

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

In the matter of:

Non-Compliance by Obligated Entities under UERC (Tariff and Other Terms for Supply of Electricity from non-conventional and Renewable Energy Sources) Regulations, 2010 and UERC (Compliance of Renewable Purchase Obligation) Regulations, 2010.

AND

In the matter of:

1. M/s Tata Motors Pvt Ltd.
2. M/s Purti Textiles
3. M/s Mahalxmi Polypack Ltd.
4. M/s Air Liquide India Ltd.
5. M/s Rana Bar Ltd.
6. M/s Rana Industries Ltd.
7. M/s Bhavani Industries Ltd.
8. M/s Amul Auto Components Pvt Ltd., Haridwar
9. M/s Mahabal Auto Pvt. Ltd.
10. M/s Amul Auto Components Pvt Ltd., Unit-II, Pantnagar
11. M/s U.P. Bone Mills Pvt. Ltd.
12. M/s Amul Auto Components Pvt. Ltd., Unit-II, Haridwar
13. M/s Sundram Fasteners Ltd.
14. M/s Shriram Foundary Ltd.
15. M/s Mantri Metallic Pvt. Ltd.
16. M/s Shri Grinding Cement Ltd.
17. M/s Ganesha Echosphere Ltd.
18. M/s Ambuja Cement
19. M/s India Glycols Ltd.
20. M/s Rockman Industries Ltd.
21. M/s Asahi India Glass Ltd.
22. M/s Hindustan National Glass and Industries Ltd.
23. M/s Jaypee Roorkee Cement
24. M/s DVS Industries Ltd.
25. M/s Rojee Tasha Stamping Ltd.
26. M/s Bajaj Motors Ltd.
27. M/s Anusuya Auto Press Parts Pvt. Ltd.
28. M/s Autocomp Corporation Panes Pvt. Ltd.
29. M/s Shivani Locks Pvt. Ltd.
30. M/s Dali & Samir Engineering Pvt. Ltd.
31. M/s Everest Industries Ltd.
32. M/s Amul Auto Components Pvt Ltd., Pantnagar

33. M/s Pashupati Polytex Ltd.
34. M/s Pashupati Laminators Ltd.
35. M/s Syndicate Auto Components
36. M/s Sona Somic
37. M/s Time Technoplast Ltd., Unit-I
38. M/s Time Technoplast Ltd., Unit-II
39. M/s Hindustan Zinc Ltd., Pantnagar
40. M/s Hindustan Zinc Ltd., Haridwar

...Respondents

CORAM

Shri Jag Mohan Lal Chairman

Shri C.S. Sharma Member

Shri K.P. Singh Member

Date of Order: March 13, 2014

This Order relates to the suo-moto proceedings initiated by the Commission in the matter of findings that the majority of the obligated entities (Open Access Consumers) in the State had not complied with the provisions specified under UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations, 2010 and UERC (Compliance of Renewable Purchase Obligation) Regulations, 2010 (hereinafter referred to as "REC Regulations, 2010") and also the Procedures framed under the above referred Regulations.

1. Background

- 1.1 The Commission on the non-compliance by obligated entities (Open Access Consumers) of the RE Regulations, 2010 & REC Regulations, 2010 issued show-cause notice dated March 08, 2013 to the Respondents for submission of their reply in the matter of not making compliance of their RPO and also non-compliance of the above referred Regulations. The Commission also held a hearing on July 22, 2013 wherein, Respondents made their submissions and expressed their willingness to procure RE energy and/or RECs in accordance with the Regulations.
- 1.2 The Commission vide Order dated July 30, 2013 specifically directed as under:
 - (a) Obligated entities who did not submit reply to show cause notice dated March 08, 2013 were directed to show-cause & explain reasons for their failure in submitting their reply to the notice issued by the Commission and also for the failure to be present during the hearing held on July 22, 2013.

- (b) Obligated entities having shortfall in meeting the renewable purchase obligation were directed to seek approval of the Commission for carry forward of the unmet RPO.
 - (c) Obligated entities who did not submit the statement required under UERC (Compliance of Renewable Purchase Obligation) Regulations, 2010 to UREDA were directed to submit as to why the reports/statements were not sent to UREDA within the time frame specified under UERC (Compliance of Renewable Purchase Obligation) Regulations, 2010.
- 1.3 With regard to (a) above a show cause notice dated August 20, 2013 were sent to Respondents who did not reply on show cause notice dated March 08, 2013 and also to Respondents who failed to be present during the hearing held on July 22, 2013.
- 1.4 The Commission again issued a show cause notice dated November 22, 2013 against the Respondents who did not reply to the above referred notices and who did not make compliances in accordance with the directions issued vide Order dated July 30, 2013.

2. Commission's views and decision

- 2.1 Based on the submissions received from the Respondents in reply to the above referred show cause notices and submissions made during hearing held on July 22, 2013 the Commission observed that reasons forwarded for non-compliances by the Respondents was by and large due to lack of awareness of rules and regulations. However, these Respondents expressed their willingness to make compliances by way of procurement of RE based power or by purchasing of RECs. The Commission also observed that some of the Respondents had infact procured RECs so as to ensure compliances of their RPO. Further, it has also been observed that requisite compliance of RPO by some of the Respondents is still pending. Since, this was the first instance of non-compliance by these Obligated entities, the Commission has taken a lenient view & refrained itself from taking any action against them for non-compliance of the RE Regulations, 2010 & REC Regulations, 2010.
- 2.2 Based on the replies received from the respondents, it is ordered:

I. Respondents who have complied both non-Solar RPO and Solar RPO

- i. Carry Forward of unmet RPO of FY 2011-12 to FY 2012-13: It has been observed that Respondent nos. 1, 13, 14, 15 & 17 have purchased requisite non-Solar & Solar RECs during FY 2012-13 which suffice the compliances for FY 2011-12. Further, these Respondents have sought permission from the Commission for carrying forward of unmet RPO of FY 2011-12 to FY 2012-13. UREDA, the State Agency has also verified that the no. of RECs purchased by these Respondents are sufficient to meet their

compliances for FY 2011-12. These Respondents are hereby, allowed to carry forward unmet RPO of FY 2011-12 to FY 2012-13.

- ii. Carry Forward of unmet RPO of FY 2012-13 to FY 2013-14: It has been observed that Respondent nos. 3, 10, 16, 26, 28 & 32 have purchased requisite non-Solar & Solar RECs during FY 2013-14 which suffice the compliances for FY 2012-13. Further, these Respondents have sought permission from the Commission for carrying forward of unmet RPO of FY 2012-13 to FY 2013-14. UREDA, the State Agency has also verified that the no. of RECs purchased by these Respondents are sufficient to meet their compliances for FY 2012-13. These Respondents are hereby, allowed carrying forward of unmet RPO of FY 2012-13 to FY 2013-14.
- iii. Carry Forward of unmet RPO of FY 2011-12 to FY 2013-14: It has been observed that Respondent nos. 16 & 26 have purchased requisite non-Solar & Solar RECs during the FY 2013-14 which suffice the compliances for FY 2011-12. Further, these Respondents have sought permission from the Commission for carrying forward of unmet RPO of FY 2011-12 to FY 2013-14. UREDA, the State Agency has also verified that the no. of RECs purchased by these Respondents are sufficient to meet their compliances for FY 2011-12. These Respondents are hereby, allowed carrying forward of unmet RPO of FY 2011-12 to FY 2013-14.

II. Respondents who have complied non-Solar RPO only

- i. Carry Forward of unmet RPO of FY 2011-12 to FY 2012-13: It has been observed that Respondent no. 31 has purchased requisite non-Solar REC for FY 2011-12 during ensuing FY 2012-13 and it has sought permission from the Commission for carrying forward of unmet RPO of FY 2011-12 to FY 2012-13. UREDA, the State Agency has also verified that the no. of non-Solar RECs purchased by this Respondent is sufficient to meet its compliance for FY 2011-12. However, Respondent no. 31 has not procured requisite Solar RECs for FY 2011-12 so far. Respondent no. 31 is being allowed carrying forward of all the unmet RPO from Solar of previous years to FY 2013-14 with the direction to procure Solar REC so as to meet the shortfall in compliance latest by March 31, 2014 and submit the compliance status by April 10, 2014.
- ii. Carry Forward of unmet RPO of FY 2012-13 to FY 2013-14: It has been observed that Respondent nos. 1, 7, 9, 17, 20, 22, 30 & 36 have purchased requisite non-Solar REC for FY 2012-13 during ensuing FY 2013-14 and these Respondents have sought permission from the Commission for carrying forward of unmet RPO of FY 2012-13 to FY 2013-14. UREDA, the State Agency has also verified that the no. of non-Solar RECs purchased by

these Respondents are sufficient to meet their compliance for FY 2012-13. However, Respondent nos. 7, 9, 30 & 36 have not purchased requisite Solar RECs for FY 2012-13 so far or they have short fall in meeting their RPO compliances for FY 2012-13 in accordance with the Regulations. Further, these Respondents have also sought permission from the Commission for carrying forward of unmet RPO of FY 2012-13 to FY 2013-14. These Respondents are hereby, allowed carrying forward of unmet RPO of FY 2012-13 to FY 2013-14 with the direction to make procurement of Solar RECs so as to meet shortfall in compliance latest by March 31, 2014 and submit the compliance status same by April 10, 2014.

III. Respondents who have complied Solar RPO only

- i. Carry Forward of unmet RPO of FY 2012-13 to FY 2013-14: It has been observed that Respondent nos. 21, 35 & 40 have purchased requisite Solar REC for FY 2012-13 during ensuing FY 2013-14 and these Respondents have sought permission from the Commission for carrying forward of unmet RPO of FY 2012-13 to FY 2013-14. UREDA, the State Agency has also verified that the no. of Solar RECs purchased by these Respondents are sufficient to meet their compliance for FY 2012-13. However, Respondent nos. 35 & 40 have not purchased requisite non-Solar RECs so far or they have short fall in meeting their RPO compliances for FY 2012-13 in accordance with the Regulations. Further, these Respondents have also sought permission from the Commission for carrying forward of unmet RPO of FY 2012-13 to FY 2013-14. These Respondents are hereby, allowed carrying forward of unmet RPO of FY 2012-13 to FY 2013-14 with the direction to make procurement of non-Solar RECs so as to meet shortfall in compliance latest by March 31, 2014 and submit the compliance status by April 10, 2014.

IV. Respondents who have not complied with both or either non-Solar RPO and Solar RPO

- i. Carry Forward of unmet RPO of FY 2011-12 & FY 2012-13 to FY 2013-14: It has been observed that Respondent nos. 18, 24 & 25 have not purchased requisite non-Solar & Solar RECs so far or they have short fall in meeting their RPO compliances for FY 2011-12 & FY 2012-13 in accordance with the Regulations. Further, these Respondents have sought permission from the Commission for carrying forward of unmet RPO of FY 2011-12 & FY 2012-13 to FY 2013-14. UREDA, the State Agency has also verified that there is shortfall in compliance of RPO by these Respondents. These Respondents are hereby, allowed carrying forward of unmet RPO of FY 2011-12 & FY 2012-13 to FY 2013-

14 with the direction to make procurement of non-Solar and Solar RECs so as to meet shortfall in compliances latest by March 31, 2014 and submit the compliance status by April 10, 2014.

- ii. Carry Forward of unmet RPO of FY 2012-13 to FY 2013-14: It has been observed that Respondent nos. 11, 29, 31, 37, 38 & 39 have not purchased requisite non-Solar & Solar RECs so far or they have short fall in meeting their RPO compliances for FY 2012-13 in accordance with the Regulations. Further, these Respondents have sought permission from the Commission for carrying forward of unmet RPO of FY 2012-13 to FY 2013-14. UREDA, the State Agency has also verified that there is shortfall in compliance of RPO by these Respondents. These Respondents are hereby, allowed carrying forward of unmet RPO of FY 2012-13 to FY 2013-14 with the direction to make procurement of non-Solar and Solar RECs so as to meet shortfall in compliances latest by March 31, 2014 and submit the compliance status by April 10, 2014.

V. Co-generation based Captive Power Plant

Respondent no. 19 has submitted that being a co-generation based Captive Power Plant it is not liable to comply with the RPO as the definition of “obligated entity” excludes such consumers in accordance with the UERC (Compliance of Renewable Purchase Obligation) (First Amendment) Regulations, 2013. In this regard, it is hereby, clarified that all the Captive Power Plant were covered under the ambit of “obligated entity” since the earlier UERC (Tariff and Other Terms for Supply of Electricity from Non-conventional and Renewable Energy Sources) Regulations, 2008 (effective from 1st April 2008) and they continued to remain obligated entity even in later Regulations applicable for further control periods namely UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations, 2010 and Uttarakhand Electricity Regulatory Commission (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations, 2013. Further, RPO enforcement mechanism was laid down by the Commission through notification of separate Regulation namely, UERC (Compliance of Renewable Purchase Obligation) Regulations, 2010 w.e.f. November 2010. The aforesaid amendment to RPO Regulation 2010 have recently came into force w.e.f. December 28, 2013 absolving co-generation based Captive Power Plant from such obligations. These amendments have prospectively changed the provisions of the principle regulations. Hence, all the co-generation based Captive Power Plant as per prevalent definition of “obligated entity” are required to make RPO compliances in accordance with provisions of the Regulations for the period from FY 2011-12 upto December 27, 2013, i.e. a day prior to the

applicability of the above amendment Regulation. Therefore, all such “obligated entities” are hereby, allowed carrying forward of unmet RPO of FY 2011-12 & FY 2012-13 to FY 2013-14 with the direction to either make procurement of RE Power from non-Solar as well as from Solar sources and/or to purchase equivalent RECs so as to meet shortfall in compliances for the previous years alongwith the current financial year (upto December 27, 2013) in accordance with the Regulations latest by March 31, 2014 and submit the compliance status by April 10, 2014.

- 2.3 All the Respondent are directed to ensure procurement of RE Power from non-Solar as well as from Solar sources or to purchase equivalent RECs for the current financial year, i.e. for FY 2013-14 in accordance with the Regulations latest by March 31, 2014.
- 2.4 All the obligated entities are hereby, directed to submit the details of their compliances in the enclosed Format-A to UREDA, State Agency latest by 10.04.2014 with the copy of the same to this Commission. All the Obligated entities are also directed to submit information in the formats specified in the Procedures within stipulated timeline in the Procedures. Further, it is also directed that all the obligated entities are required to ensure compliances of the Regulations within timelines specified in accordance with provisions of the Regulations as well as Procedures framed under these Regulations.
- 2.5 Failure to ensure compliance by Obligated entities of RE Regulations, 2010 & REC Regulations, 2010 would attract penal action under Section 142 of the Electricity Act, 2003 and the Regulations. Section 142 of the Electricity Act, 2003 is reproduced hereunder:

“142. In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person has contravened any of the provisions of this Act or rules or regulations made thereunder, or any direction issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, which shall not exceed one lakh rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction.”

Accordingly, all the Obligated entities are directed to take note of their obligations & duties laid down in the Regulations, failing which action may be initiated against them in future instances of default.

(K.P. Singh)
Member

(C.S. Sharma)
Member

(Jag Mohan Lal)
Chairman

Name of Open Access Consumer with address									RPO Non Solar Statement			
FY 2011-12			FY 2012-13			FY 2013-14			FY 2011-14 (Total)			
Gross Energy Consumption	RPO as stipulated by UERC (@4.5%)	Purchase of RECs during the FY 2011-12	Gross Energy Consumption	RPO as stipulated by UERC (@5.0 %)	Purchase of RECs during the FY 2012-13	Gross Energy Consumption (GEC)	RPO as stipulated by UERC (@6.0 %)	Purchase of RECs during the FY 2013-14	Total Gross Energy Consumption (GEC)	Total RPO as stipulated by UERC	Total Purchase of RECs	Shortfall/ (Excess)
(In MWh)	(In MWh)	(In Nos.)	(In MWh)	(In MWh)	(In Nos.)	(In MWh)	(In MWh)	(In Nos.)	(In MWh)	(In MWh)	(In Nos.)	(In MWh/ RECs)
1	2	3	4	5	6	7	8	9	10 (1+4+7)	11 (2+5+8)	12 (3+6+9)	13 (11-12)

Name of Open Access Consumer with address									RPO Solar Statement			
FY 2011-12			FY 2012-13			FY 2013-14			FY 2011-14 (Total)			
Gross Energy Consumption	RPO as stipulated by UERC (@0.025%)	Purchase of RECs during the FY 2011-12	Gross Energy Consumption	RPO as stipulated by UERC (@0.05 %)	Purchase of RECs during the FY 2012-13	Gross Energy Consumption (GEC)	RPO as stipulated by UERC (@0.05 %)	Purchase of RECs during the FY 2013-14	Total Gross Energy Consumption (GEC)	Total RPO as stipulated by UERC	Total Purchase of RECs	Shortfall/ (Excess)
(In MWh)	(In MWh)	(In Nos.)	(In MWh)	(In MWh)	(In Nos.)	(In MWh)	(In MWh)	(In Nos.)	(In MWh)	(In MWh)	(In Nos.)	(In MWh/ RECs)
1	2	3	4	5	6	7	8	9	10 (1+4+7)	11 (2+5+8)	12 (3+6+9)	13 (11-12)

Note:

1. Submit the RPO statement on above format on letter head of the company and to be duly attested by Authorised Signatory.
2. Provide the contact details with email-id and phone number of the authorized signatory.
3. Submit the copy of all RECs purchased with its details on stamp paper.
4. If the RPO statement of any fiscal year, submitted earlier, differ from the statement submitted under this format, than statement provided under this format would be consider as final statement. However in this case, the obligated entities would also require to submit fresh statement as per format provided in Procedure under the UERC (Compliance of Renewable Purchase Obligation) Regulation, 2010 for Accreditation of RE Generation Project by State Agency.