

Before

# UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

## Suo-Moto Order

### In the matter of:

Targets for Renewable Purchase Obligation of FY 2016-17 & FY 2017-18 in accordance with the UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations, 2013.

### CORAM

**Shri Subhash Kumar** Chairman

**Shri K.P. Singh** Member

**Date of Hearing: December 09, 2016**

**Date of Order: December 28, 2016**

1. Ministry of Power, Government of India has issued an Order no. 23/3/2016-R&R dated 22 July, 2016 notifying the long term growth trajectory of RPO for Non-Solar as well Solar, uniformly for all States/Union Territories. Vide the above referred Order Ministry of Power, Government of India proposed the trajectory for RPO as follows:

<b>Long Term Trajectory</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>
Non-Solar	8.75%	9.50%	10.25%
Solar	2.75%	4.75%	6.75%
Total	11.50%	14.25%	17.00%

The above mentioned Order of the MoP also specifies that the RPO trajectory shall be applicable on total consumption of electricity by an obligated entity excluding consumption met from hydro sources of power.

2. UPCL, the State Distribution Licensee had also filed an Application dated 01.09.2016 seeking revision of the Renewable Purchase Obligation of FY 2016-17 & FY 2017-18. The Commission vide its Order dated 05.10.2016 while holding that the Petition was not maintainable directed as follows:

*"The Commission directs its staff to examine the issue and, if required, frame an appropriate draft amendment to RE Regulations, 2013 for inviting comments from all stakeholders in accordance with the provisions of the Electricity Act, 2003 and Regulations made thereunder."*

3. Accordingly, the Commission had issued draft sixth amendment to UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations, 2013. In the aforesaid draft amendment Regulations, targets for Renewable Purchase Obligation of FY 2016-17 & FY 2017-18 have been proposed to be revised as follows:

Year	Renewable Purchase Obligation -Non-Solar		Renewable Purchase Obligation - Solar	
	Existing	Revised	Existing	Revised
2016-17	8.00%	8.75%	1.50%	2.75%
2017-18	8.00%	9.50%	2.50%	4.75%

In line with the MoP's Order dated 22.07.2016 the above referred revised RPO targets have also been specified on total consumption of electricity by an obligated entity excluding consumption met from hydro generation sources of power.

4. Before finalization of the above mentioned amendment Regulations and also to reassess the legal implication of the proposed revised RPO targets the Commission discussed with the counterparts of other Electricity Regulatory Commissions regarding initiatives taken up in other State in the matter. It has been observed that none of the State Commission has revised RPO targets based on the above referred Order dated 22.07.2016 of MoP except one or two ERCs who have also issued draft amendment in their relevant Regulations adopting the methodology of calculation of RPO including revision of targets thereof, however, the same is yet to be finalized till date.
5. Moreover, Section 86(1)(e) of the Electricity Act, 2003 (Act) specifies as under:

*“(e) promote congeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licence;”*

*(Emphasis added)*

Apparently, in respect of calculation of RPO and targets thereof, the Act provides purchase of RE power as a percentage of total consumption of power by the discom/ obligated entities. The Electricity Act, 2003 does not provide for exclusion of any source of generation/power from total consumption of the discom/obligated entity for arriving at RPO for such entities.

6. However, revision in the methodology for calculation of RPO and targets thereof as proposed in the draft amendment Regulations, in accordance with the MoP's Order dated 22.07.2016, prima facie appears to be inconsistent with the above referred Section 86(1)(e) of the Act.
7. The Commission also observed that the MoP's Order dated 22.07.2016 is an executive order and the same cannot override the provisions stipulated under the Electricity Act, 2003. Since the Commission is bestowed with certain functions to be performed under the Act, hence, any direction contrary to the Act through executive order issued by MoP is not binding to be complied with by the State Commission.
8. Based on the above, prima facie there appears to be ambiguity in application of the MoP's Order in the matter, accordingly, the Commission has decided to continue with the existing RPO targets for the current financial year, i.e. 8% non-Solar RPO & 1.5% Solar RPO as a percentage of total consumption of electricity by the obligated entity for FY 2016-17. Further, any revision in RPO targets for subsequent financial year shall be carried out by way of finalization of draft amendment to RE Regulations, 2013 in accordance with the prevailing law after taking due cognizance of development and availability of power from renewable energy sources to the State of Uttarakhand.
9. Ordered accordingly.

**(K.P. Singh)**  
**Member**

**(Subhash Kumar)**  
**Chairman**