

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SITE NO. 3, BLOCK B, SECTOR 18-A, MADHYA MARG, CHANDIGARH

Petition No. 36 of 2021
Date of Order: 13.10.2021

Petition under clause 86 (1) (e) and 94 (1) (f) of EA 2003 & clause 3(2), 6(2) & 7 of the PSERC (RPO & its compliance) Regulations, 2011 issued vide Notification No. PSERC/Secy./Reg/55 dated 03.06.2011 for carrying forward of surplus Renewable Purchase Obligation (RPO) of FY 2020-21 to FY 2021-22 and to reduce the RPO targets specified in Clause 3 (1) for Non-Solar and Solar Power for FY 2021-22 by 0.3% and 1.5% respectively on account of unprecedented conditions due to the spread of second wave of COVID-19.

AND

In the matter of: Punjab State Power Corporation Ltd. (PSPCL),
The Mall, Patiala.

...Petitioner

Punjab Energy Development Agency,
Sector-33D, Chandigarh.

...Respondent

Present: Mr. Viswajeet Khanna, Chairperson
Ms. Anjuli Chandra, Member
Mr. Paramjeet Singh, Member

ORDER:

1. The Petitioner has filed the present petition seeking carry forward of cumulative excess of 260.29 MU for Non-Solar and 446.64 MU for Solar RPO of FY 2020-21 to FY 2021-22 and to reduce the RPO targets fixed for the FY 2021-22 by 0.3% and 1.5% for non-solar and solar respectively on account of prevailing COVID Pandemic. The submissions made by the petitioner in brief are as under:

a) The Government of Punjab has imposed restrictions on movement of the public and opening of offices, other establishments etc. to contain the spread of COVID pandemic. In this time, PSPCL is committed to provide uninterrupted and round the clock supply to all consumers including health care Institutions across the State. The spread of pandemic and consequential lockdowns are wreaking havoc upon financial health of PSPCL.

b) The Commission in Suo-Motu Petition No. 12 of 2020, had allowed a reduction in the RPO targets by 3.5% (both for solar and non-solar combined) or the FY 2020-21 after carry forward of shortfall of FY 2019-20 to FY 2020-21 in view of the Pandemic. PSPCL has considered reduction of RPO targets to the tune of 1.8% for Non-Solar and 1.7% for Solar which has been also specified in the Tariff Order dated 28.05.2021. The revised RPO Targets for PSPCL after considering this are as under:

Year	Non-Solar (%)	Solar (%)	Total (%)
2020-21	4.7	3.3	8.0
2021-22	8.0	6.5	14.5

c) Considering input energy and hydel energy as per tariff order dated 28.05.2021 and available actual figures of RE generation for FY 2020-21, the non-solar and solar RPO compliance comes to be surplus of 260.29 MU and 446.64 MU respectively. However, PSPCL is expected to have a shortfall during the FY 2021-22.

d) While it has been the best endeavor of PSPCL to ensure the compliance of the RPO targets, but difficulties are being experienced for achievement of the said targets due to

prevailing circumstances of COVID Pandemic. PSPCL on its part has acted in a bonafide manner and made all efforts to procure RE energy for fulfilment of RPO target fixed by PSERC. Following initiatives have been take to meet the targets:

- i. PSPCL has participated through a trader M/s PTC India Ltd. in a tender enquiry floated by HPSEBL & has been awarded 129.60 MUs of Non-Solar Night Power @ Rs. 4.002/kWh for the period from 8th June, 2021 to 31st August, 2021 and also 331.92 MUs of Non-Solar Power Round the Clock (RTC) @ Rs. 4.002/kWh for the period from 8th June, 2021 to 31st August, 2021.
 - ii. PSPCL signed PSA dated 25.03.2019 for procurement of 300 MW Solar Power on long term basis with NTPC with scheduled COD as 7th April 2021 expecting generation of 762 MUs Solar Power during the FY 2021-22.
 - iii. PSPCL has signed PSA dated 03.01.2020 for procurement of 500 MW Hybrid (Wind/ Solar) Power on long term basis with SECI with scheduled COD as 15th July 2021 expecting generation of 920 MUs Solar Power & 230 MUs Non solar Power during FY 2021-22.
- e) The second wave of COVID pandemic proved highly disastrous and the pandemic is likely to continue for some more time during FY 2021-22. In view of the prevailing circumstances throughout the State of Punjab and India, despite the best efforts of PSPCL to procure NRSE Power, it has faced constraints in meeting RPO targets as availability of RE power from such power projects for which PSPCL has signed PSAs has been delayed. The PSAs signed with NTPC and SECI

could not be commissioned on time as they were under litigation before CERC and Hon'ble APTEL respectively.

- f) PSPCL is expected to have a shortfall of 357.95 MUs (Non-Solar) and 1110.68 MUs (Solar) RPO during the FY 2021-22. After adjusting the carry forward of FY 2020-21 to FY 2021-22, the shortfall is expected to be of 97.66 MU (Non-Solar) and 664.04 MU (Solar).
- g) Purchasing of RECs/short term RE Power to meet the shortfall in RPOs shall impose huge financial burden on PSPCL and consumers of Punjab who are already suffering due to COVID Pandemic.
- h) In terms of RPO Regulations, the Commission exercises wide powers. The Commission under Regulation 3(2) of RPO Regulations has the power to revise the RPO targets for any year for such reasons as deemed appropriate. Further in terms of 2nd Proviso to Regulation 6(2) the Commission is also empowered to carry forward the compliance requirement to the subsequent years. It is further submitted that independent of the above two provisions in terms of Regulation 7, the Commission has inherent powers to pass such orders in the interest of the justice as deemed appropriate.

2. The petition was taken up for hearing on admission on 30.06.2021 and PSPCL was directed to submit the justification for reduction in RPO. In compliance to thereof, PSPCL vide reply dated 23.07.2021 submitted as under:

- a) The estimated shortfall in RPO is primarily on account of the Covid outbreak and the consequential impact on movement of goods/equipment, court proceedings etc., there have been substantial delays in the commissioning of various projects.

MNRE vide Office Memorandum dated 13.08.2020 had also decided that all RE projects under implementation as on the date of lockdown i.e. 25.03.2020, through RE implementing agencies designated by MNRE or under various schemes of MNRE shall be given five months extension from 25.3.2020 to 24.08.2020. Similarly, due to second wave of COVID-19, MNRE prescribed a time extension from 01.04.2021 to 15.06.2021.

- b) If the contracted projects had materialized as per their schedule it would have led to an addition to (762+920) solar MU (3.8%) as well as 230 non-solar MU (.05%), which would have allowed to PSPCL to meet its RPO obligations for FY 2021-22 in line with RPO trajectory determined by the Commission.
- c) The trading in RECs has been suspended w.e.f. July 2020 on account of Stay Order dated 24.07.2020 issued by Hon'ble APTEL in relation to fixing floor and forbearance prices of RECS by CERC, which affected PSPCL to meet its RPO obligations.
- d) The excess/surplus non solar quantum of RPO also includes short term RE power (hydel) of 188.64 MU.

3. The petition was admitted vide Order dated 13.08.2021 with directions to implead PEDDA as a respondent. PEDDA filed its reply dated 26.08.2021 stating as under:

- a) Each year the Commission fixes a target for compliance of RPO by all the obligated entities in the State of Punjab including but not limited to the petitioner.
- b) It is an undisputed fact that the Commission is vested with the powers to fix/revise the RPO targets for any year for such reasons as deemed appropriate in terms of Regulations 3(2) of PSERC RPO Regulations,

2011. However, a parity requires to be maintained qua all the obligated entities as the revision of the targets cannot be made only in case of the petitioner disregarding the others, especially when the primary reason for revision of the target is the unwarranted occurrence of Covid. Being the nodal agency for REC in the State designated by the Commission, PEDDA submits that, in case deem fit, the revision of RPO targets for FY 2021-22 be carried out for all the obligated entities including the State utility PSPCL to maintain parity on the issue.

- c) Regarding carry forward of excess RPO of FY 2020-21 to FY 2021-22, no such enabling provision exists in the prevailing/applicable laws.

4. PSPCL filed rejoinder dated 13.09.2021 to the PEDDA submissions. In addition to reiterating its submissions made in the petition, PSPCL submitted as under:

- a) Regarding the contention of PEDDA that consistency needs to be maintained in respect of RPO for each of the obligated entities, the same is the subject matter of the Commission.
- b) PSPCL craves leave to refer to the decision of Uttarakhand Electricity Regulatory Commission vide its Order dated 09.10.2019 in Petition No. 29 of 2019 wherein request for carry forward of surplus RPO was allowed.

5. After hearing the parties on 15.09.2021, the Commission vide Order dated 20.09.2021 reserved the order.

6. Findings and Decision of the Commission

The Commission has carefully gone through the petition, reply of PEDDA, rejoinder by the petitioner and arguments made by the

parties. The findings and decision of the Commission are as under:

In reference to PSPCL's prayer seeking carry forward of excess of RPO of FY 2020-21 to FY 2021-22 and to reduce the RPO targets fixed for the FY 2021-22 on account of prevailing COVID Pandemic, PEDDA submitted that it is an undisputed fact that the Commission is vested with the powers to fix/revise the RPO targets for any year for such reasons as deemed appropriate in terms of Regulations 3(2) of PSERC RPO Regulations. However parity requires to be maintained qua all the obligated entities. PEDDA further contended that no provision exists in the prevailing/applicable laws regarding carry forward of excess RPO of FY 2020-21 to FY 2021-22.

The Commission observes that catastrophic events like the spread of the Covid-pandemic are rare and once in a century events. To control the spread of same in the country, the Govt. of India as well as the State Governments, including Punjab, imposed restrictions on the movement of public and on the opening of offices and establishments etc. As a result, availability of RE power from various RE projects and Solar Rooftop schemes under implementation got delayed. Considering the adverse impact of the lockdown imposed by the governments, MNRE allowed extension to all RE projects under implementation through RE Implementing Agencies designated by the MNRE or under various schemes of the MNRE initially by five months from 25.03.2020 to 24.08.2020 and then for two and a half months from 01.04.2021 to 15.06.2021 vide its office memorandum dated 13.08.2020 and 29.06.2021 respectively.

The Commission also takes note of the efforts being made by PSPCL to contract/procure RE energy from various sources for fulfilment of RPO targets. Thus, in view of the hardships

faced by the obligated entities due to the lockdowns imposed by the Governments to prevent the spread of Covid-19 pandemic, the Commission is inclined to consider reduction in RPO targets for FY 2021-22. Regarding the issue of carry forward of the surplus after RPO compliance, the Commission records that the surplus occurred due to the reduction of RPO targets in the previous year as per the directions issued by the GoP under section 108 of the Electricity Act, 2003. This fact has been acknowledged by the petitioner PSPCL. However, taking a holistic view, the Commission refers to Regulation 7 of Punjab State Electricity Regulatory Commission (Renewable Purchase Obligation and its compliance) Regulations, 2011, which specifies as under:

“7. Inherent powers of the Commission

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

Therefore, the provision exists in the RPO Regulations for use of the inherent powers by the Commission to make such orders as may be necessary for meeting the ends of justice.

The Commission notes PSPCL's submissions that it is expected to have a shortfall of 357.95 MUs (Non-Solar) and 1110.68 MUs (Solar) RPO during FY 2021-22. However, after adjusting the carry forward of FY 2020-21 to FY 2021-22, the shortfall is expected to be of 97.66 MU (Non-Solar) and 664.04 MU (Solar). It is felt that purchasing of short term RE Power to meet with the shortfall in RPOs shall impose a huge financial

burden on PSPCL and consumers of Punjab who are already suffering due to COVID Pandemic. It is also not possible to purchase RECs currently due to the stay imposed on trading of RECs by Hon'ble APTEL.

Keeping in view the above and in view of the difficulties faced by the obligated entities as well as consumers of the Punjab on account of the lockdowns imposed to prevent the spread of COVID Pandemic, the Commission, in exercise of its powers conferred under Regulation 3(2) and 7 of the RPO Regulations, finds it prudent to allow PSPCL's prayer to carry forward the surplus after compliance of RPO of FY 2020-21 to FY 2021-22 and reduction of RPO targets fixed for FY 2021-22. The reduction in the RPO targets for FY 2021-22 by 0.3 % for Non Solar and 1.5% for Solar, shall be applicable to all the obligated entities in the State.

However, in order to ensure maximum RPO compliance, PSPCL shall endeavour to evacuate all the RE Power made available from its various contracted sources keeping in view their must run status. The curtailment/back down of the same would be permissible only in the event(s) and in the manner as specified in the respective Agreements read with the provisions of the State Grid Code Regulations.

The petition is disposed of accordingly.

Sd/-

(Paramjeet Singh)
Member

Sd/-

(Anjuli Chandra)
Member

Sd/-

(Viswajeet Khanna)
Chairperson

Chandigarh

Dated: 13.10.2021