

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION  
AT GANDHINAGAR**

**Petition No. 1922 of 2021**

**In the Matter of:**

**Petition under GERC (Procurement of Energy from Renewable Sources) Regulations, 2010 and its (Second Amendment) Regulations, 2018 for revision in Renewable Power Purchase Obligation (RPO) in case of Four Subsidiary Distribution Companies of GUVNL for FY 2019-20.**

Petitioner : Gujarat Urja Vikas Nigam Limited  
Represented By : Ms. Sailaja Vachhrajani and Ms. Girija Dave.  
Co- Petitioner No. 1 : Madhya Gujarat Vij Company Limited  
Represented By : Nobody was present.  
Co- Petitioner No. 2 : Uttar Gujarat Vij Company Limited  
Represented By : Nobody was present.  
Co- Petitioner No. 3 : Paschim Gujarat Vij Company Limited  
Represented By : Nobody was present.  
Co- Petitioner No. 4 : Dakshin Gujarat Vij Company Limited  
Represented By : Nobody was present.

**CORAM:**

**Mehul M. Gandhi, Member**

**S. R. Pandey, Member**

**Date: 09/05/2022.**

**ORDER**

1. This Petition is filed by the Petitioner for relaxing/waive-off the shortfall in compliance of the Petitioner GUVNL alongwith Co-Petitioner's for FY 2019-20 by revising the Renewable Purchase Obligation (RPO) targets as per actuals and exempt GUVNL / Distribution Companies from consequences under Regulation 9 of the RPO Regulations towards the same on account of factors beyond the control of GUVNL /

Distribution Companies and there is no willful default or failure on the part of GUVNL / Distribution Companies for RPO compliance of FY 2019-20.

2. The present Petition is filed by the Petitioner Gujarat Urja Vikas Nigam Ltd. (GUVNL) alongwith its four subsidiary distribution companies as Co-Petitioners viz. Madhya Gujarat Vij Company Limited (MGVCL), Uttar Gujarat Vij Company Limited (UGVCL), Paschim Gujarat Vij Company Limited (PGVCL) and Dakshin Gujarat Vij Company Limited (DGVCL) under the the GERC (Procurement of Energy from Renewable Sources), Regulations, 2010 read with (Second Amendment) Regulations, 2018 for revision in Renewable Purchase Obligation for FY 2019-20 in case of the Petitioner/Co-Petitioners in the present matter. The facts mentioned in the Petition are stated as under:
  - 2.1. Government of Gujarat notified Gujarat Electricity Industry (Reorganization and Regulation) Act, 2003 in May, 2003 for reorganization of the entire power sector in the State of Gujarat. Pursuant to this the Gujarat Electricity Industry Reorganization and Comprehensive Transfer Scheme, 2003 notified under the Gujarat Electricity Industry (Reorganization and Regulation) Act, 2003, erstwhile Gujarat Electricity Board was reorganized and its functions have been vested in seven different functional entities.
  - 2.2. The activities of Generation, Transmission, Distribution, Bulk power purchase and supply undertaken by erstwhile Gujarat Electricity Board have been entrusted to separate seven functional entities. The generation activity is assigned to Gujarat State Electricity Corporation Limited (GSECL), transmission activity is assigned to Gujarat Energy Transmission Corporation Limited (GETCO) and the distribution activity is assigned to four distribution companies viz. Uttar Gujarat Vij Company Limited (UGVCL), Madhya Gujarat Vij Company Limited (MGVCL), Dakshin Gujarat Vij Company Limited (DGVCL) and Paschim Gujarat Vij Company Limited (PGVCL). Further, the function of bulk purchase and bulk sale of power is assigned to the Petitioner, Gujarat Urja Vikas Nigam Limited (GUVNL), as per the re-organization scheme and accordingly, on behalf of its four subsidiary Distribution Companies, the Petitioner is carrying out the activity of bulk purchase and bulk sale of power.
  - 2.3. It is stated that GERC through Notification dated 17.04.2010 had notified GERC (Procurement of energy from Renewable Energy sources) Regulations 2010 and the

said Regulations have been amended through Notifications dated 04.03.2014 (First Amendment Regulations) and 21.04.2018 (Second Amendment Regulations).

2.4. It is further submitted that as per para 2 of Regulation 4.1 of the above RPO Regulations, each Distribution Licensee is required to purchase minimum stipulated percentage of the total consumption of its consumers including T&D losses during a year from renewable energy sources. Moreover, it is submitted that as per Regulation 4.1, if the prescribed minimum quantum of power purchase from solar energy sources is not available in a particular year, then in such cases, purchase from wind or other energy sources over and above the prescribed percentage to be utilized towards fulfilment of the RPO in accordance with the total RPO percentage target prescribed during the particular year.

2.5. The Petitioner has submitted that the minimum percentages as prescribed in above RPO Regulations are as under:

Particulars	Year	RPO%	Non Solar		Solar
			Wind	Biomass	
RPO Regulations, 2010	2010-11	5.00%	4.50%	0.25%	0.25%
	2011-12	6.00%	5.00%	0.50%	0.50%
	2012-13	7.00%	5.50%	0.50%	1.00%
1 <sup>st</sup> Amendment Regulations, 2014	2013-14	7.00%	5.50%	0.50%	1.00%
	2014-15	8.00%	6.25%	0.50%	1.25%
	2015-16	9.00%	7.00%	0.50%	1.50%
2 <sup>nd</sup> Amendment Regulations, 2018	2016-17	10.00%	7.75%	0.50%	1.75%
	2017-18	10.00%	7.75%	0.50%	1.75%
	2018-19	12.70%	7.95%	0.50%	4.25%
	2019-20	14.30%	8.05%	0.75%	5.50%
	2020-21	15.65%	8.15%	0.75%	6.75%
	2021-22	17.00%	8.25%	0.75%	8.00%

2.6. It is also submitted that as evident from the table above, initially the Commission while stipulating RPO Regulations had been specifying the yearly RPO percentage in a gradual incremental manner but there has been a steep rise in RPO percentage notified in Second Amendment Regulations, 2018 on 21.04.2018 more particularly the Solar RPO percentage.

2.7. It is submitted that after knowing the prescribed RPO % the obligated entities need at least 6 – 8 months, time to plan their capacity tie – up arrangements and implement tendering process for procurement of power from wind and/or solar projects by

floating tender(s), conducting pre-bid meeting(s), technical bid opening, financial bid opening and e-reverse auction and thereafter issue letter of award and execute PPAs with the successful bidders. Therefore, the successful bidders require 18-24 months period to set up the projects award to them.

- 2.8. Accordingly, in spite of making efforts for aggressive capacity tie-up, such sudden increase in RPO % cannot be complied by any Distribution Licensees since capacity and generation therefrom would only be available after the lapse of almost two-three years.
- 2.9. It is further submitted that the Commission had been determining preferential tariff for procurement of power by distribution licensees from various Renewable Energy (RE) Sources for meeting the RPO. In order to meet the RPO of its distribution companies, GUVNL had been purchasing power from various renewable energy sources by entering into Power Purchase Agreements at the tariff determined by the Commission.
- 2.10. It is submitted that pursuant to the directives of the Commission vide its letter dated 18.03.2017 for procurement of power from Wind and Solar projects only through Competitive Bidding, the Petitioner has conducted various rounds of Competitive Bidding processes for procurement of power from Wind and Solar Photo Voltaic Projects.
- 2.11. It is also submitted that as on 31.03.2020, the Renewable Energy Capacity tied up by Petitioner excluding tied up under REC Mechanism is 4353.6 MW from Wind Power Projects, 3537.2 MW from Solar Power Projects, 30 MW from Biomass Power Projects, 21.6 MW from Small / Mini Hydel power projects and 67.8 MW Waste to Energy Projects as under:

<i>Source</i>	<i>Capacity (MW) tied up as on 31.03.2020</i>
<i>Wind#</i>	<i>4353.6</i>
<i>Solar*</i>	<i>3537.2</i>
<i>Biomass</i>	<i>30.0</i>
<i>Small Hydel</i>	<i>21.6</i>
<i>Municipal Solid Waste</i>	<i>67.8</i>
<b><i>Total</i></b>	<b><i>8010.0</i></b>

# Terminated 30 MW Wind (awarded under Competitive Bidding – Phase I)  
 \* Another 350 MW Solar (Phase VII) PPAs executed in July - 2020,  
 Another 700 MW Solar (Dholera Park) LoAs issued in Oct-2020  
 Another 100 MW Solar (Raghnesda) concluded and pending for Hon'ble GERC's Approval

- 2.12. The status of RPO compliance for the FY 2019-20 as against the RPO targets stipulated by the Commission taking into account the total power purchase requirement of 92705 MUs for all four DISCOMs is as under:

<b>RPO Compliance for FY 2019-20</b>	<b>Wind</b>	<b>Solar</b>	<b>Others</b>	<b>Total</b>
Actual Total Consumption (MUs)	92705			
Less: Hydro Power Purchase (MUs)	1849			
Actual Consumption excl. hydro (MUs)	90856			
Target RPO percentage notified by GERC	8.05%	5.50%	0.75%	14.30%
Target RPO (MUs)	7314	4997	681	12992
Actual RE Purchase (MUs)	8325	3270	343	11938
Achieved RPO%	9.16%	3.60%	0.38%	13.14%
Shortfall (-)/Excess (+)(MUs)	1011	(-) 1727	(-) 338	(-) 1054
Shortfall (-)/Excess (+) (%)	1.11%	(-) 1.90%	(-) 0.37%	(-) 1.16%

- 2.13. It is submitted that as regards to fulfilment of Non-Solar RPO through Wind and Other renewable sources of energy during the FY 2019-20, Petitioner purchased 8668 MUs as Non-Solar Energy i.e. 9.54% as against the requirement of 7995 MUs i.e. 8.80% being prescribed Non-Solar RPO percentage stipulated in the RPO Regulations for Non-Solar.
- 2.14. The Petitioner has submitted that as regards the Solar RPO for FY 2019-20, GUVNL has purchased 3270 MUs Solar energy, i.e. 3.60% as against the requirement of 4997 MUs to meet the Solar RPO of 5.50% stipulated in the RPO Regulations for Solar. Thus, there is excess purchase of Non-Solar energy to the tune of 673 MUs during FY 2019-20-19, which is eligible to get compensated against 1727 MUs shortfall in purchase of Solar energy in accordance with Regulation 4.1 of RPO Regulations. Accordingly, the net shortfall in compliance of total RPO for FY 2019-20 is 1054 MUs i.e. 1.16%.
- 2.15. The Petitioner has submitted that with regard to the shortfall in RPO compliance during FY 2019-20, it is pertinent to submit the following before the Commission:

**Constraints in availability of Renewable Energy / Inadequate capacity addition:**

- 2.16. The Competitive Bidding Process initiated by GUVNL for procurement of power from Wind and Solar Projects were deferred a number of times due to various reasons beyond control of GUVNL. Had the same been concluded on time, GUVNL could have attained the benefit of additional generation from the said tenders. About 285 MW of Wind capacity tied up under Competitive Bidding (Phase I) got delayed as long as for the period upto 4-6 months. Meaning thereby, GUVNL could not avail the generation benefit therefrom to the tune of approximately 306 MUs (@ normative CUF of 24.5% for 6 months). The Commission has extended the time limit of SCoD of 25 MW Solar Thermal Project of M/s Cargo Power & Infrastructure Pvt. Ltd. which, could have entailed generation benefit of 42 MUs (@ normative CUF of 19%) during FY 2019-20.
- 2.17. It is also to highlight that GUVNL had signed PPAs with the Bagasse based Co-Generation Projects which were not set up by the Project Developers and therefore, the anticipated energy therefrom was not available to GUVNL which could have helped in RPO Compliance of GUVNL / DISCOMs. The projects of 11.5 MW MSW based Project of M/s RGE Surat Pvt. Ltd. which was scheduled to be commissioned on 31.10.2018 and 4 MW Junagadh WTE Pvt. Ltd. which was scheduled to be commissioned on 31.12.2018 are not developed by the Project Developers, depriving GUVNL / DISCOMs from the generation benefit of 109 MUs (@ normative CUF of 80%) during FY 2019-20. Thus, the shortfall of 456 MUs during FY 2019-20 was on account of inadequate capacity addition due to reasons attributable purely to the Generators and beyond control of GUVNL in spite of the all-out efforts made. It is understood that other Distribution Licensees in the State are finding difficulty in tying RE power through Competitive Bidding.
- 2.18. Thus, it is apparent that there are supply constraints in availability of RE sources in the State of Gujarat.

### **Actual RE generation below normative generation**

- 2.19. During FY 2019-20, the generation from Small Hydel Projects was 90.64 MUs i.e. PLF of 47.90% (due to inadequate release of water from the dam by Irrigation Dept.) as against the normative PLF of 70% which could have entailed generation of 132.45 MUs (shortfall of approx. 42 MUs). Similarly, the generation from Biomass Projects was 165.38 MUs i.e. PLF of 62.93% against the normative PLF of 80% which could have

entailed generation of 210.24 MUs (shortfall of approx. 45 MUs). Thus, the shortfall of around 87 MUs was beyond control of GUVNL and solely on account of under-operationalization of Biomass z

### **Efforts made by GUVNL towards RPO Compliance**

2.20. GUVNL has been proactively promoting RE Sources since inception of the first Solar Power Policy notified by Govt. of Gujarat in 2009 when the concept of Solar energy and Solar technology was at nascent stage of development in the Country as a whole and was not considered to be a proven technology for power generation in comparison to other available RE sources like Wind, Small Hydel, Biomass, etc. Since then, GUVNL has been making all-out efforts towards using non-conventional energy sources for surmounting the issues of carbon emissions and its related impacts on climatic change. Pursuant to the Government of Gujarat (GoG) Solar Power Policy, 2009, GUVNL had tied up 886 MW capacity (out of which 861 MW capacity has been available to GUVNL since FY 2011-12 to meet the Solar RPO, while commissioning schedule of 25 MW capacity of M/s Cargo has been extended by the Commission a number of times and the Commission has allowed extension in SCoD upto 31.12.2019 against the original SCOD of 31.12.2011). Taking into consideration the increasing trend of Solar RPO during the ensuing years, GUVNL tied up another 250 MW capacity in 2017 under SECI's Competitive Bidding under Phase II, Batch- IV of Jawaharlal Nehru National Solar Mission (JNNSM) of Government of India. Thereafter, during FY 2017-18 and FY 2018-19, GUVNL tied up 700 MW Wind power and 1500 MW Solar power (Non-Park based) through Competitive Bidding out of which 482 MW Wind and 565 MW Solar is already commissioned (as on 31.03.2020) and balance capacity is likely to get commissioned in the years FY 2020-21 and FY 2021-22. Besides, GUVNL has tied up 1600 MW Solar capacity (Solar Park based - 1000 MW Dholera Solar Park and 600 MW Raghnesda Solar Park) which is expected to be commissioned in phased manner during FY 2021-22 & FY 2022-23. Further, GUVNL has also tied up 350 MW Solar Non-Park based capacity in FY 2020-21, generation benefit of which would be available in FY 2022-23. Furthermore, another 500 MW Solar Tender is under implementation, PPAs for which are expected to be signed shortly and generation benefit from the Projects would be available in FY 2022-23. A detailed statement of tendering processes undertaken by GUVNL for procurement of Wind and Solar power depicting

efforts made towards renewable energy capacity addition is filed. It is also to mention that GUVNL has been persistently undertaking tendering processes to meet the increasing RPO targets. However, there has been instances of delay in concluding tender on account of reasons beyond control of GUVNL viz. extension in bid-deadlines based on Bidders requests, requirement of modifying Bid Security / Performance Bank Guarantees in the interest of Bidders' participation, etc. Besides, at certain times, GUVNL was bound to scrap some tenders and undertake re-tendering process on account of reasons viz. discovery of higher tariffs, low participation / bid-submission by single bidder, requirement of modifying tender conditions in the interest of Bidders' participation & competition, etc. The Commission is requested to recognize that GUVNL has been making all possible efforts exercising commercial prudence towards RE Promotion and compliance of RPO Obligations. As enumerated herein above, it is to submit that the cumulative effect of (i) Constraints in availability of renewable energy / Inadequate capacity addition (ii) Actual RE generation below normative generation has resulted into shortfall in compliance for FY 2019-20. Further, it is to submit that the reasons for shortfall in RPO were beyond the control of GUVNL / Distribution Companies and are not attributable to GUVNL / Distribution Companies since there has been no willful default or failure on the part of GUVNL Distribution Companies for compliance of RPO for FY 2019-20. It is further submitted that the Regulation 4.2 of GERC (Procurement of Energy from Renewable Sources), Regulations, 2010 provides for revising the targets of RPO in case of supply constraints or factors beyond control of concerned distribution licensee. Under the RPO Regulations, the Commission has inherent power to give relaxation as may be deemed necessary in the scenario of RE supply constrains or other factors not attributable to concerned distribution licensee. It is also to submit that Hon'ble Appellate Tribunal for Electricity (APTEL) has held that the State Commission can revise the RPO before or during a year or after passing of year under Regulation 4.2 of RPO Regulations ensuring that such revision does not defeat the object of the Electricity Act and the Regulations.

- 2.21. The Petitioner referring to the judgement dated 25.04.2014 in Appeal No. 24 of 2013 of the Hon'ble APTEL has submitted that this Commission is empowered to revise the RPO targets specified under Regulation 4.1 due to inadequate Renewable Capacity addition in the State and reasons beyond the control of distribution licensee



irrespective of the fact that whether Renewable Energy Certificates are available or not.

2.22. It submitted that the Commission in their various Orders have acknowledged the fact that purchase of RECs by Distribution Licensees / Obligated Entities needs to be considered keeping in view various factors and its impact on the consumer tariff. The Commission has rightly acknowledged that unnecessary purchase of RECs results in increase in the cost of power purchase of the distribution licensees being Obligated Entities without any increase in the physical component of electricity purchased and leads to financial burden on the end consumers of the State.

2.23. In view of above and as submitted in the foregoing paras, it is evidently clear that there were constraints in availability of renewable energy / inadequate capacity addition and factors beyond the control of GUVNL / Distribution Companies and therefore the Commission is requested to exercise its power under Regulation 4.2 and revise the targets of RPO for FY 2019-20 as per actual RPO compliance. Further, as per Regulation 7.2, the Regulation 9 "Consequences of Default" can be invoked in case Distribution Licensee fails to meet the RPO despite availability of renewable energy sources. In the above background, in light of constraints in availability of renewable energy and invocation of Regulation 7.2 which is the pre-condition for invocation of Regulation 9 is not applicable. Furthermore, invocation of Regulation 9 and levy of regulatory charge shall put unwarranted burden on GUVNL / Distribution Companies and eventually on the end-consumers of the State. It is pertinent to highlight that the preamble of Electricity Act 2003, National Electricity Policy 2005 and Tariff Policy 2006 & Amendments thereto lay emphasis on both promotion of renewable energy as well as safeguarding the interest of the consumers. It is therefore requested not to invoke Regulation 9 and exempt GUVNL Distribution Companies from the consequences thereof. In light of above, the Commission is requested to exercise their powers to relax/ waive-off the shortfall in RPO Compliance of GUVNL for FY 2019-20 by revising the RPO Targets as per Actuals.

3. The Commission vide Daily Order dated 03.04.2021 had directed the Petitioner to issue a public notice and upload the present Petition on their website to invite objections/suggestions on the Petition from the stakeholders as per the directives of the Hon'ble APTEL in judgment dated 25.02.2014 in Appeal No. 24 of 2013 and I.A. No.

39 of 2013. The staff of the Commission was also directed to upload the Petition on the website of the Commission and invite comments/suggestions from the stakeholders. The Petitioner has issued public notice in two daily Gujarati Newspapers (Gujarat Samachar and Divya Bhaskar) and one English Newspaper (Indian Express) on 11.04.2021 and also uploaded the same on its website. Thereafter, the Petition was also uploaded on website of the Commission in accordance with the Commission's directives.

3.1. In the aforesaid Daily Order it was also directed by the Commission to provide the details regarding renewable power already tied up by the Petitioner and status thereof. In compliance thereto the Petitioner has submitted a detailed status report of renewable energy projects tied-up through competitive bidding along with the status of commissioning as under:

<b>Year</b>	<b>Particulars</b>	<b>MW</b>	<b>Tariff</b>	<b>Schedule Commercial Operation Date</b>	<b>Remarks/Status of Commissioning</b>
FY 2017-18	Solar (Phase I)	500	Rs. 2.65 – 2.67 / unit	Mar-19	500 MW commissioned in Feb/Mar-19
	Wind (Phase I)	500	Rs. 2.43 – 2.45 / unit	Jun-19	470 MW commissioned by Dec-19: 30 MW terminated
FY 2018-19	Solar (Phase II-R)	500	Rs. 2.44 / unit	Oct-20 (extended due to Covid-19 till Mar-21)	275 MW commissioned by Mar-21: 225 MW pending
	Solar (Phase IV)	500	Rs. 2.55 – 2.68 / unit	Nov-20 (Extended due to Covid-19 till Apr-21)	320 MW commissioned by Mar-21. 180 MW pending
	Solar (Phase III-R) Raghnesda	500	Rs. 2.65 – 2.70 / unit	Nov-20 (Extended due to Covid-19 till Apr-21)	Yet to be commissioned
	Solar (Phase V) Dholera	250	Rs. 2.75 / unit	Jan-21 (Extended due to Covid-19 till Jun-21)	Yet to be commissioned
	Wind (Phase II-R)	202.6	Rs. 2.43 – 2.80 / unit	Dec/Feb-21 (Extended due to Covid-19 till May/Aug-21)	100.7 MW commissioned: 101.2 MW pending
FY 2019-20	Solar (Phase VI) Raghnesda	100	Rs. 2.65 / unit	Feb-21 (Extended due to Covid-19 till July-21)	Yet to be commissioned

	<i>Solar (Phase VII) Dholera</i>	<i>50</i>	<i>Rs. 2.75 / unit</i>	<i>Feb-21 (Extended due to Covid-19 till July-21)</i>	<i>Yet to be commissioned</i>
	<i>Solar (Phase VIII)</i>	<i>350</i>	<i>Rs. 2.61 – 2.64 / unit</i>	<i>Jan-22</i>	<i>Yet to be commissioned</i>
<i>FY 2020-21</i>	<i>Solar (Phase XI)</i>	<i>500</i>	<i>Rs. 1.99 / unit</i>	<i>Jul-22</i>	<i>Yet to be commissioned</i>
	<i>Solar (Phase XII)*</i>	<i>500</i>	<i>Rs. 2.20 – 2.21 / unit</i>	<i>Oct-22</i>	<i>Yet to be commissioned</i>
<b><i>Total</i></b>		<b><i>4452.6</i></b>			

- 3.2. Further, the Petitioner has submitted that with regard to directives of the Commission to provide details of Petitioner's future plan for tying up required capacity so as to meet the RPO targets specified by the Commission, it is submitted that the Commission has specified prescribed minimum quantum of power purchase from Solar, Wind and 'Others' (including Biomass, Bagasse, Hydro and MSW) in their RPO Regulations till FY 2021-22. However, RPO percentage beyond FY 2021-22 is yet to be specified by the Commission.
- 3.3. It is further submitted that the Petitioner is aggressively tying up RE power for meeting the RPO percentage prescribed by the Commission from time to time.
- 3.4. The details submitted in above Table regarding capacity tied up by the Petitioner under competitive bidding route, the Petitioner envisages a capacity addition of about 1750 MW during the FY 2021-22 and 1000 MW during FY 2022-23. Besides a capacity of 4439 MW is likely to be tied up by the Co-Petitioner companies under the GoG's policy of Small Scale Distributed Solar Projects. The Scheduled Commercial Operation Date as per the PPAs being executed under the above policy shall be within 18 months from the date of execution of PPA. As on 30.04.2021, 1336 MW capacity has been tied up by the Co-Petitioners/DISCOMs. Accordingly, the capacity is expected by Oct-2022 i.e. FY 2022-23.
- 3.5. Further, in order to fulfil the RPO compliance of ensuing years, the Petitioner also envisages to procure power from Gujarat State Electricity Corporation Ltd (GSECL) under the GoG's Scheme for allocation of government wasteland in vicinity of existing GETCO sub-stations. It is submitted that GSECL has issued Letter of Awards aggregating to 575 MW capacity and the Petitioner is in the process of tying-up such power and shall undertake procedural / legal approval of the Commission.

- 3.6. Furthermore, the Petitioner also envisages to procure power from the Projects to be set up in the 30 GW Wind / Solar / Wind-Solar Hybrid Renewable Park at Village: Khavda, District: Kutch, which may be helpful in mitigating the RPO compliance of forthcoming years.
- 3.7. It is submitted that thus, the Petitioner / Co-Petitioners are making all possible efforts and exercising commercial prudence towards RE Promotion and tying up RE Power towards compliance of RPO Obligation as prescribed by the Commission from time to time.
4. We note that pursuant to directives of the Commission in Daily Order dated 03.04.2021 to issue Public Notice, the Petitioner had published public notices on 11.04.2021 and also placed the copy of Petition along with public notice on its website ([www.guvnl.com](http://www.guvnl.com)) inviting comments/objections/suggestions from the stakeholders in the present Petition. We also note that the Petitioner has filed compliance affidavit dated 03.05.2021 before the Commission on 07.05.2021. However, the Petitioner has not received any comments from the stakeholders / objectors.
5. We also note that the staff of the Commission also uploaded the present Petition along with the relevant documents on the Commission's website ([www.gercin.org](http://www.gercin.org)) for inviting comments/suggestions from the stakeholders but the Commission's office has also not received the comments/suggestions from the stakeholders in the present matter.
6. The matter was earlier heard on 30.01.2021 and 11.11.2021. During the hearing on 11.11.2021, Ms. Sailaja Vachhrajani, on behalf of the Petitioners submitted the facts as stated in para 2 above and the same are not repeated for sake of brevity. It is further submitted that GUVNL has not received any comments/objections from the stakeholders in the present Petition. Therefore, based on the facts and circumstances of the case, the Commission may take the appropriate decision. During the said hearing, since the Petitioners made their submissions and completed their arguments, the Commission directed to file their written submissions, if any and the matter was reserved for Order.

- 6.1. The Commission while passing Daily Order dated 24.11.2021 for the hearing noted that the Petition filed by the Petitioner GUVNL alongwith its subsidiary distribution companies as Co-Petitioners considers actual total consumption as 90856 MUs after excluding hydro power purchase of 1849 MUs and has thereafter worked out the RPO compliance. Moreover, the Petitioner has also considered purchase of 343 MUs energy from 'Others' category of renewable sources and "Table – II' of GERC (Procurement of Energy from Renewable Sources) (Second Amendment), Regulations, 2018 mentions "Others (Biomass, Bagasse, Hydro and MSW)(%)". Further, 'Renewable energy sources' as defined under Regulation 2.1. (p) of the Principal Regulations, 2010 is *"Renewable energy sources in this context means nonconventional, renewable electricity generating sources such as mini / micro hydel, wind, solar, biomass and bagasse based cogeneration, urban/municipal waste, or such other sources, (which are generally inexhaustible and can be replenished in a short period of time) as approved by the Ministry of New and Renewable Energy, Government of India or by the State of Gujarat"*.
- 6.2. Hence, in the said Daily Order, the Petitioner was directed to file on affidavit stating that hydro power purchase of 1849 MUs excluded from 92705 MUs of actual total consumption qualifies as 'Renewable Energy Sources' in terms of the provisions of the GERC (Procurement of Energy from Renewable Sources) Regulations, 2010 or not. In case the said purchase qualifies then to specify under which provisions of law and that the Petitioner to also provide separate details of purchase of energy from Biomass, Bagasse, Mini/Micro Hydel, MSW etc. under 'Others' category in above affidavit.
- 6.3. In response to the aforesaid directives, the Petitioner vide its affidavit dated 07.12.2021 submitted that in pursuance of the Commission's directives vide Daily Order dated 24.11.2021 to submit clarification regarding exclusion of hydro power purchase to the tune of 1849 MUs from the total consumption of 92705 MUs, the Petitioner has referred various provisions of National Electricity Policy and Plan, Tariff Regulations, Functions of the State Commission, Tariff Policy 2016.
- 6.4. It is further submitted that in consideration of above aspects and in accordance with the format / template provided by GEDA - the State Nodal Agency for monitoring & verification of RPO of all the Obligated Entities of the State of Gujarat, the Petitioner has submitted the RPO Compliance Report(s) (on quarterly basis) to GEDA as well as to the Commission considering the net total energy consumption i.e. by excluding

energy purchase from Large Hydro Projects. Accordingly, the Petitioner in the present Petition has submitted the Annual RPO Compliance for FY 2019-20 by excluding the purchase from Large Hydro Projects of 1849 MUs from the total energy of 92705 MUs. However, it is submitted and clarified that RPO details of the Petitioner as published by GEDA Report are provisional and reflecting the RPO Compliance of 13%. Taking into consideration revisions in the SEA / REA and annual accounts of GUVNL and DISCOMs, the Final RPO Compliance of GUVNL / DISCOMs for FY 2019-20 is 13.14%.

- 6.5. With regard to the Commission's directives to submit separate details for purchase of energy from Biomass, Bagasse, Mini-Hydel, MSW, etc., under 'Other RE' Category, the details submitted by the Petitioners are as under:

" .....

<b>Particulars</b>	<b>Energy Details during FY 2019-20 (MUs)</b>
<i>Purchase from Mini-Hydel Projects</i>	177.270
<i>Purchase from Biomass Projects</i>	165.382
<i>Purchase from Bagasse Projects</i>	-
<i>Purchase from MSW Projects</i>	-
<b>Total Purchase from 'Other RE'</b>	<b>342.652</b>

....."

7. We have carefully considered the submissions made by the parties. The issue emerged in the present case is with regard to shortfall in RPO compliance by the subsidiary distribution licensees of the Petitioner who are the obligated entities. We note that the Petitioner has complied with the directions of the Commission in Daily Order dated 03.04.2021. The Petitioner contended that the shortfall is due to factors beyond the control of the Petitioner and it is requested that the Commission has powers to revise the percentages of RPO targets for a year keeping in view the supply constraints or other factors beyond the control of the licensee. The Commission may, therefore, revise the RPO targets by considering the actual renewable energy purchased by the Petitioner as compliance of the RPO for FY 2019-20.
- 7.1. The Petitioner has contended that it has purchased 673 MUs of Non-Solar energy in excess of the stipulated Non-Solar RPO, which is eligible to get compensated against the 1727 MUs shortfall in purchase of Solar energy in accordance with Regulations 4.1

of the GERC RPO Regulations. Thus, the net shortfall in total RPO compliance for FY 2019-20 is 1054 MUs, i.e. 1.16%.

- 7.2. It is also submitted that the Commission in its various Orders have acknowledged the fact that purchase of RECs by Distribution Licensees as Obligated Entities needs to be considered keeping in view various factors and its impact on the consumer tariff. The Commission has rightly acknowledged that unnecessary purchase of RECs results in increase in the cost of power purchase of the distribution licensees without any increase in the physical component of electricity purchased and leads to financial burden on the end consumers of the State.
- 7.3. It is submitted that based on the details as mentioned in the Petition regarding the tied-up capacity and the availability of renewable energy and inadequate capacity addition and factors beyond the control of the Petitioner, the Commission is requested to exercise its power under Regulation 4.2 and revise the targets of RPO for FY 2019-20 as per actual RPO compliance. Further, as per Regulation 7.2, the Regulation 9 "Consequences of Default" can be invoked in case Distribution Licensee fails to meet the RPO despite availability of renewable energy sources. In the above background, in light of constraints in availability of renewable energy and invocation of Regulation 7.2 which is the pre-condition for invocation of Regulation 9 is not applicable. Furthermore, invocation of Regulation 9 and levy of regulatory charge shall put unwarranted burden on GUVNL / Distribution Companies and eventually on the end-consumers of the State. It is pertinent to highlight that the preamble of Electricity Act 2003, National Electricity Policy 2005 and Tariff Policy 2006 & Amendments thereto lay emphasis on both promotion of renewable energy as well as safeguarding the interest of the consumers. It is therefore requested not to invoke Regulation 9 and exempt GUVNL & its Distribution Companies from the consequences thereof. In light of above, the Commission is requested to exercise their powers to relax/ waive-off the shortfall in RPO Compliance of GUVNL for FY 2019-20 by revising the RPO Targets as per Actuals.
- 7.4. The Petitioner has further contended that the shortfall in RPO compliance is due to reasons beyond its control as stated below: