

Bihar Electricity Regulatory Commission

Vidyut Bhawan-II, J.L. Nehru Marg, Patna 800 021

Case No. 12/2020

In the matter of:

Petition seeking approval of the proposal to carry forward the balance REC shortfall in achievement of RPO of FY 2019-20 to the FY 2020-21 in accordance with the provisions of BERC's Compliance of Renewable Purchase Obligation, its compliance and REC framework implementation (3rd amendment) Regulations, 2018.

And

In the matter of:

Bihar State Power Holding Company Ltd. (BSPHCL) on behalf of
NBPDCCL & SBPDCL

.....Petitioner

Quoram:

- | | | | |
|----|-------------|---|----------|
| 1. | S. K. Negi | - | Chairman |
| 2. | Rajeev Amit | - | Member |

Appearance:

1.	Sh. Mithilesh Kumar, ESE (PMC)	On behalf of BSPHCL
2.	Sh. Anand Suman, EEE (PMC)	
3.	Sh. Amit Kumar, AEE (PMC)	
4.	Sh. Khagesh Choudhary	On behalf of BREDA

Date of hearings: - 29.05.2020, 09.06.2020

ORDER

Date: 17.06.2020

1. Introduction:

- 1.1** The Chief Engineer (PMC), BSPHCL had filed a petition on behalf of North Bihar Power Distribution Co. Ltd. (NBPDCCL) & South Bihar Power Distribution Co. Ltd. (SBPDCL) seeking exemption of the balance REC shortfall in achievement of RPO of FY 2019-20 & shortfall in balance RPO target till first quarter of FY 2020-21 due to outbreak of

COVID-19 pandemic, a force majeure event preventing from the compliance of RPO target.

The petition was registered as case no. 12/2020 and posted on 29.05.2020 for hearing the case on the point of admission.

1.2 Commission heard the petitioner on 29.05.2020 on the point of admission in its court room duly complying with laid down **Social Distancing norms**. Commission after perusing the petitions and hearing the submissions made by petitioner found following deficiencies in the petition:

- i) Justification for non purchase of REC for the FY 2019-20 has not been submitted.
- ii) The petitioner has been filed this petition for exemption under regulation 7.1 of BERC (Renewable Purchase Obligation, its Compliance and implementation of REC Framework)(3rd Amendments) Regulations, 2018 whereas said regulations do not have any provision for exemption. However, it has the provision of carry forward of shortfall in case of non-availability of REC in the market.
- iii) There is a mismatch of reported figures and certificates submitted in respect to REC purchased.

1.3 Accordingly, the petitioner was directed to file revised petition removing the said deficiencies before the next date of hearing.

1.4 In view of aforesaid direction the petitioner filed the revised petition dated 05.06.2020 removing the aforesaid defects on 09.06.2020 seeking approval of the proposal to carry forward the balance REC short in achievement of RPO of FY 2019-20 to the FY 2020-21 in accordance with the provisions of BERC (Compliance of Renewable Purchase Obligation, its compliance and REC framework implementation) Regulations 2018.

2. Submission of the Petitioner: The submissions of the petitioner in its revised petition are as under:

2.1 It is pertinent to mention that Bihar is a state starved in renewable energy sources and dependent upon Central Government schemes to

fulfill its RPO obligation. Although Discoms have tied up for solar and wind power with SECI, NTPC etc. but the RE power from such sources shall be made available to Bihar from FY 2020-21 onwards.

- 2.2 In such scenario to meet target of RPO, BSPHCL has floated two tenders on behalf of both the Discoms under short term at DEEP portal for the procurement of solar and Non-solar power for FY 2019-20 vide NIT Nos. 42/PR/BSPHCL/2019 & NIT No. 41/PR/BSPHCL/2019 respectively.

The aforesaid tenders were cancelled due to single participant in solar tender and nil participants in Non-solar tender in spite of extension.

- 2.3 Again an attempt has been made to seek Solar and Non-solar power, and bids were invited vide NIT Nos.51/PR/BSPHCL/2019 & NIT No. 50/PR/BSPHCL/2019 respectively for procurement of RE power in the month of September 2019. This time tenders were cancelled due to single participants in both the tenders.

- 2.4 Since the aforesaid RE tenders were unsuccessful, therefore, RECs were purchased in REC trading sessions for the month of Sep 2019.

- 2.5 It has also been submitted that due to higher no. of buy bids as compared to lesser no. sell bids at exchanges (IEX & PXIL), RECs prices are going high therefore the required quantum of RECs for which bids were submitted had not been cleared.

- 2.6 In light of above, again an attempt was made to seek Solar and Non-solar power, and bids were invited vide NIT Nos.58/PR/BSPHCL/2019 & NIT No. 59/PR/BSPHCL/2019 respectively for procurement of RE power in the month of October 2019.

The RE tenders were again cancelled due to single participation in solar tender and Nil participation in Non-solar tender in spite of several extensions.

- 2.7 The BSP(H)CL had floated three (03) tenders but despite several extensions to bids under short term from DEEP Portal bids were unsuccessful due to shortage of RE power in the market.

- 2.8 It has been mentioned that RECs were purchased as per provisional energy consumption of DISCOMs for FY 2019-20. Needless to mention that the REC required to fulfill the RPO fixed by the Commission will depend on figures of actual energy consumption for FY 2019-20 which is yet to be compiled by the DISCOMs.
- 2.9 It is to inform that BSP(H)CL, on behalf of both the DISCOMs, has purchased more RECs in trading session of Oct'19, Nov'19, Dec'19, Jan'20, Feb'20 & Mar'20 through exchanges i.e. IEX and PXIL for the fulfilment of RPO of FY 2019-20.
- 2.10 BSPHCL has participated in each REC trading session at both the exchanges (i.e. IEX & PXIL) from Sep'19 to Mar' 20 for the procurement of REC.

However, the cleared bid volume was always lesser than the quoted bid volume, particularly in case of solar RECs.

- 2.11 In light of above, petitioner has prayed to allow carry forward of the balance RPO target of FY 2019-20 to FY 2020-21 so that the RPO for FY 2019-20 could be met. In this connection, it is also worth mentioning that due to sudden outbreak of COVID-19 in the country and a complete lockdown subsequent there to, the cash collection of both DISCOMs became negligibly low due to huge drop in online payments and also due to closure of cash collection counters, resulting in severe liquidity issue. Due to this situation it was not possible to arrange required fund for purchase of solar REC in Mar'20.
- 2.12 Based on the aforesaid pleadings the prayers made by the petitioner-BSPHCL are as under;
- (i) To accord approval for carry forward of the balance RPO shortfall of FY 2019-20 to FY 2020-21;*
- (ii) Pass such order as the Commission deem fit and proper.*

3. Hearing:

Commission heard the matter again on 09.06.2020 and after hearing the arguments admitted the petition and reserved the order in order to dispose of the petition at admission stage itself.

4. Commission's Observation & Findings:-

- 4.1 In compliance to the provisions under sections 61, 66, 86(1)(e) and 181 of the Electricity Act, 2003 Commission has notified BERC (Renewable Purchase Obligation, its Compliance and REC Framework Implementation) Regulations, 2010 and its amendments thereof.
- 4.2 Clause 4.1 of these Regulations stipulates year-wise minimum quantum of electricity to be procured from Renewable Sources by Obligated Entity as percentage of total consumption as under:-

<i>From Renewable Sources</i>	<i>2016-17</i>	<i>2017-18</i>	<i>2018-19</i>	<i>2019-20</i>	<i>2020-21</i>	<i>2021-22</i>
<i>Renewable Power Purchase obligation (RPO)</i>	6.50%	7.75%	9.25%	11.50%	14.25%	17.00%
<i>% share of solar power in RPO of total energy consumption</i>	1.50%	2.25%	3.25%	4.75%	6.75%	8.00%
<i>% share of non-solar power in RPO</i>	5.00%	5.50%	6.00%	6.75%	7.50%	9.00%

- 4.3 The commission finds that the petitioner has partially fulfilled its RPO compliance against the aforesaid RPO trajectory even after purchase of RECs during FY 2019-20 as under:

S.No.	Category	SBPDCL	NBPDCL
1.	Solar	60.46%	69.09%
2.	Non-Solar	100%	100%

It is evident from the above table that Discoms have not fulfilled the RPO target for the FY 2019-20.

- 4.4 The Commission finds that the Discoms (NBPDCL & SBPDCL) had sought approval of carry forward of shortfall RPO as part of the tariff petition for FY 2019-20 (RE) dated 20.03.2020 and the Commission had declined such proposal with the direction as under:

"The Discoms are directed to put forth more efforts to procure the balance solar energy required to meet the RPO requirements as detailed in the table above or otherwise to purchase solar RECs to meet the stipulated RPO of FY 2019-20."

4.5 Now petitioner, through this instant petition, has again sought approval of carry forward of shortfall RPO of FY 2019-20.

4.6 Clause 7.1 of BERC (Renewable Purchase Obligation, its Compliance and REC Framework Implementation) (3rd amendment) Regulations, 2018 stipulates as under:-

*"Each distribution licensee shall indicate, along with sufficient proof thereof, the estimated quantum of purchase from renewable energy sources for the ensuring year in tariff / annual performance review petition in accordance with Regulation notified by the commission. The estimated quantum of purchase shall be in accordance with clause 4.1 of these Regulations. If the distribution licensee is unable to fulfill the obligation, the shortfall of the specified quantum of solar and / or non-solar of that year would be added to the specified quantum for the next year. **Provided, the solar certificates and/ or non-solar certificates were not available in that particular year.** However, credit for excess purchase from renewable energy sources would not be adjusted in the ensuing year."*

4.7 Advance planning of REC purchase is required by the distribution licensees to purchase necessary REC when the market conditions are more favourable to them.

4.8 In this connection, it will not be out of place to quote here the relevant portion of the order dated 25 April 2014 of Hon'ble APTEL in the matter of Indian Wind Energy association Vs Gujarat Electricity Regulatory Commission & Others wherein the Hon'ble APTEL had given following guidelines to the State Commissions which reinforces the view of the Commission:-

"(A) The State Commission may decide the RPO targets at least one year before the commencement of the Multi Year Tariff period to give adequate time to the distribution licensees to plan and arrange procurement of renewable energy sources and enter into PPAs with the renewable energy project developers.

(B) The proposal for renewable energy procurement should be submitted by the distribution licensee as part of the tariff petition

for the ensuing year/Annual Performance Review for the current year. Suggestion and objections of public have to be invited for the above petition. The State Commission may give necessary directions with regard to RPO after considering the suggestions and objections of the stakeholders. If the distribution licensee is not able to tie up procurement of renewable energy to meet the RPO target, it should plan purchase of REC. Advance planning of REC purchase will give ample opportunity to the distribution licensees to purchase REC when the market conditions are more favourable to them....."

- 4.9 Commission observes from the petition that petitioner has floated three (03) tenders from the month of Aug'19 to Sept'19 to procure renewable energy under short term at DEEP Portal but all such attempts have been unsuccessful due to single (01) / Nil (0) participation of bidders.
- 4.10 Commission further observes that petitioner has been consistently participating REC trading sessions at both the exchanges (i.e. IEX & PXIL) from Sep'19 to Mar' 20 for the procurement of non-solar RECs and from Sept'19 to Feb'20 for procurement of solar RECs but could not succeed in purchasing the total bid quantity of solar REC.
- 4.11 As regards non-participation of REC trading session in Mar'20 for purchase of required solar RECs is concerned, the petitioner has submitted that due to sudden outbreak of COVID-19 in the country and a complete lockdown subsequent there to, the cash collection of both DISCOMs suffered a severe dip due to closure of cash collection counters. It was not possible to arrange required fund for purchase of solar REC in Mar'20 due to this liquidity crunch.

The Commission acknowledges that the outbreak of COVID-19 has been adversely affecting the day to day activities during the lock down period.

- 4.12 In view of above, Commission is satisfied that although the petitioner has made advance planning and its sincere efforts to fulfill its RPO trajectory for FY 2019-20 yet it could not succeed to purchase the total bid quantity of solar REC from IEX/PXIL, due to non-clearance till the

month of Feb'20. The Commission also understands the difficulties of the petitioner in non-participation in trading session on 26.03.2020 due to country-wide lockdown imposed by the Govt. of India to contain COVID-19 outbreak.

- 4.13 In view of above mentioned facts and circumstances, Commission allows the prayer of petitioner to carry forward of the shortfall of RPO for FY 2019-20 into FY 2020-21. The petitioner is at liberty to purchase either solar power or solar REC in FY 2020-21 to fulfill such shortfall of RPO for FY 2019-20.

The petition is accordingly disposed of.

Sd/-
(Rajeev Amit)
Member

Sd/-
(S.K Negi)
Chairman