

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

DRAFT NOTIFICATION

Dated: 02.07.2010

In exercise of powers conferred under sections 61, 66, 86(1)(e) and 181 of the Electricity Act, 2003 and all other powers enabling it in this behalf, and after previous publication, the Uttarakhand Electricity Regulatory Commission hereby makes the following regulations, namely:

1.0 Short Title, Commencement and extent of Application

- 1.1 These regulations may be called the UERC (Compliance of Renewable Purchase Obligation) Regulations, 2010.
- 1.2 These regulations shall come into force from the date of their publication in the Official Gazette.
- 1.3 These regulations shall apply throughout the State of Uttarakhand on the different entities referred to under these regulations.

2.0 Definitions and Interpretations

- 2.1 In these regulations, unless the context otherwise requires,
 - a. "Act" means the Electricity Act, 2003 (36 of 2003);
 - b. "Captive User" means the end user of the electricity generated in a captive generating plant and the term 'captive use' shall be construed accordingly;
 - c. "Central Agency" means the agency operating the National Load Despatch Centre or such other agency as the Central Commission may designate from time to time;
 - d. "Central Commission" means the Central Electricity Regulatory Commission referred to in sub-section (1) of section 76 of the Act;
 - e. "Certificate" means the renewable energy certificate issued by the Central Agency in accordance with the detailed procedures laid down by it and under the provisions specified in the CERC REC Regulations ;
 - f. "CERC REC Regulations" means the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of

Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 and amendment thereof;

- g. "Commission" means the Uttarakhand Electricity Regulatory Commission as referred to in sub-section (1) of section 82 of the Act;
- h. "Eligible Entity" means the entity eligible to receive the certificates under the CERC REC Regulations ;
- i. "Floor Price" means the minimum price as determined by the Central Commission in accordance with the CERC REC Regulations as amended from time to time, at and above which the certificate can be dealt in power exchange;
- j. "Forbearance Price" means the ceiling price as determined by the Central Commission in accordance with the CERC REC Regulations, as amended from time to time, within which only the certificate can be dealt in power exchange;
- k. "MNRE" means the Ministry of New and Renewable Energy, Government of India;
- l. "Obligated Entity" means the distribution licensee, captive user and open access consumer in the State, which is mandated to fulfill renewable purchase obligation under these regulations;
- m. "Open Access Customer" means the consumer availing open access under sub-section (2) of section 42 of the Act;
- n. "Power Exchange" means any exchange operating as the power exchange for electricity in terms of the orders issued by the Central Commission;
- o. "Preferential Tariff" means the tariff fixed by the Appropriate Commission for sale of energy from a generating station based on renewable energy sources to a distribution licensee;
- p. "Renewable Energy Sources" means renewable electricity generating sources such as small hydro, wind, solar, biomass, bio fuel, cogeneration (including bagasse based co-generation), urban or municipal waste and such other sources as recognized or approved by MNRE or State Government;

- q. "Renewable Purchase Obligation" means the requirement as specified in clause 4 hereof, under clause (e) of sub-section (1) of section 86 of the Act, for the obligated entity to purchase electricity generated from renewable energy sources;
- r. "State" means the State of Uttarakhand;
- s. "State Agency" means the agency in the State as designated by the Commission under these regulations;
- t. "Year" means a financial year.

2.2 Words and expressions used in these regulations and not defined herein, shall, unless the context otherwise requires, have the same meanings as assigned to them respectively in the Act or any other relevant regulations specified by the Commission, as the case may be.

3.0 Renewable Purchase Obligation

3.1 Every obligated entity shall purchase a minimum percentage of its total electricity requirement (in kWh) from renewable energy sources under the renewable purchase obligation during each financial year as specified by the Commission under UERC (Tariff and Other Terms of Supply of Electricity from Co-generation and Renewable Energy Sources) Regulations, 2010.

Provided that obligated entity shall be required to purchase a specified percentage of total renewable purchase obligation from generation based on solar energy only:

Provided further that, such obligation to purchase renewable energy shall be inclusive of the purchases, if any, from renewable energy sources already being made by concerned obligated entity:

Provided also that the power purchases under the power purchase agreements for the purchase of renewable energy sources already entered into by the distribution licensees and consented to by the Commission shall continue to be made till their present validity, even if the total purchases under such agreements exceed the percentage as specified hereinabove

4.0 Certificates under the Regulations of the Central Commission

4.1 Subject to the terms and conditions contained in these regulations the

Certificates issued under the CERC (Terms and Conditions for recognition and issue of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2009, shall be the valid instruments for the discharge of the mandatory obligations set out in these regulations for the obligated entities to purchase electricity from renewable energy sources.

Provided that in the event of the obligated entity fulfilling the renewable purchase obligation by purchase of certificates, the obligation to purchase electricity from generation based on solar as renewable energy source can be fulfilled by purchase of solar certificates only, and the obligation to purchase electricity from generation based on renewable energy other than solar can be fulfilled by purchase of non- solar certificates.

4.2 Subject to such directions as the Commission may give from time to time, the obligated entity shall act consistent with the CERC (Terms and Conditions for recognition and issue of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2009 notified by the Central commission in regard to the procurement of the certificates for fulfillment of the renewable purchase obligation under these regulations.

4.3 The certificates purchased by the obligated entities from the power exchange in terms of the regulation of the Central Commission mentioned in Regulation 4.1 above shall be deposited by the obligated entities to the State Agency in accordance with the detailed procedure framed by State Agency, on the lines of procedure specified by the Central Agency, and approved by the Commission.

5.0 5.0 Obligated Entities

5.1 Every Obligated Agency (i.e. distribution licensee, Captive User and Open Access Customer) shall, on a yearly basis on or before 15th March, submit to the State Agency with a copy to the Commission, the details of the estimated quantum of purchase from renewable energy sources for the ensuing year. The estimated quantum of such purchase shall be in accordance with UERC (Tariff and Other Terms of Supply of Electricity from Co-generation and Renewable Energy Sources) Regulations 2010. In case of actual requirement of the Obligated Agency being different from that submitted by it, the

commitment towards renewable purchase quantum shall be deemed to have been modified to that extent. However, the percentage of renewable purchase obligation shall remain same and modified quantum of renewable purchase shall be determined with reference to actual requirement.

5.2 All the Obligated Agencies shall submit quarterly status report to the State Agency in respect of compliance of renewable purchase obligation in accordance with the procedure as framed by State Agency.

5.3 All the obligated Agencies shall also submit a detailed statement to the State Agency under intimation to the Commission within one month of close of each year in respect of compliance of renewable purchase obligation in that year.

6.0 State Agency and its Functions

6.1 The Commission designates State Load Despatch Centre (SLDC) as the State Agency for accreditation and recommending the renewable energy projects for registration with Central Agency and to undertake following functions under these regulations:

- a. Frame a procedure consistent with the procedure framed by Central Agency to meet the requirement of these regulations.
- b. Registration & accreditation of eligible entities at State level and recommending them to Central Agency for accreditation at the central level,
- c. Maintaining and settling accounts in respect of certificates,
- d. Repository of transactions in certificates, and
- e. Such other functions incidental to the implementation of renewable energy certificate mechanism as may be assigned by the Commission from time to time.

6.2 The State Agency shall function in accordance with the directions issued by the Commission and shall act consistent with the procedures and rules laid by Central Agency for discharge of its functions under the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issue of Renewable Energy Certificate for Renewable Energy Generation) Regulations,

2009.

- 6.3 The State Agency may seek information or assistance as may be required by it from UREDA, which is the State Nodal Agency for development of non-conventional. UREDA shall extend the necessary co-operation to the State Agency in this regard.
- 6.4 The State Agency shall develop the formats for submission of quarterly progress report in respect of compliance of renewable purchase obligation by the obligated entities and get them approved by the Commission within 3 months of issuance of these Regulations. State Agency may also suggest appropriate action to the Commission, if required, for compliance of the renewable purchase obligation.
- 6.4 The Commission may from time to time fix the remuneration and charges payable to the State Agency for discharge of its functions under these regulations.
- 6.5 If the Commission is satisfied that the State Agency is not able to discharge its functions satisfactorily, it may by general or special order, and by recording reasons in writing, designate any other agency to function as State Agency as it considers appropriate.
- 6.6 The Commission shall, either on its own motion or on request of the State Agency, by an order as deemed appropriate, constitute a co-ordination committee for facilitating the implementation of these regulations:

7.0 Effect of Default

- 7.1 If the Obligated Entity does not fulfill its commitment towards Renewable Purchase Obligation during any year as provided under UERC (Tariff and Other Terms of Supply of Electricity from Co-generation and Renewable Energy Sources) Regulations 2010, and also does not purchase adequate certificate for meeting the shortfalls, the Commission may direct the Obligated Entity to deposit into a separate RPO Fund such amount as the Commission may determine on the basis of the shortfall in units of RPO, Preferential Tariffs applicable in the State and forbearance price as decided by Central Commission:

Provided that the responsibility of intimating such shortfall within one month

of close of that year shall be that of State Agency.

Provided further that the fund so created shall be utilised only after approval of the Commission for purchase of certificates or as may be directed by the Commission:

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 Obligated Entities shall be in breach of provisions of these regulations if it fails to deposit the amount directed by the Commission within 15 days of the communication of the direction.

- 7.2 Where any obligated entity fails to comply with the obligation to purchase the required percentage of power 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 notwithstanding its liability for any other action under prevailing laws:

Provided that in case of genuine difficulty in complying with the renewable purchase obligation because of non-availability of certificates, the Obligated Entity can approach the Commission for carry forward of compliance requirement to the next year:

Provided that where the Commission has consented to the carry forward of compliance requirement, the provision of Regulation 6.1 above or the provision of Section 142 of the Act shall not be invoked.

8.0 Eligibility for Accreditation

- 8.1 A generating company engaged in generation of electricity from renewable energy sources shall be eligible to apply for accreditation subject to following conditions:

- a. It has connectivity to the State network;
- b. It does not have any power purchase agreement for the capacity related to such generation to sell electricity at a preferential tariff determined by the Commission;

- c. It sells the electricity generated either (i) to the distribution licensee of the area in which the eligible entity is located, at a price not exceeding the pooled cost of power purchase (excluding transmission charges) of such distribution licensee, or (ii) to any other licensee or to an open access consumer at a mutually agreed price, or through power exchange at market determined price; and

Explanation: For the purpose of these regulations, 'Pooled Cost of Purchases' means the weighted average pooled price at which the distribution licensee has purchased the electricity including the cost of self generation, if any, in the previous year from all the energy suppliers long-term and short-term, but excluding those based on renewable energy sources, as the case may be.

- d. It possesses the necessary infrastructure required to carry out energy metering and time-block wise accounting.

Provided that the renewable energy purchased by the obligated entity in excess of its Renewable Purchase Obligation, as certified by the State Nodal Agency, shall be deemed to have been supplied by the renewable generators at pooled cost of purchases on pro-rata basis, at the option of such generators being given in writing to the concerned obligated entity and the State Nodal Agency and such generators shall also be entitled for accreditation only for such excess generation. The State Nodal Agency shall certify the quantum of such units for each generator after taking necessary data from all concerned. PPAs of such generators shall also have to be modified accordingly.

9.0 Grant of Accreditation

- 9.1 Subject to the procedure as framed by the State Agency a generating company fulfilling the eligibility criteria as provided under Regulation 8 may apply for accreditation with the State Agency.

Provided that the application for accreditation shall also include geographical location of the applicant, metering details, point of injection and quantum of power to be injected to the State Grid/network for which accreditation has been applied for.

- 9.2 The State Agency shall, in consultation with the concerned transmission

licensee and/or distribution licensee, process the application and grant accreditation or otherwise to the applicant within thirty days from the date of receipt of complete application:

Provided that an applicant shall be given a reasonable opportunity of being heard before his application is rejected:

Provided further that in case application is rejected, then the reasons for rejection shall be recorded in writing:

Provided also that in case the State Agency faces any difficulty in the process of consultation or coordination, it may approach the Commission for appropriate directions.

9.3 A person aggrieved by the decision of the State Agency may approach the Commission for redressal within fifteen days from the date of receipt of communication of such decision and the Commission may pass order, as deemed appropriate.

9.4 Accreditation shall be valid for a period of five years from the date of accreditation certificate unless otherwise revoked prior to expiry of such validity period under Regulation 11.

9.5 Grant of accreditation shall not entitle an applicant to inject any such power to the State grid/network unless the applicant/renewable energy generating company or buyer, as the case may be, obtains open access in accordance with the regulations specified by the Appropriate Commission:

Provided that if a generating plant is embedded in the distribution system of a distribution licensee, it shall not be required to obtain open access for supplying electricity to such licensee.

10.0 Monitoring during Accreditation

10.1 The State Agency shall, in coordination with concerned transmission licensee and/or distribution licensee, monitor the accredited project, maintain accounts sale and purchase of renewable energy certificates by the generating companies and obligated entities and undertake other functions incidental to the monitoring of such accredited project:

Provided that generating company after obtaining accreditation shall submit

annual status to the State Agency in respect of accreditation and other matters connected therewith:

Provided further that an application for extension of validity of existing accreditation shall be made to the State Agency at least ninety days prior to expiry of validity of existing accreditation.

11.0 Revocation of Accreditation

11.1 If the State Agency, after making an enquiry or based on the report of Central Agency, is satisfied that public interest so requires, it may revoke accreditation of the renewable energy generating company where such company (a) breaches any of the terms and conditions of its accreditation which are expressly declared by such accreditation so as to render it liable to revocation; and (b) makes willful and prolonged default, in the opinion of the State Agency, in doing anything required of it by or under these regulations.

11.2 The State Agency before revoking the accreditation under Regulation 11.1 above shall give to such renewable energy generating company reasonable opportunity for being heard.

11.3 Notwithstanding the provisions of Regulation 11.1 & 11.2, the Commission may from time to time direct the State Agency to initiate enquiry and/or revocation process against such renewable energy generating company if the Commission deems it fit.

11.4 A person aggrieved by the decision of the State Agency may approach the Commission for redressal within fifteen days from the date of such decision being communicated and the Commission may pass order, as deemed appropriate.

12.0 Fees and Charges

12.1 The Commission may from time to time, based on the proposal in this regard from the State Agency or on its own motion, determine, by order, the fees and charges payable to the State Agency by the Obligated Entities and/or the persons applying for accreditation, and for maintaining the validity of accreditation and other matters connected therewith.

12.2 The fees and charges payable may include non-refundable application fee,

onetime accreditation fee, annual fee and other charges for discharging its function in accordance with these regulations, as the Commission may consider appropriate.

- 12.3 The fees and charges paid by the Obligated Entities and the renewable energy generating companies shall be collected by the State Agency and utilised for discharge of its function under these Regulations.

13.0 Information System

13.1 The State Agency shall post the following documents / information on its website in a separate web-page titled "Accreditation of RE Projects":

- a. Procedure to be followed by eligible entities for registration/accreditation;
- b. List of applications along with necessary details such as status of compliances and likely date by which accreditation shall be granted.
- c. List of accreditation granted, indicating
 - (i) Name of RE generating company/station;
 - (ii) Point of injection;
 - (iii) Capacity (MW) for which accreditation has been granted.
- d. List of applications where approval for accreditation has not been granted along with reasons thereof;
- e. Status of compliance by Obligated Entities in respect of RPO.

14.0 Appointment of Compliance Auditors

14.1 The Commission may, in consultation with the State Agency, appoint from time to time compliance auditors to inquire into and report on the compliance of these Regulations by the person applying for registration, or on the compliance by the renewable energy generators in regard to the eligibility of the Certificates and all matters connected thereto.

14.2 The compliance auditor shall have the qualifications and experience as contained in the **Schedule** to these Regulations:
Provided that the Commission may by order amend the Schedule from time to time.

14.3 The Commission may from time to time fix the remuneration and charges payable to such auditors and all such amount payable shall be met out of the funds which the State Agency may collect from the eligible entities.

15.0 Redressal Mechanism

All disputes arising out of or under these regulations shall be decided by the Commission on a petition made in this behalf by the person aggrieved.

16.0 Power to give directions

The Commission may from time to time issue such directions and orders as considered appropriate for the implementation of these regulations and for the development of market in power for Renewable Energy Sources.

17.0 Power to relax

17.1 The Commission may by general or special order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected may relax any of the provisions of these regulations on its own motion or on an application made before it by an interested person.

18.0 Miscellaneous

18.1 Nothing in these regulations shall be deemed to limit or otherwise affect the power of the Commission to make such orders as may be necessary to meet the ends of justice or to prevent abuse of process of the Commission.

18.2 Nothing in these regulations shall bar the Commission from adopting a procedure in conformity with the provisions of the Act, which is at variance with any of the provisions of these regulations, if the Commission, in view of the special circumstance of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient to deal with such matter or class of matters.

By the Order of the Commission

(Pankaj Prakash)
Secretary

Schedule
Qualification of Auditors

The auditor could be an individual person or a firm having persons with qualification and experience in the following areas:

- a. Finance or accounts or commerce, and
- b. having qualifications and experience in the field of engineering with specialisation in generation, transmission or distribution of electricity, experience that demonstrates an adequate understanding of the electricity sector, institutions involved including Regulatory Commission, utilities, government institutions, State agencies and their roles and responsibilities.