

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 1785 of 2019.

In the Matter of:

**Petition for compliance of the Gujarat Electricity Regulatory Commission
(Procurement of Energy from Renewable Sources) Regulations, 2010 and its
subsequent amendments notified by the Commission.**

Petitioner : MPSEZ Utilities Pvt. Limited
Adani House, Near Mithakhali Circle,
Navrangpura, Ahmedabad-380009.

Represented By : Shri Nirav Shah and Shri Anil Rabadia

CORAM:

**Shri Anand Kumar, Chairman
Shri P. J. Thakkar, Member**

Date: 09/06/2020.

Daily Order

1. The matter was kept for hearing on 08.06.2020 through Video Conferencing and the Petitioner was intimated regarding the said hearing through email dated 02.06.2020.
2. Shri Nirav Shah, on behalf of the Petitioner, during the virtual hearing through Video conference on 08.06.2020, submitted that the Petitioner received a letter dated 05.07.2018 from Office of the Commission regarding the RPO compliance for FY 2017-18. Pursuant to the said letter, the Petitioner has filed the present Petition submitting its RPO compliance for FY 2017-18, before the Commission on 05.03.2019.

- 2.1. He further submitted that the Commission in exercise of powers conferred under Sections 61, 66, 86(1)(e) and 181 of the Electricity Act, 2003 has notified the GERC (Procurement of Energy from Renewable Sources) Regulations, 2010 vide Notification No. 03 of 2010 dated 17.04.2010 specifying the minimum percentage for procurement of power from renewable energy sources by the distribution. Subsequently, the Commission issued the GERC (Procurement of Energy from Renewable Sources) (First Amendment) Regulations, 2014 and fixed the RPO target for the obligated entities through the aforesaid regulations for the period FY 2010-11 to FY 2016-17. Thereafter, the Commission vide its Tariff Order dated 31.03.2017 in Case No. 1631 of 2016 prescribed the RPO targets for the Petitioner. Subsequently, the Commission notified the GERC (Procurement of Energy from Renewable Sources) (Second Amendment) Regulations, 2018 vide Notification No. 01 of 2018 dated 21.04.2018 and as per the said Regulations, the Renewable Power Purchase obligations of the obligated entities for FY 2017-18 are as under:

Year	Minimum Quantum of purchase (in %) from renewable energy sources (in terms of energy in kWh)			
	Total	Wind	Solar	Biomass, Bagasse and Others
FY 2017-18	10.00	7.75	1.75	0.50

- 2.2. The details of the power purchased by the Petitioner from the renewable sources of energy and the status of RPO compliance during the FY 2017-18 is as under:

Particulars	FY 2017-18		Total RPO (MUs)	Renewable Energy Purchased (MUs)			
Energy (MUs)	293.93			RECs Purchased	RPO Attribute	Total	
							MUs
Non-Solar RPO	%	8.25	24.25	24.22	0.00	24.22	8.24
	MUs	24.25					
Solar RPO	%	1.75	5.14	0.35	2.03	2.38	0.81
	MUs	5.14					

- 2.3. He submitted that from the above, it can be seen that the Petitioner has achieved Non-Solar RPO of 8.24% against the target of 8.25% specified in the Regulations and accordingly, there is a minor shortfall of 0.03 MUs (0.01%) of Non-Solar RPO for FY 2017-18. He further submitted that the Petitioner decided to purchase RECs for its Non-Solar RPO compliance for FY 2017-18, because tie up with Wind Generators for purchase of physical wind energy was done in the month of February 2017, which were under commissioning stage and were completed by February 2018 and till such time the Petitioner complied with its RPO by purchasing the Non-Solar RECs.
- 2.4. He further submitted that in case of Solar RPO, the Petitioner has achieved Solar RPO target of 0.81% against 1.75% specified in the Regulations and accordingly, there is a shortfall of 0.94% for FY 2017-18. The philosophy for consideration of Solar RPO compliance of FY 2017-18 is to use the RPO attribute of the Solar plants installed by its bulk consumers for their captive uses from whom 2.03 MUs Solar RPO attribute is availed, whereas, Petitioner was able to purchase only 0.35 MUs Solar RECs because during FY 2017-18, the trading on RECs was kept on hold by the Order of the Hon'ble Supreme Court. Therefore, since May 2017 to 31.03.2018, there was no trading window open for the Petitioner to purchase the Solar RECs from IEX. Therefore, there is a shortfall of Solar RPO for FY 2017-18.
- 2.5. He further submitted that the Petitioner has achieved the overall RPO target of 9.05% as against 10% specified by the Commission for FY 2017-18. He requested the Commission to allow the Petitioner to carry forward the shortfall of the Solar RPO of FY 2017-18 to the next control period i.e. FY 2018-19.
- 2.6. He also submitted that the Petitioner received the recent Order for RPO compliance for FY 2016-17 from the Commission wherein the Commission has revised the Non-Solar RPO target from 8.25% to 6.10%, whereas, the Petitioner has achieved 8.25% of Non-Solar RPO for FY 2016-17.

Accordingly, based on revised Non-Solar RPO target of 6.10% and actual Non-Solar RPO achieved by the Petitioner during FY 2016-17, there is surplus of around 4 MUs during FY 2016-17. He further submitted that if the Commission permits to allow the Petitioner to utilise such surplus Non-Solar RPO of FY 2016-17 against the Solar RPO for FY 2017-18 then the cost of supply can be optimised to end users, the Petitioner may file its rejoinder/amendment submissions before the Commission within one week.

3. We have considered the submissions made by the Petitioner. We note that the present Petition has been filed by the Petitioner for compliance of RPO against the RPO specified by the Commission in the GERC (Procurement of Energy from Renewable Sources) Regulations, 2010 read with its amended Regulations for FY 2017-18. The Petitioner has prayed for revision of RPO percentage from renewable energy sources for FY 2017-18 and to carry forward the Solar RPO of FY 2017-18 considering suspension of Solar RECs in FY 2017-18. The aforesaid issue is associated with the GERC (Procurement of Energy from Renewable Sources) Regulations, 2010 along with amendments thereto notified by the Commission including the GERC (Procurement of Energy from Renewable Sources) (Second Amendment) Regulations, 2018 and accordingly, the Commission has the jurisdiction to decide the issues raised in the present Petition. We, therefore, decide to admit the Petition.
- 3.1. We note that the Hon'ble APTEL in its judgement dated 25.04.2014 in Appeal No. 24 of 2013 and IA No. 39 of 2013 directed the State Commission that after completion of the financial year, the State Commission has to review the actual performance in respect of RPO and pass necessary directions as per the Regulations either suo-motu or on a petition filed by an obligated entity. Such review should be subjected to public notice to invite suggestions and objections from all the stakeholders. Thus, for annual review of RPO or

otherwise by the State Commission either suo-motu or on application from an obligated entity, the suggestions and objections of the public are required to be invited.

- 3.2. According to the Hon'ble APTEL's directions, it is necessary to issue a public notice and invite suggestions/objections from all the stakeholders in the matter pertaining to compliance of RPO by the obligated entities. As the present Petition is filed for compliance of RPO target percentage from renewable energy sources for FY 2017-18 and to carry forward the Solar RPO of FY 2017-18 considering suspension of Solar RECs in FY 2017-18, we decide and direct the Petitioner to issue a public notice in two daily Gujarati Newspapers and one English Newspaper having wide circulation in the State/National level stating that they have filed Petition No. 1785 of 2019 before the Commission for compliance of RPO target for FY 2017-18 under the provisions of the GERC (Procurement of Energy from Renewable Sources) Regulations, 2010 and its amendment Regulations, 2014 and Regulation, 2018. The Petitioner is also directed to upload the present petition with all the documents on its website and invite comments and suggestions from the stakeholders on the petition on affidavit within 30 days from the date of issuance of public notice. The Petitioner shall state in the public notice that the stakeholders/objectors are required to file their objections/suggestions in the present petition to the Secretary of the Commission in five copies alongwith affidavit in support of their submissions. The staff of the Commission is also directed to upload the petition along with all relevant documents on the website of the Commission after compliance affidavit of issuing public notice and uploading of petition is filed by the Petitioner along with copy of public notices issued by the Petitioner is provided to the Commission and invite comments/suggestions from the stakeholders.

3.3. We note that on completion of FY 2017-18, Commission vide its letter dated 05.07.2018 informed all the obligated distribution licensees that since FY 2017-18 is already over, it is necessary for the Commission to verify the details and decide the RPO compliance for FY 2017-18, for which Petition needs be filed with the necessary details/documents. We note that apart from the present Petition filed by MPSEZ Utilities Pvt. Limited, Torrent Power Limited for its Ahmedabad, Gandhinagar & Surat license area, has filed Petition No. 1754 of 2018 for the RPO compliance for FY 2017-18. Further, M/s Aspen Infrastructure Limited and Jubilant Infrastructure Limited have filed Petitions No. 1723 of 2018 and 1742 of 2018 respectively before the Commission regarding Renewable Purchase Obligations. We also note that the other distribution licensees viz. GUVNL on behalf of its subsidiary distribution companies PGVCL, UGVCL, MGVCL & DGVCL, Torrent Power Limited for its Dahej license area, Deendayal Port Trust and GIFT Power Company Limited have not filed any Petition before the Commission for compliance of their respective RPO of FY 2017-18. We, therefore, decide to initiate suo-motu proceedings for compliance of RPO of these obligated distribution licensees for FY 2017-18. The staff of the Commission is also directed to initiate necessary actions in this regard and to follow the procedure for inviting comments and suggestions from the stakeholders as stated in para 3.2 above by publishing a public notice and hosting the suo-motu Petition on website of the Commission.

3.4. As regards the submission made by the Petitioner that the Commission in its Order dated 27.05.2020 in Petition No. 1677 of 2017 revised the Non-Solar RPO target to 6.10% from 8.25% and accordingly, based on such revised Non-Solar RPO target of 6.10% and actual Non-Solar RPO achieved by the Petitioner during FY 2016-17, there is surplus of around 4 MUs during FY 2016-17 and if the Commission permits the Petitioner to utilise this surplus Non-Solar RPO of FY 2016-17 against the shortfall in the Solar RPO of the Petitioner during FY 2017-18 so that the cost of supply can be optimised to

end users we make it clear that the same cannot be permitted in terms of Regulation 7.1 of the GERC (Procurement of Energy from Renewable Sources) Regulations, 2010, which reads as under:

“

7. Distribution Licensee

7.1 Each distribution licensee shall indicate,

*However, credit for excess purchase from renewable energy sources would not be adjusted in the ensuing year
.....”*

The present proceeding is for compliance of RPO targets for FY 2017-18 whereas the excess Non-Solar RPO allegedly sought for adjustment by the Petitioner is of FY 2016-17. The above referred provision clearly states that credit for excess purchase from renewable energy sources would not be adjusted in the ensuing year. Therefore, the plea advanced by the Petitioner to permit adjustment of surplus Non-Solar RPO of FY 2016-17 for compliance of RPO during FY 2017-18 is without any merit and cannot be sustained. Therefore, the same is rejected.

4. The next date of hearing will be intimated separately.
5. We order accordingly.

Sd/-
[P. J. THAKKAR]
Member

Sd/-
[ANAND KUMAR]
Chairman

Place: Gandhinagar.

Date: 09/06/2020.