

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

Petition No. 33 of 2019
Date of Order: 17.03.2020

Petition under Regulation 6(2) and Regulation 7 of the PSERC (Renewable Purchase Obligation and its compliance) Regulations, 2011 for permission to carry forward the Renewable Purchase Obligation of the petitioner upto the year 2016-17 to the next Financial Year i.e. 2020-21.

AND

In the matter of : Punjab Alkalies & Chemicals Limited, S.C.O. 125 –127,
Sector 17 B, Chandigarh through, its Deputy Manager
(Accounts & Legal), Sh. Sanjeev Swatantra.

....Petitioner

VERSUS

Punjab State Power Corporation Ltd., The Mall, Patiala

.....Respondent

Present: Ms. Kusumjit Sidhu, Chairperson
Sh. S.S. Sarna, Member
Ms. Anjuli Chandra, Member

ORDER

Punjab Alkalies & Chemicals Ltd. (PACL) has filed the present petition for permission to carry forward its Renewable Purchase Obligation (RPO) upto the year 2016-17 to the next Financial Year i.e. 2020-21. PACL has submitted that it is a 66 KV Large Supply consumer of Punjab State Power Corporation Ltd (PSPCL) under Nangal Sub Division/Anandpur Division/Ropar Circle having Account No R15-NL01-00003 with Connected Load of 58876 KW and Contract Demand of 40000

KVA. PACL was promoted by the Punjab State Industrial Development Corporation Limited (PSIDC) for boosting industrialization and welfare of the State. The plant setup by PACL also produces by - products like Chlorine gas, Hydrogen Gas and Sodium Hypochlorite etc. PACL has been providing direct employment to about 416 persons, catering to their families and indirect employment avenues to more than 375 persons. PACL is also supporting transporters of the Nangal area and is paying about Rs.40.00 Crore per annum towards freight and is thus making a substantial contribution to the economic and social development of the State.

2. PACL further submitted that as per the Renewable Purchase Obligation Regulations of the Commission and the order dated 15.05.2015 passed by the Commission in Petition No. 18 of 2015, PACL is required to purchase Non Solar and Solar RECs as per a specified percentage for the quantum of power purchased under open access. The liability of RECs to be purchased works out to 1908.55 and 8817.19 solar and non solar RECs respectively. PACL has also received a notice dated 29.11.2019 from PSPCL to comply with RPO by purchasing requisite RECs before 31.12.2019. PACL submitted that its inability to fulfill its RPO is unintentional and bonafide and prayed to be allowed to carry forward its RPO upto the year 2016-17 to the next financial year i.e. 2020-21 on the following grounds:-

- i) That initially, PACL was operating in profit when the power availability with PSPCL was mainly from cheap hydro sources and rates of power were lower. However, later on, the cost of power started increasing as the coal based power share started increasing. During the years 2004 to 2005, the rate of Power for

Power Intensive Units in Punjab was Rs 3.83 per kWh which was the lowest in the Country. However, the Power tariff at present for PACL works out to Rs. 6.58 per kWh (with subsidy of GOP) which is virtually among the highest in the country due to GOP duties and fees.

- ii) That PSPCL allowed open access to industries in the year 2010-11 and PACL started availing open access power from power exchange. Due to the availability of power at cheaper rates by way of open access, PACL survived for some years. However, due to increase in open access charges and imposition of cross subsidy surcharge and later Additional Surcharge, the drawal of power from open access had become unviable being costlier in nature. Due to continuous increase in the tariff and unviable open access power, PACL could not compete with Chlor Alkali manufacturers of other states and it turned into a loss making company. The losses suffered by PACL in 2009-10, 2010-11, 2013-14 and 2014-15 (9 months ended 31.12.2014) are Rs. 22.41 crores, Rs.24.28 crores, Rs. 9.57 Crores, and Rs.8.50 Crores (approx.), respectively. The accumulated losses suffered by PACL till 31st December, 2014 rose to more than Rs.54.90 Crores and in this scenario the very survival of PACL was at stake.
- iii) That PACL for the year 2011-12 to 2013-14 somehow, managed to purchase Non-Solar RECs, however, being into losses, it could not fulfill its complete RPO obligation by purchasing RECs for the year 2014-15. Consequently, PACL preferred a petition before the Commission seeking carry

forward of the shortfall in RPO compliance both Solar and Non-Solar for FY 2014-15 to 2015-16.

- iv) That in 2015-16, PACL had become a Sick Industrial Company and Company's reference u/s 15(i) of Sick Industrial Company (Special Provisions) Act, 1985 had been registered by the Board for Industrial and Financial Reconstruction as BIFR Case No. 152/2015. The financial position of PACL became so precarious that it could not deposit Advance Consumption Deposit (ACD) and pay its power bills to PSPCL and had to defer the power bills for the months of September, October and November, 2015 to keep the plant running. PACL uses power as a raw material and power cost constitutes about 60% of the total cost of production.
- v) That PACL survived by severe reduction in man power and economy on other expenditure and restructuring of outstanding loans etc. In May, 2018, PACL entered into One Time Settlement (OTS) with PSPCL under its OTS scheme whereby PACL is paying old ACD amount and the deferred power bills amounting to about Rs.60 Crores in 36 monthly instalments which will continue till June, 2021.
- vi) That thereafter, the financial position of PACL had turned to be in a temporary favourable trend, as it earned net profit, after tax, of Rs.55.86 Crores in Financial Year 2018-19 and Rs.10.60 Crores for the half year ended 30th September, 2019. In order to economise its plant operations and to stay competitive in the market, PACL renovated /modernised its plant, as this expenditure was very critical as the condition of the plant had

deteriorated and its plant and machinery had become out-dated and had out lived its life. Otherwise it would have led to closure of the plant. As a result of modernisation, the power consumption will decrease to 2300 units PMT of caustic soda from existing level of 2750 units. Thus, PACL will operate at 300 TPD with 2300 kWh per MT of Caustic soda. PACL has also added new brine system, rectifiers and boiler and also replaced pipes and Valves etc. All this will decrease the cost of production of PACL by approx. Rs.3000 per MT and it will also result in increase in production capacity leading to increased profits.

- vii) That the above investment is being carried out under the Industrial and Business Development Policy, 2017 and the operational guidelines of the Industrial Policy. PACL is eligible for various Fiscal Incentives and Other support measures from the date of starting of commercial production i.e. from 19.12.2019 which includes exemption of Electricity Duty, reimbursement of 25% of Net GST and Recruitment incentive to the tune of approx. Rs.36 Crores Per Annum.
- viii) PACL is in process of entering into an Annual Agreement with M/s CONCOR for transporting Salt from Gujarat to the Factory premises of PACL w.e.f 01.04.2020 which will considerably reduce the freight cost and will result in saving of about Rs.10 Crores Per Annum. All these measures will generate additional cash flows in future since the commercial production has already been started from 19.12.2019.

- ix) That due to the monthly pay out for previous liabilities settled under OTS of power bills and slowdown in the economy, PACL had incurred loss in the 2nd Quarter of 2019-20 and this loss may continue in the 3rd Quarter also. PACL has accumulated losses of Rs.37.70 crores as on 30th September, 2019. However, with the incentives available under Industrial and Business Development Policy, 2017 and other savings due to improved and efficiency gains, the company is likely to come out of the loss cycle in near future. PACL could not comply with the earlier directions for meeting with the shortfall for the year 2014-15 by 31.07.2015 and nor could make out its renewable purchase obligation for subsequent years up till 2016-17, as the situation and the unfavourable circumstances were completely beyond its control. PACL has not purchased power under open access from 01.09.2016 onwards and is drawing all its power from PSPCL. The financial condition of PACL is gaining momentum each day and it is very certain that soon PACL will be able to spare funds to meet with its RPO shortfall.
- x) That the Commission, from time to time, while exercising its powers has been allowing extension/ carry forward for fulfillment of shortfall of RPO to PSPCL and other obligated entities. Keeping in view the genuine difficulties being faced by PACL, the Commission is empowered to carry forward the shortfall in the RPO as per the RPO regulations. PSPCL and PEDDA are not affected financially or otherwise if such carry forward is granted to the PACL.

3. Notice of hearing of the petition was sent to PSPCL & Punjab Energy Development Agency (PEDA). After hearing the petitioner, the petition was admitted vide order dated 16.01.2020, further directing PSPCL & PEDA to file its reply, if any, by 20.01.2020.

3.1 PSPCL filed its reply to the petition and submitted that as per Regulation 42 substituted in the 7th Amendment in the PSERC (Terms & Conditions for Intra-State Open Access) Regulations, 2011, dated 03.02.2016, and the directions received from the Commission, PSPCL had asked PACL to comply with RPO by purchasing requisite RECs. The Punjab State Electricity Regulatory Commission in PSERC (Renewable Purchase Obligation and its compliance) Regulations-2011 (RPO Regulations, 2011) & amendment no. 1 & 2 dated 6th May, 2015 & 2nd January, 2019 specified the Renewable Purchase Obligation for the various obligated entities from FY 2011-12 to FY 2022-23. The Regulation 3 of RPO Regulations, 2011 provided that every obligated entity shall purchase electricity from renewable energy sources including solar, not less than a percentage specified by the Commission from time to time, of its consumption of electricity (energy input in the system of obligated entity at its boundary) under the Renewable Purchase Obligation (RPO). The Regulation 6 (2) of RPO Regulations, 2011 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. In view of the above Regulations, it is the privilege of the Commission to decide such cases as per RPO Regulations,

2011 to allow obligated entities to carry forward the RPO compliance to next year in addition to the Renewable Purchase Obligation for that year.

4. PEDDA filed its reply and submitted that PACL had earlier filed petition no. 18 of 2015 for carry forward of RPO impleading PEDDA as a Respondent. PEDDA is acting as State Nodal Agency under RPO Regulations notified by the Commission. Accordingly, PEDDA is monitoring the compliance of RPO by obligated entities. PACL is an obligated entity for power purchased through Open Access. The energy availed by PACL under Open Access is to be verified by PSPCL and REC's purchased are verified by PEDDA from the data made available on line by REC Registry of India. The said Petition was disposed of by the Commission vide order dated 15.05.2015 and while declining the request made by PACL directed PACL to fulfill the shortfall of RPO by 31.07.2015. However, PACL did not comply with the orders of the Commission. It has been further submitted that there is a variation in the per year RPO calculations, as calculated by PSPCL in its letter dated 29.11.2019 and the information provided by PSPCL to PEDDA as to the consumption of energy by PACL and therefore PSPCL may be directed to reconcile the data. PACL is bound by the RPO Regulations and as per Regulation 6 of the PSERC (Renewable Purchase Obligation and its compliance) Regulations, 2011, has to purchase the RECs irrespective of being in loss or profit. PACL has also stated that it has already defaulted on monthly bill payments of PSPCL and is now paying the bills under OTS and also made heavy investments in the factory which are mainly the reasons for delay in compliance of RPO and is hopeful of meeting the RPO compliance in view of improvements in its working due to benefits accruing as per Investment Policy of Government of Punjab.

5. Vide Order dated 22.01.2020, the Commission observed that there is a difference in calculations of the figures in the data provided by PSPCL to PEDDA regarding obligation of PACL to fulfill the RPO compliance. The Commission directed the parties to rectify the same and submit the report. PACL was directed to file rejoinder, if any, to the reply filed by PSPCL and PEDDA. PSPCL in consultation with PACL and PEDDA reconciled the data and submitted the same in a tabular form. However, during hearing on 29.01.2020. PACL submitted that the data for the year 2011-12 to 2014-15 is yet to be reconciled. PACL was directed to file the necessary information after reconciliation. After hearing the parties Order was reserved. In compliance of the directions given during hearing on 29.01.2020, PACL submitted the additional submissions dated 30.01.2020 and mentioned that PSPCL has not adjusted the excess non solar REC's purchased during the year 2011-12, 2012-13, 2013-14 and the year 2014-15 against the Non-Solar and submitted the corrected calculation. PACL submitted that excess RECs purchased in the preceding years may kindly be adjusted towards the due RPOs and therefore approve the carry forward of net liability i.e. 9427 Non Solar RECs and 2103 Solar RECs.

6. OBSERVATIONS AND DECISION OF THE COMMISSION.

The Commission has carefully gone through the petition, reply of PSPCL & PEDDA and the additional submissions made by the parties. The observations, findings and decision of the Commission are as hereunder.

As per the Punjab State Electricity Regulatory Commission (Renewable Purchase Obligation and its compliance) Regulations, 2011 as amended upto date, the obligated entities viz distribution

licensee(s), captive user(s) of the electricity generated in a Captive Generating Plant and Open access customer(s) are required to comply with the RPO specified in the said Regulations. The RPO compliance required to be complied with by the obligated entities as per the Regulations as a percentage of energy input in the system of the obligated entity at its boundary is as hereunder:

Year	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
Non-Solar RPO (%)	2.37	2.83	3.37	3.81	3.9	4.1	4.2	4.3	5.5	6.5	8.0	9.5
Solar RPO (%)	0.03	0.07	0.13	0.19	1.0	1.3	1.8	2.2	4.0	5.0	6.5	8.0
Total	2.4	2.9	3.5	4.0	4.9	5.4	6.0	6.5	9.5	11.5	14.5	17.5

The year-wise shortfall (-)/surplus(+) of RPO compliance as submitted by PACL after reconciliation with PSPCL and PEDDA for the period FY 2011-12 to 2016-17 in terms of RECs is as under:

FY	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	Cumulative
Non-Solar RPO	(+)62.54	(+)333.36	(+)262.54	(-)2887.87	(-)4645.99	(-)2551.32	(-)9426.74
Solar RPO	(-)27.33	(-)79.02	(-)130.87	(+)135.00	(-)1191.28	(-)808.95	(-)2102.46

It is seen that PACL procured surplus 658.44 Non-Solar RECs in FY 2011-12 to FY 2013-14 and 10085.18 less Non-Solar RECs from FY 2014-15 to FY 2016-17, resulting in a cumulative shortfall of 9426.74 Non-Solar RECs from FY 2011-12 to FY 2016-17. As regards Solar RPO compliance, PACL did not procure the requisite 2237.45 Solar RECs for the period FY 2011-12 to FY 2016-17 except for the year

2014-15 in which it procured 135 surplus Solar RECs resulting in a cumulative shortfall of 2102.46 Solar RECs from FY 2011-12 to FY 2016-17. Further, as per the data made available by PSPCL in its submissions dated 28.01.2020, there was no requirement for PACL to procure RECs in FY 2017-18 and FY 2018-19 as no open access power was procured by it during these years.

The Commission notes that neither PSPCL nor PEDDA have expressed any reservation to the prayer of PACL in the petition for allowing carry forward of the RPO shortfall upto FY 2016-17 to FY 2020-21.

The Commission notes that there is a provision in the PSERC RPO Regulations in Regulation 6, 'Effect of default' for allowing carry forward of the RPO shortfall. The relevant portion is extracted as hereunder:

“

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 fulfilment 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 fulfilment of renewable purchase obligation by the obligated entity and pass suitable order(s);

.....”

Considering the submissions of PACL with regard to its precarious financial position and no objection by PSPCL and PEDDA, the Commission considers it appropriate to allow the carry forward of the cumulative shortfall of 9426.74 Non-Solar RECs and 2102.46 Solar RECs for the previous years i.e upto FY2018-19. The shortfall is to be complied with by PACL by 30.09.2020. It is observed that the Order of the Commission dated 15.05.2015 in petition no. 18 of 2015 has not been complied with by PACL. PSPCL and PEDDA also did not monitor the RPO compliance by PACL in the interregnum. A penalty of Rs. 10,000 is imposed on PACL for non-compliance of the Order of the Commission.

PACL shall comply with the aforementioned shortfall under intimation to both PSPCL and PEDDA as well as to the Commission periodically, whenever RECs are purchased by it, but not later than 30.09.2020. It may be noted that no further extension for any reason whatsoever shall be granted.

The petition is disposed of in terms of the above.

Sd/-

(Anjuli Chandra)
Member

Sd/-

(S.S. Sarna)
Member

Sd/-

(Kusumjit Sidhu)
Chairperson

Chandigarh
Dated: 17.03.2020