

**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SCO NO. 220-221, SECTOR 34-A, CHANDIGARH**

**Petition No. 33 of 2013
Date of hearing: 23.07.2013
Date of Order: 25.07.2013**

In the matter of: Petition for Carry Forward of Compliance of Renewable Purchase Obligation (Solar & Non-Solar REC"s) under 1st provision of Regulation 6(2) of RPO (Renewable Purchase Obligation) regulations.

AND

In the matter of: Indian Yarn Limited through Shri B.P. Sharma, H.No. 3848, Top of Health Club, Rian Mohalla Machhiwara, Distt. Ludhiana

Present: Smt.Romila Dubey, Chairperson
Shri Virinder Singh, Member
Shri Gurinder Jit Singh, Member

For the petitioner: Shri B.P. Sharma

For PSPCL: Shri Sanjeev Gupta, S.E/TR-2
Shri A.K. Vij, Addl.S.E /IPC

For PEDA: Shri Rajesh Kohli, System Engineer

ORDER

Indian Yarn Limited has filed this petition for carrying forward of compliance of Renewable Purchase Obligation(RPO), Solar & Non-Solar, under 1st proviso of Regulation 6(2) of the Punjab State Electricity Regulatory Commission (Renewable Purchase Obligation and its compliance) Regulations, 2011 (RPO Regulations, 2011). The petitioner has submitted that it started purchasing power through Open Access in November, 2012 and placed bid for purchase of Solar & Non-Solar Renewable Energy Certificates (RECs) in the Indian Energy Exchange on 28.03.2013, for fulfilling RPO for the year 2012-13. As a proof thereof, the petitioner has also attached a copy of the communication (E-mail) sent for the purpose. It has been further submitted that due to unknown reasons, the bid could not be registered. Accordingly, the petitioner has requested the Commission for exemption to purchase Solar & Non-Solar RECs for complying with the RPO for the year 2012-13 and

allowing the same to be carried forward to the next year i.e. FY 2013-14 to avoid levy of penalty without any fault on its part.

2. The Commission vide Order dated 14.06.2013 admitted the petition and made Punjab State Power Corporation Ltd. (PSPCL) and Punjab Energy Development Agency (PEDA) as respondents and while issuing Notice directed the respondents to file reply to the petition by 16.07.2013.

3. PSPCL submitted reply vide CE/ARR & TR memo no. 5941/TR-5/581 dated 15.07.2013 and PEDA submitted its reply vide memo no. 2401-3 dated 16.07.2013. The arguments of the petitioner, PSPCL and PEDA were heard by the Commission on 23.07.2013. During the hearing on 23.07.2013, the petitioner requested the Commission to allow carry forward of the RPO compliance for FY 2012-13 to FY 2013-14 and that compliance of the same would be made by 31.12.2013.

4. PSPCL in its reply dated 15.07.2013, submitted that under 1st proviso of Regulation 6(2) of the RPO Regulations, 2011, in case of genuine difficulty because of non-availability of RECs or otherwise, the obligated entity (petitioner) can approach the Commission for carrying forward of RPO compliance to the next year and that under 2nd proviso the Commission is empowered to allow carry forward of the RPO compliance to the next year in addition to the RPO for that year. PSPCL has further submitted that the Commission vide Order dated 28.03.2013 has allowed the obligated entities (other than PSPCL) to carry forward the shortfall in Solar RPO compliance for FY 2012-13 to the next year i.e. FY 2013-14, in addition to the RPO (Solar) for next year.

5. PEDA in its reply dated 16.07.2013, while referring to the aforementioned Order of the Commission dated 28.03.2013 submitted that the same is applicable in the petitioner's case in respect of Solar RPO. For compliance of Non-Solar RPO by the petitioner, referring to the relevant Regulation 6 of the RPO Regulations, 2011, PEDA submitted that the petitioner can be allowed to carry forward the compliance of RPO, either due to genuine difficulty due to non-availability of certificates or keeping in view the performance, citing the petitioner's effort to purchase RECs on 28.03.2013. PEDA has further submitted that as per the above Regulations, the petitioner can also be directed to deposit the cost of RECs not purchased, in a separate account and direct the State Agency to procure the RECs on petitioner's behalf. PEDA further submitted that Non-Solar RECs are trading at the minimum floor price of ₹1500 per REC for the last many months and around 20 lac RECs are available for sale against the buy bids varying from 50,000 to 75,000 only and this

trend is likely to continue in future also. PEDDA has also submitted that the petitioner can be directed to purchase Non-Solar RECs on the next bidding date in case the Commission allows carry forward of the Non-Solar RPO to the next year i.e. FY 2013-14.

6. The Commission notes that under the RPO Regulations, 2011, the obligated entities i.e. the Distribution Licensee(s), Open Access customers and Captive Power consumers /producers are required to comply with the RPO specified in the said Regulations. The Commission has specified the RPO (Solar & Non-Solar) for the years 2011-12 to 2014-15 in the ibid Regulations. The Commission also notes that if the obligated entity does not fulfil the renewable purchase obligation as provided in RPO Regulations, 2011, the Commission may direct the obligated entity to deposit into a separate fund, to be created and maintained by such obligated entity, such amount as the Commission may determine on the basis of the shortfall in units of renewable purchase obligation and the forbearance price of RECs decided by the Central Commission. The Commission further notes that if an obligated entity fails to comply with the prescribed RPO, either through purchase of renewable energy or RECs, it is liable for penalty under Section 142 of the Electricity Act, 2003 under Regulation 6 (2). However, in terms of the first proviso, in case of genuine difficulty because of non-availability of RECs or otherwise, the obligated entity can approach the Commission for carrying forward of RPO compliance to the next year and the second proviso enables the Commission to provide relief in such circumstances. Regulation 6, 'Effect of default', reads as hereunder:

- (1) *“If the obligated entity does not fulfil the renewable purchase obligation as provided in these Regulations during any year and also does not purchase the certificates, the Commission may direct the obligated entity to deposit into a separate fund, to be created and maintained by such obligated entity, such amount as the Commission may determine on the basis of the shortfall in units of renewable purchase obligation and the forbearance price decided by the Central Commission;*

Provided that the fund so created shall be utilized, as may be directed by the Commission, for purchase of the certificates;

Provided further that the Commission may empower an officer of the State Agency to procure from the power exchange the required number of certificates to the extent of the shortfall in the fulfilment of the obligations, out of the amount in the fund;

Provided also that the distribution licensee shall be in breach of its licence conditions if it fails to deposit the amount directed by the Commission within 15 days of the communication of the direction.

- (2) *Where any obligated entity fails to comply with the obligation to purchase the required percentage of electricity from renewable energy sources or the renewable energy certificates, it shall also be liable for penalty as may be decided by the Commission under section 142 of the Act;*

Provided that in case of genuine difficulty in complying with the renewable purchase obligation because of non-availability of certificates or otherwise, the obligated entity can approach the Commission for carrying forward of compliance requirement to the next year;

Provided that on being so approached, the Commission may review the fulfillment of the renewable purchase obligation by the obligated entity, keeping in view its performance and allow the shortfall to be carried forward to the next year in addition to the renewable purchase obligation for that year. At the end of 3 years period, the Commission may, if deemed appropriate, review the fulfillment of renewable purchase obligation by the obligated entity and pass suitable order(s);

Provided that where the Commission has consented to the carry forward of compliance requirement, the provision of clause (1) of the Regulation or the provision of section 142 of the Act shall not be invoked.”

7. The Commission notes that RPO can be met either through purchase of renewable energy from respective sources or purchase of respective RECs from the Power Exchanges. As obligated entities other than the distribution licensee(s) would require only a small quantum of electricity from renewable energy source(s) for fulfilment of their RPO, although not brought out in the submissions, the Commission feels that it may not be feasible for the petitioner to arrange small quantum of electricity from renewable energy power projects for the purpose and would rather meet their RPO through purchase of RECs.

8. The Commission has examined the request of the petitioner for allowing it to carry forward the compliance of Solar and Non-Solar RPO for the year 2012-13 to the next year (FY 2013-14). The Commission notes that the attempt of the petitioner to purchase RECs at Indian Energy Exchange, New Delhi on 28.03.2013 was belated as the same happened to be the last day of trading RECs for FY 2012-13. Also the petitioner appears to have not made any attempt to purchase RECs from the Power Exchange of India Ltd., Mumbai, the other Power Exchange operating in the country. The Commission is of the view that the petitioner should have endeavoured

to act in-time to ensure purchase of required quantity of RECs to comply with the respective Solar and Non-Solar RPO.

9. The Commission further notes that in the past, on representations made by the Open Access customers, it has in its Orders dated 22.03.2012 and 28.03.2013 allowed the obligated entities other than PSPCL to carry forward the shortfall in the compliance of Solar RPO for the year FY 2011-12 to next year i.e. FY 2012-13 and for the year FY 2012-13 to next year i.e. FY 2013-14 respectively, in addition to the Solar RPO for the particular next year. The Commission also notes that vide its Order dated 04.05.2012 in petition no. 7 of 2012 filed by PSPCL, it allowed PSPCL to carry forward the shortfall in compliance of the RPO for FY 2011-12 to the next year i.e. FY 2012-13, in addition to the RPO specified for that year.

10. In this regard, the Commission also notes that the Central Electricity Regulatory Commission vide its Order dated 11.02.2013 in petition no. 266/SM/2012, has extended the validity of RECs for one more year and the RECs issued on and after 01.11.2011 shall remain valid for a period of 730 days from the date of issuance, primarily to prevent the RECs from lapsing in view of sluggish market demand. The net effect of the CERC direction is that the RECs would now be available for trading for a longer period. It has been stated that CERC in its Order dated 19.12.2012 took cognizance of the lapsing of RECs arising out of the non-redemption within the permissible timeline, apparently due to reluctance/apathy of the distribution licensees to purchase the RECs to meet their RPO.

11. Accordingly, in exercise of the powers vested with the Commission under Regulation 6(2) and upholding the principle of equity and considering that the validity of RECs has been extended by CERC to 730 days, the Commission allows the petitioner to carry forward the Non-Solar RPO compliance for FY 2012-13 to the next year i.e. 2013-14, in addition to the RPO for the next year, either through purchase of electricity generated from renewable energy power projects or RECs, the extension for Solar RPO compliance having already been allowed in the Order dated 28.03.2013. However, the petitioner is directed to comply with the Non-Solar and Solar RPO for the year FY 2012-13, allowed herein above and in Order dated 28.03.2013 respectively to be carried forward to the next year i.e. FY 2013-14, by 31.12.2013 positively failing which further action as per the Regulations may be initiated.

12. The petitioner is further directed to submit the RPO compliance report (Solar and Non-Solar) for FY 2012-13 and FY 2013-14 at the end of each quarter to PSPCL and PEDDA in the first week of the month following each quarter.

13. As regards PEDDA's suggestion for exercising the option by the Commission to direct the petitioner to deposit the amount (equivalent to the shortfall in RPO compliance at the forbearance price of the RECs) by creating a separate fund for purchasing the requisite quantum of RECs, as per provision in Regulation 6(1) of the RPO Regulations, 2011 wherein an official of the State Agency can be empowered by the Commission to purchase RECs on petitioner's behalf, the Commission would look into the option at the appropriate time in case of non-compliance/ repeated default of the RPO Regulations, 2011 by the petitioner/obligated entities.

14. The Commission takes this opportunity to direct the Distribution Licensee PSPCL, entrusted with ensuring the RPO compliance by the obligated entities being its consumers and PEDDA, the State Agency, mandated to monitor the specified RPO compliance by the obligated entities in the State to strictly implement the provisions of the RPO Regulations and get the RPO compliance by the obligated entities fully effected.

The petition is disposed of accordingly.

Sd/-
(Gurinder Jit Singh)
Member

Sd/-
(Virinder Singh)
Member

Sd/-
(Romila Dubey)
Chairperson

Chandigarh
Dated: 25.07.2013