and UDIN Certification).	Power generation projects are commonly implemented through SPVs incorporated for a specific and limited purpose. Such SPVs ordinarily do not have a whole-time Company Secretary appointed on payroll, and instead engage the services of a Practicing Company Secretary for statutory certifications and compliance filings as and when required. Where a Company Secretary is employed on the payroll of a company, such individual does not hold a valid Certificate of Practice (CoP). In such cases, the employee Company Secretary is not required, and in fact is not permitted, to generate a Unique Document Identification Number (UDIN) for documents or certificates issued by them. Consequently, insistence on UDIN certification in all cases cannot be fulfilled by an in-house Company Secretary. In contrast, a Practicing Company Secretary, holding a valid Certificate of Practice issued by the Institute of Company Secretaries of India (ICSI), is authorised to issue certifications along with generation of UDIN. In the case of SPVs, certifications relating to shareholding and ownership are routinely undertaken by Practicing Company Secretaries in accordance with prevailing professional standards. The ICSI UDIN Guidelines, 2019, as amended from time to time, expressly clarify that UDIN generation is mandatory only for members holding a valid Certificate of Practice. Further clarification provided in the FAQs on UDIN, as approved and amended by the Council of ICSI, specifically states that members in employment as Company Secretaries are not required to generate UDIN for documents certified by them. In view of the above professional framework, insisting exclusively on certification by a Company Secretary with UDIN would, in practice, restrict acceptable certifications only to Practicing Company Secretaries, while simultaneously rendering certifications by in-house Company Secretaries non-compliant due to absence of UDIN. This creates avoidable inconsistency and procedural difficulty in compliance. A rational and workable interpretation of the documentation requirement would therefore entail permitting certification of ownership and shareholding details either by a Company Secretary or by a Practicing Company Secretary, with UDIN certification wherever applicable in terms of the ICSI guidelines. Such clarification would align the regulatory requirement with professional standards, remove procedural ambiguity, and ensure uniform and practicable compliance without compromising regulatory oversight.	secretary *or a* Practicing Company Secretary ~~(~~with his membership number and UDIN Certification~~)~~.
	Board Resolution Ref: Annexure III –	Issue regarding requirement of separate Board Resolutions for each stage of execution and submission of documents under the procedure of under the Annexure III PROCEDURE / GUIDELINES FOR BANKING OF GREEN ENERGY POWER as per Haryana Electricity Regulatory Commission (Green	In this regard, it is submitted that a single, duly passed and certified Board Resolution, authorizing a

Sl.	As Provision of the Procedure	Issues / Comments	Suggestions
	requirement of Board Resolution(s) for submission of applications, execution of agreements and compliances before HVPNL / DISCOMs	Energy Open Access) Regulations, 2023. to HVPNL, State utilities and other appropriate authority, including wheeling, banking of power, and other statutory compliances. While it is acknowledged that a Board Resolution is a necessary document authorizing an individual to act as an authorised signatory on behalf of a company for the execution and submission of documents, it is respectfully submitted that the requirement of furnishing separate Board Resolutions at each stage and for each activity under the aforesaid procedure is unwarranted, duplicative, and administratively burdensome. It is observed that the current requirement lacks clarity with respect to the scope, extent, and purpose of such Board Resolutions, resulting in avoidable procedural duplication.	designated signatory to represent, sign, submit, file, and execute all documents, applications, agreements, and related instruments on behalf of the Company, ought to be deemed sufficient compliance for all purposes under the said procedure. Such a comprehensive authorization may, inter alia, cover applications for grant of connectivity, execution of agreements relating to wheeling and banking of power, and compliance with all other statutory and regulatory requirements, provided that the Resolution clearly identifies the project entity and confers adequate authority upon the authorised signatory. Any insistence on submission of multiple, repetitive, or activity-wise/utility-wise Board Resolutions, particularly in original form, would result in unnecessary procedural inefficiencies and increased compliance burden, without serving any additional regulatory objective.

Sl.	As Provision of the Procedure	Issues / Comments	Suggestions
			In view of the foregoing, it is respectfully requested that an appropriate clarification be issued confirming that submission of one valid, duly certified, and comprehensive Board Resolution shall suffice for the purposes of the application process and all subsequent stages of execution and submission of documents under the aforesaid procedure.

2.38 That the requirement of unnecessary and extraneous documents and compliances, which have caused procedural impediments to developers availing banking of green energy, are set out hereinbelow**.** The communications issued by Respondents to the Petitioners, evidencing repeated demands for documents, undertakings and compliances beyond the scope of the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 and the approved procedure contained in Annexure III thereto, thereby resulting in denial, delay and prolonged pendency of banking applications notwithstanding substantive compliance are as follows:-

Date	Issuing authority	Applicant	Memo/ Reference No.	Deficiencies / Demands Raised
06.08.2025	DHBVNL	Clean Max Maya Pvt. Ltd. (5.5 MWac)	Ch-82/SE/SO-1189/ Banking	Open access approval, audited balance sheet "in original", MOA & AOA with directors/shareholding, 51% consumption undertaking, copy of LTOA agreement, commissioning report, corrections in banking agreement format
04.09.2025	**UHBVNL**	Cleanmax Sirirus Pvt Ltd.	Ch-60/SE/SO	LTOA agreement copy, CA certificate for 26% captive equity, audited balance sheets (separately for each captive user), certified MOA & AOA, ownership details with UDIN, board resolutions, and 51% consumption undertakings.
04.09.2025	**UHBVNL**	Cleanmax Terra Pvt Ltd.	Ch-60/SE/SO	LTOA agreement copy, CA certificate for 26% captive equity, audited balance sheets (separately for each captive user), certified MOA & AOA, ownership details with UDIN,

Date	Issuing authority	Applicant	Memo/ Reference No.	Deficiencies / Demands Raised
				board resolutions, and 51% consumption undertakings.
04.09.2025	**UHBVNL**	Cleanmax Decimus Pvt Ltd.	Ch-60/SE/SO	LTOA agreement copy, CA certificate for 26% captive equity, audited balance sheets (separately for each captive user), certified MOA & AOA, ownership details with UDIN, board resolutions, and 51% consumption undertakings.
06.02.2026	DHBVNL	Clean Max Maya Pvt. Ltd. (5.5 MWac)	Ch-04/SE/SO-1189/ Banking	Proof of captive ascertainment, CA certificate signer mismatch, provisional balance sheet not accepted, MOA/AOA objections
20.02.2026	DHBVNL	Clean Max Nabia Pvt. Ltd. (3.3 MWac)	Ch-61/SE/SO-1180	CA certificate auditor condition, uncertified provisional balance sheet, MOA/AOA deficiencies
23.02.2026	DHBVNL	Clean Max Nabia Pvt. Ltd. (3.3 MWac)	Ch-62/SE/SO-1180	Undertaking for security deposit of one-month estimated charges, undertaking not to avail STOA, non-intermingling of power
23.02.2026	DHBVNL	Clean Max Arcadia Pvt. Ltd.	Ch-32/SE/SO-1174	CA certificate for 26% captive equity not signed by the same auditor as the balance sheet, provisional current-year balance sheet not audited or UDIN-certified, MOA & AOA lacking certified director and shareholding details, and requirement of undertakings for one-month security deposit, non-availment of short-term open access, and non-intermingling of power.
25.02.2026	UHBVNL	Clenamax Decimus Pvt Ltd.	CH-241/SE-SO	Audited / provisional balance sheets (including separate balance sheets where required), specific board resolutions, and a 51% consumption undertaking.
25.02.2026	UHBVNL	Clean Max Sirius Pvt. Ltd.,	Ch-225 SE-S0	Audited / provisional balance sheets (including separate balance sheets where required), specific board resolutions, and a 51% consumption undertaking.

2.39 That facilitating such procedural relaxation would be consistent with the objectives of the GEOA Regulations, as well as the Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022, by enabling timely utilization of renewable energy without compromising regulatory scrutiny or captive eligibility verification.

2.40 That relaxation or procedural alignment in respect of the allied documentary requirements under Clause C of Annexure-III is essential to prevent avoidable delay in banking operationalization and to ensure that renewable energy generated by eligible captive projects is not rendered unusable due to procedural sequencing.

2.41 That Clause 5 of the procedure governing banking under the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 requires a Captive Power Plant availing banking to maintain a security deposit with the concerned Distribution Licensee equivalent to the estimated charges of one month, to be recovered in the event of loss of captive status determined at the end of the financial year. However, under the GEOA Regulations, banking charges are not levied in monetary terms but are prescribed in kind, at the rate of 8% of the quantum of energy actually banked, in accordance with Regulation 7. Banking charges are therefore directly and proportionately linked to the volume of surplus renewable energy banked by the consumer. As a necessary consequence, the quantum of banking charges is inherently variable and can be determined only after the actual amount of energy banked is known. The extent of energy banked depends on several operational factors, including actual generation, consumption requirements, grid availability, scheduling constraints and real-time system conditions, all of which vary on a daily and monthly basis.

2.42 That in the absence of commencement of banking operations, neither the volume of banked energy nor the resultant banking charges payable in kind can be reasonably or objectively estimated in advance. The requirement of maintaining a security deposit equivalent to “estimated one-month banking charges”, therefore, lacks determinacy and is incapable of objective computation at the pre-banking stage.

2.43 That insistence on advance submission of a security deposit without reference to actual banked energy or issuance of a quantified demand by the Distribution Licensee consequently renders the banking facility inoperable, notwithstanding that the Petitioners otherwise satisfy all substantive eligibility conditions under the GEOA Regulations. The resulting denial of banking arises solely due to procedural impracticability and not on account of any substantive non-compliance.

2.44 That the Petitioner’s requirement may be operationalised either by permitting submission of a declaration or undertaking at the stage of banking approval, followed by furnishing of the security deposit upon issuance of a quantified demand based on actual banking transactions, or alternatively by prescription of a uniform, transparent and objective methodology for advance computation by this Hon’ble Commission.

2.45 That without prejudice to the above, where advance deposit is insisted upon, the same may be computed on a normative basis using objective parameters such as applicable tariff, maximum permissible banking percentage, applicable banking charge rate and a normative Capacity Utilisation Factor, solely to avoid arbitrary estimation. Any such computation mechanism must remain clearly linked to the underlying principle that banking charges are proportional to the quantum of energy banked, and not independent thereof.

2.46 Thereafter, an illustrative methodology for advance determination of security deposit, solely to demonstrate feasibility and objectivity, based on normative parameters, is as under:-

Security Deposit per MW
= Applicable PPA Tariff (₹/kWh) × Maximum Bankable Energy (30%) × Banking Charges (8%) × Average Monthly Generation based on Normative CUF (21%)

By way of illustration, assuming an applicable tariff of ₹ 3.50 per kWh and a normative CUF of approximately 20–21%, the estimated security deposit works out to approximately ₹ 12,877 per MW per month.
Such illustration is indicative only and underscores the need for a transparent, uniform and Commission-prescribed computation mechanism rather than ad-hoc estimation.

2.47 That the procedural difficulties faced by the Petitioners are further aggravated by the practice of the State Distribution Utilities of demanding documents, undertakings and confirmations which do not find place either in the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 or in the procedure for grant of banking as approved by this Hon'ble Commission under Annexure III. In this regard, communications issued by the office of the Superintending Engineer / System Operation, Dakshin Haryana Bijli Vitran Nigam Limited, including memo bearing reference **Memo No. Ch-32/SE/SO-1174 dated 23.02.2026** and **Memo No. Ch-62/SE/SO-1180 dated 23.02.2026**, demonstrate that deficiencies have been raised in banking applications requiring submission of additional undertakings, including an undertaking not to avail power through short-term open access during the period of long-term open access, and an undertaking confirming non-intermingling of power at the generator, project and consumer end. The relevant part of the memo is reproduced hereinbelow:

"in addition to above, undertaking regarding not to avail the power through short term open access during the period of long term open access and undertaking regarding confirmation for not intermingling of power at generator / project / plant and user end, is required to be submitted by your company".

2.48 That such undertakings are neither prescribed nor contemplated under the approved procedure for grant of banking, nor do they find support in the GEOA Regulations or Annexure III. Introduction of requirements beyond the scope of the approved procedure effectively alters the regulatory framework through administrative action and leads to denial or delay of banking approvals on grounds not sanctioned by this Hon'ble Commission.

2.49 That deficiencies have also been raised requiring submission of a copy of the Long-Term Open Access Agreement as a pre-condition to consideration of the banking application, as reflected in Memo No. Ch-02/SE/SO-1189/Banking dated 06.08.2025, wherein it has been stated that the LTOA agreement was not found attached and that the date of execution of the LTOA agreement was left blank in the banking agreement format submitted by the applicant. The relevant part of the letter is reproduced hereinbelow:

"The Copy of LTOA agreement has not been found attached. The date of execution of LTOA agreement in the banking agreement format submitted by your company are also blank."

2.50 That the approved procedure governing banking does not prescribe execution or submission of the LTOA agreement as a pre-requisite either for making an application for banking or for grant of banking approval. Raising such requirements at the application or approval stage operates beyond the framework approved by this Hon'ble Commission and results in unjustified deferment of banking.

2.51 Additionally, a pattern has emerged whereby deficiencies are communicated in a piecemeal manner, with successive memos raising new and additional requirements on the same application at different stages. Such sequential issuance of deficiencies, each introducing fresh conditions, leads to prolonged pendency of applications and operates as a procedural impediment to timely grant of banking, notwithstanding compliance with the prescribed requirements.

2.52 That the approved procedure also does not require submission of a duly executed banking agreement as a pre-condition either for filing of the banking application or for grant of banking approval. The banking facility is intended to become applicable from the date of issuance of banking approval, with execution of the banking agreement being a consequential formality. Requiring execution or prior completion of the agreement before granting approval reverses the procedural sequence envisaged under the regulatory framework.

2.53 That the Respondent No. 1, vide communication dated 09.04.2026 bearing Memo No. Ch-13/SE/SO-1189/Banking, informed the Petitioner No. 3 that while a one-time relaxation had been allowed to submit the requisite documents and attend to the observations in respect of the Petitioner's application seeking banking facility, the said communication records that LR/HPU, Panchkula advised that the Nigam is bound by the Rules and Regulations framed by this Hon'ble Commission and that, in case of any difficulty in their practical application, the Petitioners may approach this Hon'ble Commission seeking relief under its power to remove difficulty. The Respondent accordingly directed the Petitioners to submit the requisite documents by 30.04.2026, failing which the application would be processed further in accordance with the HERC (GEOA) Regulations, 2023 and the applicable procedure.

2.54 That the present Petition arises from the non-operationalisation of banking of green energy during the intervening period between grant of Long-Term Open Access to the Petitioners and approval/execution of the banking arrangements under Annexure-III of the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023, as a result of which the Petitioners have been unable to schedule, utilise or bank the renewable energy generated despite compliance with substantive eligibility requirements.

2.55 That the refusal of the Respondent Discom to take a decision on the Petitioner's representation dated 09.03.2026 has resulted in the Petitioner's banking request remaining undecided, thereby giving rise to the present Petition and necessitating exercise of the Hon'ble Commission's power to relax and/or remove difficulty to resolve the procedural impasse.

2.56 That the following prayers have been made:-

a) Hold and declare that the manner in which the banking provisions under the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023, read with the procedural requirements prescribed under Annexure III thereto, are presently being implemented has resulted in procedural hardship, operational impediments and denial of effective utilisation of banking of green energy, as demonstrated in paragraphs 1–8 and 11–37 of the present Petition, despite eligible Renewable Energy based Captive Power Projects fulfilling the substantive conditions prescribed under the said Regulations, thereby frustrating the object and intent of permitting banking as an integral facility under the Green Energy Open Access framework.

b) In exercise of powers under Regulations 65–68 of the HERC (Conduct of Business) Regulations, 2019, be pleased to relax, modify and/or remove the procedural difficulties arising from Clause C and Clause 5 of Annexure-III, in terms of paragraphs 33–37, 41–47 and 49–55 of the present Petition, to enable effective and timely operationalisation of banking of green energy.

c) Pass such other order(s), direction(s), or relief(s) as this Hon'ble Commission may deem fit and proper in the facts and circumstances of the present case, in the interest of justice, equity, and effective promotion of renewable energy.

Proceedings of the Case: -

3. The case was initially heard on 10.06.2026. The Commission, vide its Interim Order dated 11.06.2026, allowed the respondents to file their reply and the petitioner was allowed to file its rejoinder on the same.

4. **Reply filed by Respondents dated 10.07.2026: -**

4.1. That the present common reply on behalf of Respondent Nos. 1 and 2, namely Dakshin Haryana Bijli Vitran Nigam Limited (hereinafter referred to as "DHBVN") and Uttar Haryana Bijli Vitran Nigam Limited (hereinafter referred to as "UHBVN").

4.2. That the present Petition has been filed by *eight Petitioners, namely Distributed Solar Power Association, CMES Power 2 Pvt. Ltd., Clean Max Maya Pvt. Ltd., Clean Max Terra Pvt. Ltd., Clean Max Sirius Pvt. Ltd., Clean Max Decimus Pvt. Ltd., Clean Max Nabia Pvt. Ltd. and Clean Max Arcadia Pvt. Ltd.,* inter alia, seeking relaxation and/or removal of alleged difficulty in respect of the procedural requirements prescribed under Annexure-III of the GEOA Regulations, including directions to the Respondent Distribution Licensees not to reject or keep pending the Petitioners' requests for banking and to permit continuation of scheduling and provisional adjustment of banked energy during the pendency of the present proceedings.

4.3. That at the very outset, and before dealing with the submissions on merits, the Respondents most respectfully submits that the reliance placed by the Petitioner on various provisions of law and regulations in support of the present petition ("Petition") is misplaced and untenable. The Petitioner, in an attempt to invoke the jurisdiction of this Hon'ble Commission, has referred to the following provisions:

a) Sections 86(1)(e), 86(1)(f) and 86(1)(k) of the Electricity Act, 2003;

b) Regulations 65 to 68 of the HERC (Conduct of Business) Regulations, 2019.

4.4. That the reliance placed by the Petitioners on Sections 86(1)(e), 86(1)(f) and 86(1)(k) of the Electricity Act, 2003 is misconceived. The said provisions are reproduced hereunder for ready reference:

"*Section 86. (Functions of State Commission):- (1) The state Commission shall discharge the following functions, namely: -*

…

(e) promote cogeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;

(f) adjudicate upon the disputes between the licensees and generating companies and to refer any dispute for arbitration;

…

(k) discharge such other functions as may be assigned to it under this Act."

4.5. That a bare perusal of the aforesaid provisions makes it clear that Section 86(1)(e) of the Electricity Act, 2003 is only an enabling provision for promotion of renewable energy, Section 86(1)(f) relates to adjudication of disputes between licensees and generating companies, and Section 86(1)(k) is a general enabling provision for discharge of functions assigned under the Act. *Similarly*, Regulations 65, 66, 67 and 68 of the HERC (Conduct of Business) Regulations, 2019 merely preserve the inherent and procedural powers of this Hon'ble Commission for regulating its proceedings, adopting suitable procedure, dealing with matters not specifically covered, and correcting defects/errors in proceedings. None of the aforesaid provisions can be invoked by the Petitioners to seek bypassing, relaxation or dilution of the mandatory procedure prescribed under the HERC Green Energy Open Access Regulations, 2023 and the Procedure/Guidelines for Banking of Green Energy Power approved by this Hon'ble Commission vide order dated 29.11.2023.

OBJECTION REGARDING NON-JOINDER OF NECESSARY PARTIES:

4.6. That a perusal of the prayer clause shows that the present Petition, in its present form, is not maintainable for non-joinder of necessary parties. The reliefs sought in the Petition directly concern the grant/operationalization of *Long Term Open Access (LTOA)*, commencement of charges, scheduling, injection of power and related aspects, for which *Haryana Vidyut Prasaran Nigam Limited/HVPNL*, being the State

Nodal Agency for Open Access, is a necessary and proper party. In absence of HVPNL, the issues raised by the Petitioners cannot be effectively adjudicated.

4.7. That the very Regulations and Procedure relied upon by the Petitioners support the stand of the Respondents. Regulation 7 of the HERC Green Energy Open Access Regulations, 2023, read with Annexure-III/Procedure Guidelines for Banking of Green Energy Power approved by this Hon'ble Commission vide order dated 29.11.2023 in Petition No. 35 of 2023, clearly provides that banking facility is subject to compliance of prescribed conditions and execution of necessary banking agreement with the concerned Distribution Licensee. Therefore, the Respondents are bound to act strictly in accordance with the said Regulations and approved Procedure, and no direction can be issued to process or operationalize banking contrary thereto. That for ready reference, the relevant portion of Regulation 7/approved Procedure for Banking of Green Energy Power is reproduced hereinbelow:

"RE based captive generating plants, in which not less than twenty six per cent of the ownership is held by a single captive user, may bank power, up to contract demand for captive/own use on payment of the banking charges along with the transmission and distribution losses for availing the open access on the transmission or distribution network of the licensees for banking and drawl of banked power from the Discoms after entering into the banking agreement with the Discoms concerned..."

4.8. That from a bare perusal of the aforesaid Regulation, it is evident that banking facility can be availed only after entering into the banking agreement with the concerned Distribution Licensee and subject to the terms and conditions specified under the applicable framework. Therefore, the Petitioners cannot claim operationalization of banking as an automatic right merely on the basis of grant of Long Term Open Access. The Respondents have acted strictly in accordance with the Regulations and the approved Procedure/Guidelines for Banking of Green Energy Power.

4.9. That the Petitioners' reliance upon the regulatory framework/practice adopted by other State Commissions is misplaced, as each State Commission has prescribed its own methodology and procedure for availing banking facility under its respective regulatory framework. For ready reference, Clause 17.6(v) of the Gujarat Electricity Regulatory Commission (Terms and Conditions for Green Energy Open Access) Regulations, 2024, relied upon by the Petitioners, is reproduced hereinbelow:-

"*The banking facility is an optional facility provided to the GEOA consumers. In case consumer choose not to avail the banking facility, the same shall be permitted on furnishing an Undertaking in this regard. Once such option is exercised by the consumer, the same shall not be permitted to change before completion of three years from date of operationalization of open access under such option. In case of banking facility is not desired to avail by GEOA consumer, the energy accounting shall be done in 15 minutes time block for open access energy accounting purpose. The surplus energy, if any, available after adjustment in 15 minutes time block basis shall be considered and qualify as inadvertent flow of energy and for that GEOA consumer shall not be entitled for REC to the extent of lapsed banked energy*.

4.10. That a bare perusal of the aforesaid provision itself shows that banking under the Gujarat framework is an optional facility and, where banking is not availed, energy accounting is to be done on 15-minute time block basis, with surplus energy being treated as inadvertent flow. The said provision does not support the Petitioners' case that banking can be operationalized automatically or without compliance of the applicable procedure. In the State of Haryana, the Respondents are bound by the HERC Green Energy Open Access Regulations, 2023 and the Procedure/Guidelines for Banking of Green Energy Power approved by this Hon'ble Commission, which require compliance of prescribed conditions and execution of banking agreement before availing the banking facility.

4.11. That as per the Procedure/Guidelines for Banking of Green Energy Power, the Chief Engineer/SO & Commercial, HVPNL, Panchkula is the Nodal Agency for Open Access, whereas Chief Engineer/System Operation, UHBVN, Panchkula and Chief Engineer/Commercial, DHBVN, Hisar are the concerned Nodal Agencies for banking in their respective areas. Therefore, DHBVN cannot be treated as the sole nodal agency for all the Petitioners, and the role of each utility has to be examined strictly as per the approved procedure.

4.12. That the present Petition seeks general/omnibus directions in respect of multiple Petitioners having separate projects, separate jurisdictional Distribution Licensees, separate banking applications and separate compliance status. The entitlement, if any, of each Petitioner to avail banking facility is required to be examined individually with reference to its applicable jurisdiction, open access approval, documents submitted, deficiencies, banking application and execution of banking agreement. Therefore, no general direction for operationalization/provisional adjustment of banking can be issued without individual scrutiny and compliance with the approved Procedure/Guidelines for Banking of Green Energy Power.

4.13. That mere grant of Long-Term Open Access does not, by itself, permit a generator to inject or schedule power into the grid. Other statutory and operational requirements, including issuance of charging code by SLDC and registration of QCA, are also required to be fulfilled before injection/scheduling of power can be undertaken. Therefore, the Petitioners' contention that banking ought to be operationalized merely upon grant of LTOA is misconceived.

4.14. That the documents prescribed under the approved Procedure/Guidelines for Banking of Green Energy Power are mandatory and are required for proper verification of eligibility, captive status, banking arrangement and energy accounting. The Petitioners are, therefore, required to submit complete documents as per the approved procedure, and the communication of deficiencies by the Respondents cannot be termed as procedural hardship or arbitrary action.

4.15. That the Respondents had considered the representation of the Petitioners and upon legal advice obtained from LR/HPU, Panchkula dated 19.03.2026, informed that the Nigam is bound by the Rules/Regulations framed by this Hon'ble Commission and that in case of any difficulty in practical application, the Petitioners may approach this Hon'ble Commission for appropriate relief. Thus, no illegality or arbitrariness can be attributed to the Respondents.

5. **Rejoinder dated 20.07.2026 filed by the petitioner to the reply filed by the respondents: -**

5.1. That vide their Reply, the Respondents have, *inter alia*, raised the following principal contentions:-

5.1.1. Maintainability Objection and Alleged Lack of Jurisdiction

5.1.2. Objection Regarding Non-Joinder of Necessary Parties

5.1.3. Banking is Not Automatic Upon Grant of Long-Term Open Access

5.1.4. Annexure-III Requirements Constitute Mandatory Regulatory Requirements

5.1.5. No Procedural Delay, Prejudice or Arbitrariness is Attributable to the Respondents

5.1.6. Petitioners are Seeking Amendment of the Approved Banking Framework Under the Guise of Removal of Difficulty

RE: *MAINTAINABILITY OBJECTION*

5.2. That the Respondents have proceeded on the assumption that every practical issue arising during implementation of a regulatory framework necessarily requires amendment of the Regulations themselves. The aforesaid assumption is fundamentally erroneous. The present Petition does not seek amendment of Regulation 7, Annexure-III or any substantive provision of the GEOA Regulations. Rather, the present Petition concerns practical difficulties arising in implementation of the existing framework and seeks consideration of such difficulties by this Hon'ble Commission in exercise of the powers already vested in it under law.

5.3. That the GEOA Regulations themselves expressly recognize the possibility of practical implementation difficulties arising during operation of the framework. Regulation 10 empowers this Hon'ble Commission, for reasons to be recorded in writing, to relax any provision of the GEOA Regulations either suo-motu or upon an application made by an interested person. Regulation 11 further empowers this Hon'ble Commission to issue orders and procedural directions regarding implementation of the GEOA Regulations. Regulation 13 additionally empowers this Hon'ble Commission to make such provisions as may be necessary or expedient where any difficulty arises in giving effect to the Regulations. The existence of these provisions demonstrates that the regulatory framework itself contemplates situations where implementation difficulties may arise and require intervention by this Hon'ble Commission.

Relevant part of the GEOA Regulation is produced hereinbelow:

"10. Power to Relax.: The Commission may by general or special order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected may suo moto relax any of the provisions of these regulations or on an application made before it by an interested person.

11. Issue of orders or directions.: Subject to the provisions of the Act and these regulations, the Commission may, from time to time, issue orders and procedural directions with regard to the implementation of these regulations and specify the procedure to be followed on various matters, which the Commission has been empowered by the regulations to direct and matters incidental thereto.

13. Power to remove difficulties.: If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may, by general or special order, make such provisions, which in the opinion of the Commission are necessary or expedient to do so."

5.4. That if the contention of the Respondents is accepted, the powers consciously vested in this Hon'ble Commission for dealing with practical implementation issues would become wholly redundant. A power incorporated within a statutory or regulatory framework cannot be treated as theoretical, ornamental or incapable of practical invocation. Such powers exist precisely to deal with situations where the practical operation of a procedure produces unintended consequences or implementation difficulties that were not fully apparent at the stage of formulation of the framework.

5.5. That the present Petition falls squarely within the framework contemplated under Regulations 10, 11 and 13 of the GEOA Regulations. The Petitioners are interested persons directly affected by operation of Annexure-III and have approached this Hon'ble Commission precisely because practical difficulties have arisen in implementation of the banking framework. Far from being outside the scope of the Regulations, the present Petition invokes powers expressly preserved within the GEOA Regulations themselves.

5.6. That every provision of a statute or delegated legislation must be construed in a manner that gives effect to its purpose and preserves its independent field of operation. The Hon'ble Supreme Court in J.K. Cotton Spinning & Weaving Mills Co. Ltd. v. State of Uttar Pradesh, AIR 1961 SC 1170, held that a construction which renders any provision redundant, otiose or a dead letter must be avoided and that effect must be given to every provision incorporated by the rule-making authority. Applying the aforesaid principle, Regulations 10, 11 and 13 of the GEOA Regulations cannot be interpreted in a manner that deprives them of practical operation. If every implementation issue were to be treated as requiring amendment of the Regulations under Regulation 12, the powers separately conferred upon this Hon'ble Commission under Regulation 10 to relax provisions of the Regulations, under Regulation 11 to issue procedural directions for implementation of the Regulations and under Regulation 13 to remove difficulties arising in giving effect to the Regulations would become redundant. Such an interpretation is impermissible in law and contrary to the regulatory scheme consciously adopted by this Hon'ble Commission.

5.7. That the Petitioners are not seeking exemption from the regulatory framework. Nor are the Petitioners seeking elimination of any eligibility condition. The Petitioners seek consideration of difficulties encountered during practical implementation of the framework and appropriate directions for ensuring that the objectives intended to be achieved by the framework are effectively realised.

5.8. That the Petitioners are entities directly regulated by the GEOA framework and are the very stakeholders affected by the operation of Annexure-III. The procedural requirements governing availment and operationalisation of banking directly affect the Petitioners' rights, obligations and commercial operations. The Petitioners are therefore directly impacted by the practical consequences arising from operation of the existing procedure and possess a clear and undeniable interest in seeking redressal of the difficulties arising therefrom.

5.9. That the Respondents have incorrectly attempted to characterise the present Petition as a challenge to the validity of the regulatory framework itself. A plain reading of the Petition demonstrates otherwise. The Petition expressly accepts the validity of Regulation 7, the validity of Annexure-III and the validity of the substantive banking framework established by this Hon'ble Commission. The Petition proceeds on the basis that the existing framework is valid and seeks only to address practical implementation issues arising during its operation.

5.10. That the Respondents have nowhere denied the existence of the practical difficulties raised by the Petitioners. The Reply does not dispute that banking applications continue to undergo scrutiny, deficiency rectification and fulfilment of additional requirements after grant of Long-Term Open Access. The Reply further does not dispute that a time gap exists between grant of Long-Term Open Access and operationalisation of banking.

5.11. That the Respondents have also not denied the various communications relied upon by the Petitioners and annexed with the Petition as Annexures 4, 5, 6 and 7. The factual foundation of the Petition therefore remains substantially undisputed.

5.12. That, the consistent position adopted by the Respondents throughout the Reply is not that no difficulty exists, but that the Respondents themselves are bound by the existing procedure and therefore lack authority to grant any relaxation, clarification or procedural alignment. The Respondents have repeatedly taken the position that any such issue falls for consideration of this Hon'ble Commission.

5.13. That the Petitioners respectfully submit that the Respondents have consistently maintained throughout the Reply that they are bound by the existing procedure approved by this Hon'ble Commission and are not empowered to grant any relaxation, modification or procedural deviation therefrom. The Respondents have further taken the position that any change in the approved procedure falls for consideration of this Hon'ble Commission. Indeed, vide communication dated 09.04.2026, relied upon by the Respondents themselves, the Petitioners were advised that, in case of any difficulty in practical application of the applicable framework, they may approach this Hon'ble Commission for appropriate relief. In these circumstances, the objection regarding maintainability is wholly misconceived.

5.14. That having taken the aforesaid position, the Respondents cannot simultaneously contend that the Petitioners ought to approach this Hon'ble Commission for consideration of practical implementation difficulties and thereafter dispute the maintainability of proceedings invoking the jurisdiction of this Hon'ble Commission. Such a position is contrary to the settled principle that a party cannot approbate and reprobate, as recognised by the Hon'ble Supreme Court in R.N. Gosain v. Yashpal Dhir, (1992) 4 SCC 683.

5.15. That the communication dated 09.04.2026 annexed with the Petition as Annexure-7 assumes considerable significance. The said communication records the position that where difficulties arise in practical implementation of the Rules and Regulations framed by this Hon'ble Commission, affected stakeholders may approach this Hon'ble Commission for seeking appropriate relief.

5.16. That the present Petition has been filed in accordance with precisely the aforesaid course of action. The Petitioners have approached the forum which the Respondents themselves identified as being competent to consider implementation difficulties arising under the framework.

5.17. That the present Petition does not seek waiver of captive eligibility requirements, ownership requirements, consumption obligations, banking charges, verification requirements or any other substantive safeguard forming part of the regulatory framework. None of the core substantive requirements governing availment of banking are under challenge.

5.18. That the present Petition is therefore not an attempt to dilute the regulatory framework. On the contrary, the Petition seeks to ensure that the framework operates effectively and achieves the objectives intended by this Hon'ble Commission while framing the GEOA Regulations.

5.19. That the Petitioners respectfully submit that practical implementation difficulties are not antithetical to the regulatory framework. To the contrary, consideration of such difficulties is essential for ensuring effective functioning of the framework. The powers relating to relaxation and removal of difficulties have been incorporated precisely for this purpose and must be given full and meaningful effect.

5.20. In view of the foregoing, it is respectfully submitted that the present Petition constitutes a legitimate invocation of the jurisdiction vested in this Hon'ble Commission by stakeholders directly affected by operation of the regulatory framework. The Petition seeks consideration of practical implementation difficulties and appropriate regulatory intervention within the scope of powers already vested in this Hon'ble Commission. Accordingly, the objection raised by the Respondents regarding maintainability deserves to be rejected in its entirety.

RE: *NON-JOINDER OF NECESSARY PARTIES*

5.21. That the Respondents have contended that the present Petition suffers from non-joinder of necessary parties on account of non-impleadment of Haryana Vidyut Prasaran Nigam Limited ("HVPNL"). The Respondents have sought to contend that matters relating to grant of Long-Term Open Access, commencement of Open Access, scheduling, charging code allocation, registration of Qualified Coordinating Agency, injection of power, energy accounting and related operational matters involve HVPNL and/or SLDC and, therefore, the present Petition cannot be effectively adjudicated in the absence of HVPNL. The Petitioners respectfully deny the aforesaid contention as being misconceived and contrary to the nature of the controversy involved in the present proceedings.

5.22. That the Respondents have failed to appreciate the distinction between the broader Open Access framework and the specific controversy raised in the present Petition. The present Petition has not been instituted for seeking any relief relating to grant of Long-Term Open Access, grant of connectivity, scheduling approval, charging code allocation, registration of Qualified Coordinating Agency, dispatch operations, grid management or energy accounting methodology.

5.23. That the controversy raised in the present proceedings is considerably narrower. The Petition concerns practical difficulties arising in operationalisation of banking under Regulation 7 read with Annexure-III of the GEOA Regulations and the procedure being implemented by the Distribution Licensees in relation to banking applications, banking approvals, banking documentation and commencement of banking.

5.24. That the principles governing impleadment of parties are embodied in Order I Rule 10 of the Code of Civil Procedure, 1908, which recognises the distinction between necessary parties and proper parties. A necessary party is one in whose absence no effective and enforceable order can be passed, whereas a proper party is one whose presence may facilitate complete and final adjudication of the dispute, although an effective order can nevertheless be passed in such party's absence.

5.25. That the aforesaid distinction has been authoritatively explained by the Hon'ble Supreme Court in Mumbai International Airport Pvt. Ltd. v. Regency Convention Centre & Hotels Pvt. Ltd., (2010) 7 SCC 417, wherein the Hon'ble Supreme Court, while considering the scope of Order I Rule 10 CPC, held that a necessary party is a person in whose absence no effective decree or order can be passed and a proper party is a person whose presence enables the Court to completely, effectively and adequately adjudicate upon all matters in dispute, though no relief may have been claimed against such person.

5.26. That applying the aforesaid principles, HVPNL is clearly not a necessary party to the present proceedings. No relief whatsoever has been sought against HVPNL and the Respondents have failed to identify any prayer which cannot be effectively adjudicated in the absence of HVPNL.

5.27. That the Petitioners are not seeking grant of Open Access from HVPNL.

5.28. That the Petitioners are not seeking modification of Open Access approvals issued by HVPNL.

5.29. That the Petitioners are not seeking amendment of scheduling procedures.

5.30. That the Petitioners are not seeking modification of charging code requirements.

5.31. That the Petitioners are not seeking alteration of Qualified Coordinating Agency registration requirements.

5.32. That the Petitioners are not seeking modification of energy accounting principles adopted by SLDC.

5.33. That no substantive relief is claimed against HVPNL and no adjudication is sought in relation to any act or omission attributable to HVPNL.

5.34. That the Petitioners had specifically raised the issue relating to practical difficulties in filing and processing of banking applications with HVPNL vide representation dated 27.02.2026. Pursuant thereto, HVPNL, vide Memo No. Ch-109/ISB-640A/OA-I dated 17.03.2026, expressly informed the Petitioners that, in terms of the detailed banking procedure approved by this Hon'ble Commission vide order dated 29.11.2023, Chief Engineer/System Operation, UHBVN, Panchkula and Chief Engineer/Commercial, DHBVN, Hisar are the designated Nodal Agencies for matters relating to banking and that applications for banking are to be received and processed by the concerned Distribution Licensees. HVPNL accordingly advised the Petitioners to take up the matter with the concerned Distribution Licensees. The said communication clearly demonstrates that even HVPNL itself has recognised that issues relating to processing and operationalisation of banking fall within the jurisdiction of the Distribution Licensees. The objection now raised by the Respondents regarding non-impleadment of HVPNL is therefore contrary to the position communicated by HVPNL itself in relation to the very issues that form the subject matter of the present Petition.

5.35. That the documentary requirements, deficiency communications, requests for additional undertakings, insistence upon particular forms of certification, security deposit requirements and execution of banking agreements, which constitute the foundation of the present Petition, are being implemented by the Distribution Licensees within their respective licensed areas.

5.36. That the present dispute is therefore directed against the implementation of the banking framework by the Distribution Licensees operating in the State of Haryana and not against the functions discharged by HVPNL under the Open Access framework.

5.37. That without prejudice to the aforesaid, even assuming that HVPNL has some connection with the larger Open Access ecosystem, such circumstance would, at the highest, make HVPNL a proper party and not a necessary party. The absence of HVPNL does not prevent this Hon'ble Commission from passing an effective and enforceable order on the issues raised in the present Petition.

5.38. That the mere fact that certain functions under the larger Open Access ecosystem may involve HVPNL cannot automatically render HVPNL a necessary party in every dispute touching upon banking. Acceptance of such a proposition would mean that HVPNL would become a compulsory party in every proceeding relating to banking irrespective of the actual reliefs claimed, which is not the law.

RE: CONTENTION THAT BANKING IS NOT AUTOMATIC UPON GRANT OF LONG-TERM OPEN ACCESS

5.39. That the Respondents have contended that banking is not an automatic consequence of grant of Long-Term Open Access and that banking can commence only after completion of the procedure prescribed under Regulation 7 and Annexure-III of the GEOA Regulations. The Respondents have further sought to proceed on the assumption that the Petitioners seek operationalisation of banking without compliance with the prescribed framework. The aforesaid contention is based upon a complete misunderstanding of the nature and scope of the present Petition and is therefore denied.

5.40. That the Petitioners respectfully submit that the present proceedings are not adversarial in nature. The Petition has not been instituted for questioning the validity of Regulation 7, challenging the GEOA Regulations, disputing the authority of the Respondents to verify eligibility conditions or seeking dilution of the substantive framework governing banking. The Petition has been filed solely for bringing to the attention of this Hon'ble Commission certain practical difficulties that have arisen during implementation of the banking framework and for seeking appropriate relaxation, clarification and procedural alignment so that the framework may operate in the manner originally intended by this Hon'ble Commission.

5.41. That the Petitioners have at all times accepted that banking is governed by Regulation 7 of the GEOA Regulations and that compliance with the substantive requirements prescribed thereunder remains mandatory. The Petitioners do not dispute that grant of Long-Term Open Access, fulfilment of eligibility conditions, verification of captive status wherever applicable, execution of banking agreements and compliance with the framework prescribed by this Hon'ble Commission are essential elements of the banking mechanism.

5.42. That the real issue arising in the present proceedings is therefore not whether banking should be available without compliance of Regulation 7. The issue is whether the objective sought to be achieved by Regulation 7 is presently being realised in an effective manner under the existing implementation framework.

5.43. That the intent underlying Regulation 7 is clear and unambiguous. The Hon'ble Commission, while introducing the banking framework under the GEOA Regulations, intended that eligible renewable energy consumers and captive generating projects should be able to avail the banking facility after obtaining Open Access and satisfying the prescribed conditions. Banking is not an independent facility divorced from Open Access but an integral component of the renewable energy utilisation framework established under the GEOA Regulations. The intent underlying Regulation 7 read with Annexure-III is to ensure that eligible renewable energy consumers are able to effectively utilise renewable energy through the banking mechanism upon fulfilment of the applicable requirements.

5.44. That the present procedural framework results in a situation where Long-Term Open Access may already have been granted, renewable energy generation may already have commenced, injection into the grid may already be taking place and regulatory liabilities may already have commenced, while banking continues to remain unavailable pending completion of further procedural requirements.

5.45. That the Petitioners respectfully submit that it is this implementation gap which constitutes the subject matter of the present Petition. The grievance of the Petitioners is not directed against the existence of the procedure itself but against the practical consequences arising from the manner in which such procedure presently operates.

5.46. That the Petitioners have therefore not sought automatic banking. The Petitioners have sought effective and timely operationalisation of banking.

5.47. That the Petitioners have further not sought dispensation of scrutiny, documentation or approvals. The Petitioners have merely highlighted the practical difficulties arising from the present sequencing of such requirements and have requested consideration of measures for ensuring smoother implementation of the framework.

5.48. That the Petitioners respectfully submit that Regulation 7 itself does not prescribe the stage at which a banking application may be submitted, the stage at which document verification may commence, the stage at which scrutiny may be undertaken, the stage at which deficiencies may be communicated or the stage at which such deficiencies may be rectified.

5.49. That these matters fall within the realm of implementation and procedure. The Petitioners are concerned with these aspects of implementation and not with the substantive entitlement to banking itself

5.50. That the Petitioners merely submit that once the substantive framework recognises banking as an integral component of the Green Energy Open Access regime, the implementation mechanism should operate in a manner that enables the intended benefit to become available with minimum avoidable delay after fulfilment of the prescribed requirements.

5.51. That the Respondents do not deny the existence of the implementation gap identified by the Petitioners. The Respondents have nowhere stated that banking becomes operational simultaneously with grant of Long-Term Open Access. Nor have they disputed that applicants are required to undergo additional procedural stages after grant of Long-Term Open Access before banking becomes operational. In this regard, it is pertinent to note that Annexure-III itself requires an application for banking to be submitted at least one month prior to commencement of wheeling and banking. The very purpose of prescribing advance filing of the banking application is to enable scrutiny, verification and processing of the banking request prior to commencement of supply under the Open Access framework. The intent underlying the procedure is therefore evident, namely that the banking application process should progress during the period when the Open Access application is under consideration so that, upon grant of Long-Term Open Access and issuance of the relevant operational approvals, banking may also become available without avoidable delay. If banking processing were intended to commence only after grant of Long-Term Open Access, there would be little purpose in requiring advance filing of the banking application. The implementation difficulty identified by the Petitioners therefore arises from the practical sequencing currently being followed, which results in a gap between grant of Long-Term Open Access and operationalisation of banking despite the intent underlying the procedure being to facilitate commencement of both in a coordinated manner.

5.52. That the Petitioners respectfully submit that simultaneous processing of banking applications and Open Access applications is fundamentally different from automatic grant of banking. Under the approach suggested by the Petitioners, all substantive eligibility conditions, verification requirements, approvals and documentation would continue to be examined and complied with. The only objective is to ensure that such scrutiny is undertaken contemporaneously so that, upon issuance of Long-Term Open Access and satisfaction of all requirements, the banking facility may also become operational without avoidable procedural delay.

5.53. That regulatory intent must prevail over procedural rigidity. In this regard, the Hon'ble Supreme Court in State of Punjab v. Shamlal Murari, (1976) 1 SCC 719, observed that procedural prescriptions are intended to advance the cause of justice and should not be elevated into obstacles defeating the substantive purpose sought to be achieved. Where a procedural mechanism gives rise to practical difficulties that impede achievement of the objective underlying a regulation, the issue falls squarely within the regulatory jurisdiction of the Commission.

5.54. That the real question requiring consideration is whether the present procedural framework is fully giving effect to the objective and intent underlying Regulation 7 and whether practical implementation difficulties identified by the Petitioners warrant appropriate intervention by this Hon'ble Commission.

5.55. That the present case falls squarely within the situations contemplated under Regulations 10, 11 and 13 of the GEOA Regulations. The Petitioners are not seeking alteration of the substantive banking framework but seek exercise of the Commission's express powers to issue procedural directions, relax procedural requirements to the extent considered appropriate and remove implementation difficulties that have arisen in giving effect to the banking provisions of the GEOA Regulations.

5.56. That the Respondents have incorrectly characterised the Petition as a claim for automatic banking upon grant of Long-Term Open Access. The present Petition seeks neither automatic banking nor dilution of Regulation 7. Whereas, the entire objective of the present Petition is to ensure procedural alignment so that the scrutiny, verification and processing of banking applications can proceed contemporaneously while the Long-Term Open Access application itself is under consideration, thereby enabling banking approval and Long-Term Open Access approval to attain operational readiness together. The very scheme of Annexure-III contemplates advance filing of banking applications, which demonstrates that banking-related processing was intended to commence prior to actual commencement of supply so that the facility may become available upon fulfilment of the requisite conditions and issuance of Long-Term Open Access. The Petitioners therefore seek simultaneous processing and timely operationalisation of banking and not automatic commencement of banking without approval or verification.

RE: CONTENTION THAT ANNEXURE-III REQUIREMENTS ARE MANDATORY AND CANNOT BE RELAXED

5.57. That the Respondents have contended that the various documentary and procedural requirements prescribed under Annexure-III are mandatory in nature and consequently incapable of relaxation, modification or procedural adjustment. The Respondents further contend that requirements relating to Open Access approval, Chartered Accountant certificates, audited financial statements, ownership documents, Board Resolutions, undertakings, security deposits and related compliances constitute essential safeguards for verification of eligibility and therefore any suggestion concerning such requirements amounts to dilution of the approved framework. The Petitioners respectfully deny the aforesaid contention to the extent it mischaracterises the reliefs sought in the present Petition.

5.58. That the Petitioners have nowhere contended that the substantive requirements prescribed under the GEOA Regulations or Annexure-III should be dispensed with, waived or ignored. On the contrary, the Petition proceeds on the basis that verification of eligibility, captive status, ownership conditions, consumption obligations, execution of banking agreements and compliance with applicable regulatory requirements must continue to govern the availment of banking facilities.

5.59. That there exists a fundamental distinction between a substantive eligibility requirement and the procedure adopted for implementation of such requirement. The present Petition concerns the latter and not the former.

5.60. That a requirement may continue to remain mandatory while its stage of submission, sequence of verification, timing of scrutiny or manner of processing may nevertheless require rationalisation for ensuring effective implementation of the framework. Acceptance of such a proposition does not dilute the requirement itself; rather, it facilitates achievement of the objective sought to be served by the requirement.

5.61. That the Respondents have incorrectly assumed that any discussion regarding implementation of a procedural requirement necessarily amounts to a challenge to the requirement itself. Such an approach conflates substantive obligations with procedural mechanisms and overlooks the actual grievance raised by the Petitioners.

5.62. That the Petitioners respectfully submit that the purpose underlying the requirements prescribed under Annexure-III is not in dispute. Verification of captive status, verification of ownership, validation of financial information, obtaining necessary undertakings and ensuring regulatory compliance are all legitimate regulatory objectives which continue to be accepted by the Petitioners.

5.63. That the real issue is whether implementation of such requirements is presently taking place in a manner that unnecessarily delays operationalisation of banking even after grant of Long-Term Open Access and commencement of renewable energy operations.

5.64. That as specifically demonstrated in the Petition, the practical difficulties identified by the Petitioners arise not because the requirements exist, but because multiple stages of scrutiny, verification, deficiency rectification and submission of additional documents continue even after grant of Long-Term Open Access, thereby resulting in delay in operationalisation of banking.

5.65. That while dealing with the requirement relating to Open Access approval, the Petitioners have never suggested that banking should be permitted without grant of Open Access. To the contrary, the Petition expressly recognises that grant of Open Access remains the foundational eligibility condition governing operationalisation of banking. The Petitioners merely highlighted the practical difficulties arising from the present sequencing whereby substantial banking-related processing begins only after grant of Open Access.

5.66. That while discussing Chartered Accountant certifications, financial statements, ownership certifications, Memorandum and Articles of Association, Board Resolutions and associated documentation, the Petitioners have not questioned the authority of the Respondents to undertake verification. The Petitioners have merely highlighted practical implementation difficulties arising in the course of such verification and suggested consideration of alternative procedural approaches capable of achieving the same regulatory objective.

5.67. That the various communications annexed to the Petition demonstrate that the difficulties identified by the Petitioners are not theoretical in nature. The said documents evidence repeated deficiency communications, requests for additional undertakings, objections relating to certifications, documentary requirements and other implementation issues encountered by applicants seeking operationalisation of banking.

5.68. That these practical difficulties have arisen across multiple projects and multiple applications. The issue raised in the Petition is therefore systemic in nature and not confined to any isolated applicant or project-specific circumstance.

5.69. That the reliefs sought in the Petition would not eliminate verification of eligibility, dilute regulatory safeguards, remove documentary scrutiny or compromise regulatory oversight in any manner whatsoever. The Petition merely seeks consideration of procedural alignment and implementation flexibility so that the substantive safeguards prescribed under the framework may continue to operate while avoiding unnecessary delays in operationalisation of banking.

RE: CONTENTION THAT NO PROCEDURAL DELAY, PREJUDICE OR ARBITRARINESS IS ATTRIBUTABLE TO THE RESPONDENTS

5.70. That the Respondents have contended that they have acted strictly in accordance with the GEOA Regulations and the Procedure/Guidelines for Banking of Green Energy Power approved by this Hon'ble Commission and that no hardship, prejudice or delay suffered by the Petitioners is attributable to the Respondents. The Respondents have further contended that all actions undertaken by them are in conformity with the approved framework and that issues relating to scheduling, injection, commencement of Open Access and energy accounting fall within the domain of HVPNL and/or SLDC. The Petitioners respectfully submit that the aforesaid contention proceeds on a misunderstanding of the grievance raised in the present Petition.

5.71. That at the outset, the Petitioners respectfully clarify that the present Petition is not founded on any allegation of mala fides, arbitrariness, discrimination or deliberate non-compliance by the Respondents. The Petitioners have throughout acknowledged that the Respondents are implementing the procedure presently approved by this Hon'ble Commission and are acting in accordance therewith.

5.72. That the Petitioners further acknowledge that the Respondents, as Distribution Licensees, are bound by the regulatory framework currently in force and cannot independently grant relaxation, modification or procedural flexibility in the absence of appropriate directions from this Hon'ble Commission. The Petition therefore does not seek to attribute fault to the Respondents for acting in accordance with the framework applicable to them.

5.73. That the Respondents have incorrectly assumed that compliance with the existing procedure necessarily answers the issue raised in the Petition. The grievance of the Petitioners is not that the Respondents are acting contrary to the procedure. The grievance is that the operation of the procedure itself has resulted in practical implementation difficulties which merit consideration by this Hon'ble Commission.

5.74. That compliance with a regulatory framework and existence of practical hardship are not mutually exclusive propositions. A procedure may be implemented strictly in accordance with its terms and yet, upon actual operation, may reveal practical difficulties, operational inefficiencies or unintended consequences which were not fully apparent at the stage of formulation of the framework.

5.75. That the existence of the aforesaid implementation gap has not been disputed by the Respondents. The Reply nowhere states that banking becomes operational simultaneously with grant of Long-Term Open Access. Nor have the Respondents denied that applicants are required to undergo additional procedural stages after grant of Long-Term Open Access before banking is ultimately operationalised.

5.76. That the subsequent conduct of the Respondents in relation to the banking applications of the affected projects further demonstrates the practical implementation difficulties and uncertainty presently prevailing under the existing framework. It is pertinent to note that during the meeting held on 25.02.2026 under the Chairmanship of the Chief Engineer/Commercial, DHBVN, various procedural and implementation issues relating to the banking framework were discussed and it was decided to seek the opinion of LR/HPU, Panchkula on the concerns raised by the Petitioners.

5.77. That notwithstanding the aforesaid facts and despite being fully aware that the issues concerning the processing of banking applications and implementation of the banking framework were already pending consideration before this Hon'ble Commission, Respondent No. 1 proceeded to reject the banking application submitted by Clean Max Maya Private Limited vide Memo No. Ch-16/SE/SO-1189/Banking dated 12.05.2026. Significantly, the said communication itself records the earlier discussions held between the parties, the legal opinion obtained from LR/HPU, Panchkula, the advice that the Petitioners may approach this Hon'ble Commission in case of practical implementation difficulties, and the grant of a one-time extension for submission of documents.

5.78. That the Petitioner immediately objected to the aforesaid action and, vide communication dated 19.05.2026, specifically pointed out that the rejection was premature, arbitrary and contrary to the position previously adopted by the Respondents themselves, namely that the Petitioners should approach this Hon'ble Commission for appropriate relief in respect of practical implementation difficulties. The Petitioner further highlighted that the issues raised by the Respondents in connection with the banking application were already the subject matter of adjudication before this Hon'ble Commission.

5.79. That following the aforesaid objection, Respondent No. 1 itself withdrew the effect of the rejection communicated on 12.05.2026 and, vide communication dated 24.06.2026, restored the banking application for further consideration, subject to the outcome of HERC Petition No. 34 of 2026 or compliance of the observations communicated by DHBVN, whichever occurred earlier.

5.80. That the aforesaid sequence of events is highly material. The Respondents initially advised the Petitioners to approach this Hon'ble Commission for resolution of practical implementation difficulties, thereafter rejected the banking application during the pendency of the present proceedings, and subsequently withdrew the effect of such rejection and restored the application for consideration pending adjudication of the issues raised herein. The said conduct itself demonstrates the uncertainty, inconsistency and practical implementation difficulties prevailing under the existing framework and reinforces the Petitioners' submission that appropriate intervention by this Hon'ble Commission is necessary in exercise of its powers under Regulations 10, 11 and 13 of the GEOA Regulations.

5.81. That the official communication dated 17.03.2026 issued by HVPNL itself confirms that matters relating to processing and operationalisation of banking are to be dealt with by the concerned Distribution Licensees acting as the designated Nodal Agencies under the approved banking procedure. The Respondents therefore cannot simultaneously contend that issues relating to banking fall within the exclusive domain of HVPNL and, at the same time, assert that effective adjudication of the present proceedings is impossible in the absence of HVPNL.

5.82. That the implementation difficulties identified in the present Petition have resulted in substantial and measurable financial prejudice to the affected renewable energy projects. Several of the affected projects have been established through debt financing. The aggregate disbursed loan exposure across the affected Special Purpose Vehicles presently stands at approximately ₹172.25 Crore. Owing to the continued non-operationalisation of wheeling and banking arrangements, the affected projects have been unable to undertake the intended refinancing process within the anticipated timelines, thereby continuing to incur financing costs at rates significantly higher than those which would ordinarily become available upon completion of the intended refinancing process following full operationalisation of the projects. Consequently, the affected projects have suffered an estimated additional financing burden of approximately ₹ ₹3,40,16,500. A summary of the affected projects and financing impact is reproduced hereinbelow:

SPV	Loan Disbursed (₹)	Interest Paid Till Date (₹)	Loss of Interest (₹)
Clean Max Maya Private Limited	26,22,00,000	5,13,03,473	93,73,199
Clean Max Sirius Private Limited	18,77,00,000	3,61,30,272	61,90,408
Clean Max Arcadia Private Limited	42,55,00,000	7,60,69,748	1,17,50,953
Clean Max Decimus Private Limited	7,21,00,000	1,29,08,033	23,85,617
Clean Max Nabia Private Limited	15,50,00,000	2,41,47,512	43,16,323
Clean Max Terra Private Limited	62,00,00,000	8,81,27,834	-
Total	1,72,25,00,000	28,86,86,872	₹3,40,16,500

*it is a notional loss of interest as we are unable to refinance due to no wheeling and banking agreement

These costs are in addition to the revenue losses due to lapse of units due to non-wheeling and banking

5.83. That in addition to the aforesaid financing-related prejudice, the Petitioners have suffered substantial commercial losses arising from the non-availability of banking. Approximately 1,33,30,588 units of renewable energy have lapsed, resulting in a revenue loss of approximately ₹5,07,41,536.85. A summary of the same is reproduced hereinbelow:

Total Chargeable Units	3,08,69,318
Lapsed Units	1,33,30,588
Loss of Revenue Due to Non-Banking (₹)	5,07,41,536.85

5.84. That the aforesaid losses are neither hypothetical nor speculative. They are based on actual project-level operational data and financing records maintained by the affected Petitioners. The aggregate financial impact already exceeds ₹8.47 Crore and continues to increase during the period for which banking remains unavailable despite fulfilment of the substantive eligibility requirements prescribed under the applicable regulatory framework. The said financial prejudice clearly demonstrates that the implementation difficulties identified by the Petitioners are real, recurring and have materially impaired the effective utilisation of renewable energy and the banking facility envisaged under the GEOA Regulations.

RE: CONTENTION THAT THE PETITIONERS ARE SEEKING AMENDMENT OF THE APPROVED BANKING FRAMEWORK UNDER THE GUISE OF REMOVAL OF DIFFICULTY

5.85. That the Respondents have contended that the present Petition is, in substance, an attempt to amend or modify the Procedure/Guidelines for Banking of Green Energy Power approved by this Hon'ble Commission. According to the Respondents, the suggestions and recommendations contained in the Petition amount to alteration of the approved framework and therefore cannot be considered under the guise of removal of difficulty. The Petitioners respectfully deny the aforesaid contention as being contrary to the express pleadings contained in the Petition and based upon a fundamental misunderstanding of the reliefs sought herein.

5.86. That the Respondents have proceeded on the erroneous assumption that every procedural adjustment necessarily amounts to amendment of the regulatory framework. Such an approach fails to distinguish between alteration of a substantive regulatory requirement and facilitation of implementation of an existing regulatory requirement. The two concepts are distinct both in principle and in law.

5.87. That a substantive amendment would involve alteration of the essential framework itself, such as removal of eligibility conditions, waiver of captive status requirements, deletion of ownership conditions prescribed under the Electricity Rules, 2005, elimination of banking charges, dispensation with security deposit requirements, removal of verification mechanisms or modification of the substantive rights and obligations created under Regulation 7.

5.88. That the present Petition seeks none of the aforesaid reliefs. The Petition does not seek deletion of Regulation 7. The Petition does not seek invalidation of Annexure-III. The Petition does not seek waiver of regulatory scrutiny. The Petition does not seek exemption from verification of eligibility. The Petition does not seek dilution of any substantive safeguard forming part of the GEOA framework.

5.89. That the Petition proceeds on the basis that the existing banking framework is valid and ought to continue to operate. The Petitioners have consistently maintained throughout the Petition that the substantive conditions governing availment of banking must continue to apply and that the integrity of the regulatory framework ought to be preserved.

5.90. That the GEOA Regulations themselves draw a clear distinction between amendment of the Regulations and removal of practical difficulties arising during implementation. Regulation 12 separately confers a power to amend the Regulations, whereas Regulation 10 confers a power to relax provisions of the Regulations, Regulation 11 confers a power to issue procedural directions regarding implementation of the Regulations and Regulation 13 confers a power to remove difficulties arising in giving effect to the Regulations. The regulatory framework therefore consciously treats amendment, relaxation, procedural directions and removal of difficulties as distinct regulatory mechanisms operating in different fields.

5.91. That the interpretation advanced by the Respondents would effectively render Regulations 10, 11 and 13 redundant because every implementation issue would necessarily require invocation of Regulation 12 relating to amendment of the Regulations. Such an interpretation is contrary to settled principles of statutory construction. In J.K. Cotton Spinning & Weaving Mills Co. Ltd. v. State of Uttar Pradesh, AIR 1961 SC 1170, the Hon'ble Supreme Court held that a construction which renders a provision ineffective or reduces it to a dead letter ought to be avoided and that every provision should be construed so as to give it meaningful operation. Accordingly, Regulations 10, 11 and 13 must be given an independent field of operation distinct from Regulation 12.

5.92. That the grievance raised in the present Petition is limited to practical implementation difficulties arising during operation of the framework. The Petitioners respectfully submit that no regulatory framework, however carefully drafted, can anticipate every practical issue that may arise after implementation. It is precisely for this reason that regulatory frameworks often incorporate provisions relating to relaxation, clarification and removal of difficulties.

5.93. That the Respondents' interpretation effectively collapses Regulation 13 into Regulation 12. Such an interpretation cannot be sustained. The Commission has consciously created separate powers relating to amendment, issuance of procedural directions and removal of difficulties. Each of these provisions must be given an independent field of operation.

5.94. That the Petitioners respectfully submit that the distinction between implementation and amendment has been recognised by the Hon'ble Supreme Court in Mahadeva Upendra Sinai v. Union of India, (1975) 3 SCC 765. The Hon'ble Supreme Court explained the nature and scope of removal of difficulty provisions and recognised that such provisions are intended to facilitate implementation of a statutory framework without altering its essential legislative scheme.

5.95. That the principle laid down in Mahadeva Upendra Sinai applies squarely to the facts of the present case. The Petitioners have identified a practical implementation difficulty arising in operationalisation of banking under Annexure-III. The difficulty identified by the Petitioners does not concern the validity of the framework. Rather, it concerns the manner in which the framework presently operates in practice after grant of Long-Term Open Access.

5.96. That the Petitioners have demonstrated through factual material placed on record that completion of procedural requirements continues even after grant of Long-Term Open Access, resulting in delay in operationalisation of banking. The existence of this implementation issue has not been denied by the Respondents. Their only case is that they lack authority to address it and that the matter falls within the jurisdiction of this Hon'ble Commission.

5.97. That the Respondents have not disputed that the practical difficulty identified by the Petitioners exists. Nor have the Respondents suggested any alternative mechanism whereby the identified difficulty may be addressed within the existing framework. The consistent position adopted in the Reply is merely that the Respondents themselves are not empowered to provide the relief sought and that any such issue falls within the jurisdiction of this Hon'ble Commission. Thus, the existence of the implementation difficulty substantially stands admitted.

5.98. That the objective underlying the GEOA Regulations is promotion and effective utilisation of renewable energy through an efficient Green Energy Open Access regime. Banking is an important component of that framework. Any procedural difficulty that impedes effective operationalisation of banking directly affects achievement of the broader objectives sought to be advanced by the Regulations.

5.99. That the communication dated 09.04.2026 relied upon by the Petitioners also recognises that where difficulties arise in practical implementation of the framework framed by this Hon'ble Commission, stakeholders may approach this Hon'ble Commission for appropriate relief. The present Petition is therefore entirely consistent with the regulatory scheme and the course of action contemplated by the Respondents themselves.

Commission’s Analysis and Order: -

6. The Commission has heard the arguments of the parties at length as well as carefully considered the pleadings of the petitioners, the replies filed by the respondents, the documents placed on record, and the applicable provisions of the Electricity Act, 2003, the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 (‘GEOA Regulations’), and HERC (Conduct of Business) Regulations, 2019.
7. Before proceeding to examine the issues on merits, the Commission considers it appropriate to first adjudicate upon the preliminary objection regarding the maintainability of the present petition.
8. The Commission observes that the Respondents have contended that the present petition, preferred under Section 86(1)(e), 86(1)(f) and 86(1)(k) of the Electricity Act, 2003, is not maintainable, and the respondents are bound to act strictly in accordance with the said Regulations and approved Procedure, and no direction can be issued to process or operationalize banking bypassing, relaxation or dilution of the mandatory procedure prescribed under the HERC Green Energy Open Access Regulations, 2023 and the Procedure/Guidelines for Banking of Green Energy Power approved vide order dated 29.11.2023.
9. The Commission has examined the provisions of Section 86(1)(f) of the Electricity Act, 2003, which empowers the State Commission to adjudicate upon disputes between licensees and generating companies. Further, Section 86(1)(e) of the Electricity Act, 2003 gives mandate to the Commission to promote renewable energy generation and Section 86(1)(k) is a general provision which empowers the Commission to discharge such other functions as may be assigned to it under the act. Similarly, the Commission is empowered under Regulations 65, 66 and 67 of the HERC (Conduct of Business) Regulations, 2019 to issue appropriate orders to secure the ends of justice, prevent abuse of process and adopt such procedure as may be necessary in special circumstances. Further, Regulation 68 empowers the Commission to amend any defect or error in proceedings to determine the real issue involved. The Commission is also vested with inherent regulatory jurisdiction under Regulations 11, 12, 13, 14 and 15 of GEOA Regulations to remove implementation difficulties arising during operationalisation of its Regulations, provided such exercise does not dilute or override the substantive provisions of the Regulations themselves.

10. In the present case, the Petitioners includes generating companies operating a captive renewable energy project, and the issues raised pertain not merely to operational disputes but also to interpretation of regulatory provisions and prayer for relaxation of the Regulations. Such reliefs fall squarely within the domain of the Commission and cannot be effectively adjudicated by any other forum.

11. The Commission observes that the controversy involved in the present proceedings does not relate to the substantive eligibility of Renewable Energy based Captive Generating Plants to avail the banking facility under Regulation 7 of the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 (hereinafter referred to as the "GEOA Regulations"). Rather, the issue for consideration is confined to the procedural difficulties arising during the implementation of Annexure-III prescribing the Procedure/Guidelines for Banking of Green Energy Power. Upon examination of the pleadings, the Commission finds that the Respondent Distribution Licensees have not disputed the existence of the practical difficulties highlighted by the Petitioners. Instead, the Respondents have consistently maintained that they are merely implementing the Procedure as approved by the Commission and are not empowered to deviate therefrom. Significantly, the Respondents have neither demonstrated that the procedural sequencing or the impugned documentation requirements serve any indispensable regulatory objective nor established that their continuation is necessary for safeguarding any substantive requirement under the GEOA Regulations

12. Accordingly, the Commission holds that the present petition, insofar as it invokes powers to relax, removal of difficulties and power to amend enshrined under Regulations 65, 66 and 67 of the HERC (Conduct of Business) Regulations, 2019 as well as Regulations 11, 12, 13, 14 and 15 of GEOA Regulations, is maintainable before this Commission.

    The preliminary objection raised by the Respondents on the ground of maintainability is, therefore, rejected.

13. Having decided the issue of maintainability, the Commission now proceeds to examine the issues falling within its jurisdiction. The Commission observes that the ‘Procedure/Guidelines for Banking of Green Energy Power’ (hereinafter referred to as the ‘Procedure’), approved by the Commission vide its order dated 29.11.2023 does not warrant any further elaboration.

14. The Commission has examined the contention raised by the respondents that the present Petition suffers from non-joinder of necessary parties on account of non-impleadment of Haryana Vidyut Prasaran Nigam Limited ("HVPNL").

15. The Respondents have sought to contend that matters relating to grant of Long-Term Open Access, commencement of Open Access, scheduling, charging code allocation, registration of Qualified Coordinating Agency, injection of power, energy accounting and related operational matters involve HVPNL and/or SLDC and, therefore, the present Petition cannot be effectively adjudicated in the absence of HVPNL.

16. Per-contra, the petitioners have averred that present petition has not been instituted for seeking any relief relating to grant of Long-Term Open Access, grant of connectivity, scheduling approval, charging code allocation, registration of Qualified Coordinating Agency, dispatch operations, grid management or energy accounting methodology. The present petition is limited to the practical difficulties arising out of the 'Procedure' being implemented by the Distribution Licensees in relation to banking applications, banking approvals, banking documentation and commencement of banking.

17. The Commission is unable to accept the objection regarding non-joinder of HVPNL. The reliefs sought in the present petition are confined to the procedural aspects governing the processing and operationalization of banking under the HERC (Green Energy Open Access) Regulations, 2023, and the Petitioners have not sought any substantive relief against HVPNL. The Respondents have also failed to demonstrate as to which of the reliefs prayed for cannot be effectively considered or adjudicated in the absence of HVPNL. A mere reference to Long-Term Open Access or the role of HVPNL as the nodal agency under the regulatory framework does not, by itself, render it a necessary party to the present proceedings. The Commission has also taken into consideration the communication issued by HVPNL to the Petitioner No. 2, vide Memo No. Ch-109/ISB-640A/OA-I dated 17.03.2026, wherein it was categorically stated that in terms of the detailed banking procedure approved by this Commission vide order dated 29.11.2023, the Chief Engineer/System Operation, UHBVN, Panchkula and the Chief Engineer/Commercial, DHBVN, Hisar are the designated Nodal Agencies for matters relating to banking, and that applications seeking banking are required to be received and processed by the concerned Distribution Licensees. HVPNL accordingly advised the Petitioners to pursue the matter with the concerned Distribution Licensees.

18. The aforesaid communication clearly establishes that HVPNL itself has acknowledged that issues relating to the processing and operationalization of banking fall within the domain of the Distribution Licensees. The objection now raised by the Respondents regarding the non-impleadment of HVPNL is, therefore, contrary to the stand taken by HVPNL itself in relation to the very issues forming the subject matter of the present petition.

19. In the absence of any relief claimed against HVPNL, or any issue requiring adjudication of its rights or obligations, the Commission is of the considered view that HVPNL is neither a necessary nor a proper party for the effective adjudication of the disputes involved in the present petition. Accordingly, the objection raised by the Respondents on this ground is devoid of merit and is hereby rejected.

20. The Commission has now proceeded to examine the issues on merit. The Petitioners have submitted that the existing procedural framework requires completion of various sequential compliances after grant of Long-Term Open Access, resulting in delay in operationalisation of banking even though injection of power into the grid and payment of applicable transmission, wheeling and other charges commence immediately upon grant of Open Access. It has further been submitted that the procedural sequencing, coupled with certain documentary requirements, creates an avoidable implementation gap which frustrates the very object of facilitating Green Energy Open Access.

21. The Respondent Distribution Licensees have, on the other hand, submitted that they have merely implemented the Procedure approved by the Commission and possess no independent authority to relax or modify the requirements prescribed under the Regulations or Annexure-III.

22. The Commission is empowered under Regulations 65 of the HERC (Conduct of Business) Regulations, 2019 as well as under Regulations 11, 12, 13, 14 and 15 of GEOA Regulations, to issue appropriate orders to secure the ends of justice, prevent abuse of process and adopt such procedure as may be necessary in special circumstances. Further, Regulation 68 empowers the Commission to amend any defect or error in proceedings to determine the real issue involved. The Commission is also vested with inherent regulatory jurisdiction to remove implementation difficulties arising during operationalisation of its Regulations, provided such exercise does not dilute or override the substantive provisions of the Regulations themselves. The provisions of

the relevant Regulations 11, 12, 13, 14 and 15 of the HERC (Green Energy Open Access) Regulations, 2023, are reproduced hereunder:-

"11. Power to Relax.: The Commission may by general or special order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected may suo moto relax any of the provisions of these regulations or on an application made before it by an interested person.

12. Issue of orders or directions.: Subject to the provisions of the Act and these regulations, the Commission may, from time to time, issue orders and procedural directions with regard to the implementation of these regulations and specify the procedure to be followed on various matters, which the Commission has been empowered by the regulations to direct and matters incidental thereto.

13. Power to amend.: The Commission may, at any time, add, vary, modify or amend any of the provisions of these regulations.

14. Power to remove difficulties.: If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may, by general or special order, make such provisions, which in the opinion of the Commission are necessary or expedient to do so.

15. Savings.: Nothing in these Regulations shall limit the inherent power of the Commission to make such orders as may be necessary to meet the ends of justice or to prevent abuses of the process of law / statutes. Nothing in these Regulations shall bar the Commission from adopting, any other procedure, which may be at variance with any of the provisions of these Regulations, as long as they are in conformity with the provisions of the Electricity Act, 2003 and the policies framed by the Central / State Government thereto."

Further, Regulation 65 of the HERC (Conduct of Business) Regulations, 2019 provide as under:

"Saving of inherent power of the Commission

65. Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for ends of justice or to prevent the abuse of the process of the Commission."

23. After giving a thoughtful consideration to the rival submissions, the Commission notes that Regulation 7 of the GEOA Regulations confers the substantive right of banking upon eligible Renewable Energy based Captive Generating Plants subject to fulfilment of the prescribed conditions. The Procedure contained in Annexure-III has been framed to operationalise the said regulatory provisions and is intended to facilitate implementation of the Regulations rather than to create substantive restrictions beyond those envisaged therein.

24. From the material placed on record, the Commission finds merit in the contention of the Petitioners that certain procedural requirements, particularly the sequential processing of banking applications after grant of Long-Term Open Access and the insistence on certain documentary compliances at different stages, have resulted in practical implementation difficulties. The Commission further observes that these procedural issues neither relate to the substantive eligibility of an applicant nor affect the regulatory safeguards relating to captive status, ownership, banking limits or consumption criteria.

25. The Commission is of the considered view that procedural requirements are intended to facilitate implementation of the Regulations and ought not to operate in a manner which defeats or unnecessarily delays the very benefit sought to be conferred by the Regulations. Where implementation of a prescribed procedure gives rise to genuine practical difficulties without advancing any substantive regulatory objective, the Commission is duty-bound to ensure that such procedural impediments are suitably addressed.

26. The Commission also takes note of the fact that the Petitioners are not seeking waiver of any substantive requirement under the Electricity Act, 2003 or the GEOA Regulations, nor do they seek exemption from verification of captive status or other statutory compliances. Their grievance is confined to rationalisation of procedural sequencing and documentary requirements so that the banking facility becomes operational simultaneously with grant of Open Access.

27. Having considered the entire matter, the Commission is satisfied that the issues highlighted by the Petitioners constitute genuine procedural difficulties affecting effective implementation of the GEOA Regulations and deserve appropriate relief in exercise of the Commission's inherent and procedural powers. Accordingly, in exercise of powers under Sections 86(1)(e), 86(1)(k) of the Electricity Act, 2003 read with Regulation 65 of the HERC (Conduct of Business) Regulations, 2019 and Regulations

11, 12, 13, 14 and 15 of the HERC (Green Energy Open Access) Regulations, 2023, the Commission hereby orders as under:

(i) The Respondent Distribution Licensees shall process applications for banking contemporaneously with the applications for Open Access, without waiting for completion of sequential procedural formalities that are not essential for determining substantive eligibility.

(ii) Submission of proof of filing of the Long-Term Open Access application, together with other available documents, shall be sufficient for processing the banking application. However, no banking arrangement shall become operational unless and until Open Access is granted by the competent nodal agency and all substantive eligibility conditions under the GEOA Regulations stand fulfilled.

(iii) The documentary requirements prescribed under Annexure-III shall be construed pragmatically. Wherever certified copies, digitally authenticated documents or certificates issued by duly authorised professionals adequately establish compliance with the regulatory requirements, insistence upon production of physical originals or repetitive documentation shall be avoided.

(iv) The Distribution Licensees shall not insist upon documents or compliances which are not expressly required under the GEOA Regulations or the approved Procedure, unless the same become necessary for verification in a particular case for reasons to be recorded in writing.

(v) Deficiencies in applications, if any, shall be communicated comprehensively in one instance, as far as practicable, so as to avoid repeated correspondence and consequential delay in operationalisation of banking.

(vi) Banking shall become effective from the same date on which the Long-Term Open Access becomes operational and the charging code is allotted, provided the applicant has complied with all substantive eligibility requirements prescribed under the Regulations and completes the remaining procedural formalities within the period specified by the Distribution Licensee.

(vii) The captive generators applying for banking arrangement shall not be required to give an undertaking not to avail power through short-term open access during the period of long-term open access, and an undertaking confirming non-intermingling of power at the generator, project and consumer end.

(viii) Where an advance security deposit is insisted upon for availing the banking facility, the same shall be computed on a normative basis using the following parameters only:

a) applicable banking charge as specified in the GEOA Regulations;
b) Maximum bankable energy of 30%
c) installed capacity of the generating station;
d) Capacity Utilisation Factor (CUF) projected by the applicant;
e) the applicable PPA tariff.

The advance security deposit shall be purely provisional in nature and shall be subject to adjustment against the actual banking charges determined on the basis of energy banked during the relevant billing cycle. No additional margin or ad hoc loading shall be applied while determining such provisional security deposit.

Accordingly, the following directions are issued on the provisions contained in the 'Procedure':

Sr. No.	**As Provision of the Procedure**	**Revised procedure in line with the directions contained in this order.**
1.	Copy of Open Access approval from nodal agency i.e. HVPNL. page : 66 in Annexure- III	Copy of acknowledgement or reference number evidencing filing of application for Long Term Open Access.
2.	CA certificate for not less than twenty-six per cent of the ownership is held by a single captive user and *signed by the same person who audited the balance sheet,*	Certificate for not less than twenty-six per cent of the ownership is held by a single captive user and by a practicing Chartered Accountant along with membership and UDIN number.
3.	Audited Balance Sheet by CA for the last three financial years (duly certified by Chartered Accountant with his membership number and UDIN Certification), ***in original.***	Copy of audited Balance Sheet by CA for the last three financial years (duly certified by a practicing Chartered Accountant with Membership and UDIN number) and duly signed and stamped in original by the authorised signatory.
4.	Copy of MOA & AOA indicating the list of Directors with their equity share holding pattern duly authenticated / certified by Statutory Auditor (power generation must be mentioned in the nature of business clause).	1. Submission of a duly certified true copy of the Memorandum of Association (MoA) of the Company, clearly evidencing the main objects / nature of business, which shall expressly include 'power generation' where the project is developed through a single-user SPV. The MoA shall be duly authenticated / certified by a practicing Chartered Accountant along with membership and UDIN number.

		2. A certificate containing the latest list of Directors and equity shareholding pattern, duly authenticated / certified by a practicing Company Secretary containing Membership Number and UDIN.
5.	Current Ownership details of Company along with equity share holding with voting rights duly certified by company secretary (with his membership number and UDIN Certification).	Current Ownership details of Company along with equity share holding with voting rights duly certified by a practicing company secretary ~~(~~with membership number and UDIN Certification~~)~~.
6.	Board Resolution Ref: Annexure III – requirement of Board Resolution(s) for submission of applications, execution of agreements and compliances before HVPNL / DISCOMs	A single, duly passed and certified Board Resolution, authorizing a designated signatory to represent, sign, submit, file, and execute all documents, applications, agreements, and related instruments on behalf of the Company (clearly identifying the project entity), for all purposes under the 'Procedure'.

The Commission clarifies that this Order does not amend Regulation 7 or any substantive provision of the HERC (Green Energy Open Access) Regulations, 2023. This Order merely removes practical implementation difficulties arising from procedural sequencing so as to give full effect to the object and intent of the Regulations.

It is, however, clarified that the directions issued herein are prospective in operation. Accordingly, this Order shall govern all applications for banking and Green Energy Open Access processed on or after the date of issuance of this Order. **All pending applications seeking approval for banking shall be disposed of within a period of two weeks from the date of issuance of this Order, strictly in accordance with the directions and stipulations contained herein.**

The present Order shall not confer any right to claim retrospective banking, scheduling, adjustment or settlement of energy already injected into the grid prior to the date of this Order, where such energy could not be banked, settled or credited on account of procedural deficiencies, delay in grant of Open Access, execution of banking agreements, completion of documentation, non-availability of applicable operational procedures, or any other implementation-related issues prevailing prior to issuance of this Order. Any such claims, if raised, shall be governed by the regulatory framework and contractual arrangements applicable during the relevant period and shall not be reopened by virtue of this Order.

The petition is accordingly allowed to the aforesaid extent and stands disposed of along with all pending interlocutory applications, if any.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 26.08.2026.

	Sd/-	**Sd/-**
Date: 26.08.2026	**(Shiv Kumar)**	**(Mukesh Garg)**
Place: Panchkula	**Member**	**Officiating Chairman**