

Before the Himachal Pradesh Electricity Regulatory Commission, Shimla

In the matter of:-

Eligibility of Renewable Energy Certificates (RECs) to Distribution Licensee for Renewable Energy (Non-Solar) purchased beyond Renewable Power Purchase Obligation for FY 2014-15 and matter regarding self-retention of non-solar RECs for FY 2015-16 from available inventory.

The Himachal Pradesh State Electricity Board Limited
Vidyut Bhawan, Shimla-171004 (HP).

..... Petitioner

Versus

The Director,
Directorate of Energy,
Shanti Bhawan, Phase-III,
New Shimla-171009 (HP).

.....Respondent

Petition No. 25 of 2017
(Decided on 05.01.2018)

CORAM:
S.K.B.S NEGI
CHAIRMAN

Counsels/Representatives:-
for petitioner:

Sh. Ramesh Chauhan
Authorised Representative
Sh. Suneel Grover, CE(SO),
Sh. Kaushelesh Kapoor,
Dy. CE (SERC).

for respondent :

Sh. Shanti Swaroop,
Legal Consultant,
Sh. Manoj Kumar, Senior Xen (E).

ORDER

(Last heard on 15.07.2017 and Orders reserved)

The petition bearing No. 25 of 2017 has been filed by the Himachal Pradesh State Electricity Board Limited (hereinafter referred as “the HPSEBL” or “the distribution licensee”), an Obligated Entity under the HPERC (Renewable Power Purchase Obligation and its Compliance) Regulations, 2010 (hereinafter referred as “the RPPO Regulations”).

2. The brief submissions made by the petitioner in the petition are as under:

- (i) that the petitioner, the HPSEBL has submitted the following data, for consideration of the Commission and for recommending their case for issuance of non-solar Renewable Energy Certificates (RECs) in their favour, for non-solar power purchased in excess of non-solar Renewable Power Purchase Obligation (RPPO) targets specified by the Commission for FY 2014-15 and self retention of non-solar RECs for FY 2015-16 from the available inventory of non-solar RECs with the HPSEBL:-

| RE (Non-Solar) Purchase for FY 2014-15 & FY 2015-6 | | | |
|---|---|----------------------|----------------------|
| Sr. No. | Description | Quantum (MUs) | Quantum (MUs) |
| 1 | Financial Year | 2014-15 | 2015-16 |
| 2 | Total energy procured for supply within state | 8831.63 | 8800.33 |
| 3 | RE Obligation (Non-solar) (%) | 10.00% | 11.00% |
| 4 | RE Obligation (Non-solar) (MUs) | 883.16 | 968.04 |
| 5 | Total R.E. (Non-Solar) Purchased. | | |
| a) | HPSEBL's own generation from 25MW & below project | 377.39 | 375.52 |
| b) | Power Purchase from IPP (25MW & below) | 1071.65 | 1115.36 |
| c) | Free power of GoHP from IPP less than 25MW | 56.60 | 74.18 |
| d) | Free power GoHP from own generation | 32.55 | 34.28 |
| | Total R.E. (Non-Solar) purchased | 1538.19 | 1599.33 |
| 6 | R.E. (Non-Solar) sold outside its area of supply | 472.26 | 795.89 |
| 7 | Total R.E. (Non-Solar) purchased for supply (5-6) | 1065.93 | 803.44 |
| 8 | Total surplus (+)/Deficit(-) (7-4) | 182.77 | -164.59 |
| 9 | Surplus RE (Non-Solar) eligible for REC | 182.77 | 0.00 |

* Suman Sarwari royalty power considered as 0.32 MUs instead of 0.720 in FY 2014-15.

- (ii) that during the FY 2013-14, the HPSEBL was surplus in non-solar renewable power even after meeting its own RPPO obligations and the Commission vide its order dated 02.01.2016 has validated this surplus quantum as 541.00 MUs after accounting for the deficits of previous three years i.e. FY 2010-11, FY 2011-12 & FY 2012-13. Thus only the surplus non-solar renewable power for FY 2014-15 is now to be validated so that RE certificates for the said surplus quantum can be got issued from the Nodal Agency i.e. NLDC.
- (iii) that during FY 2014-15, the total RE (Non-Solar) Obligation was 883.16 MUs (10%) against which the HPSEBL had purchased 1538.51 MUs from various non-solar renewable sources. Further, the HPSEBL had sold 472.26 MUs of RE (Non-Solar) power outside its area of

supply and, therefore, the net surplus RE (Non-Solar) over and above the RE (Non-Solar) obligation for FY 2014-15 is 182.77 MUs.

(iv) that during the FY 2015-16, the total RE (Non-Solar) Obligation of the HPSEBL was 968.04 MUs (11%) against which the HPSEBL had purchased 1599.33 MUs from various non-solar renewable sources. Further, the HPSEBL had also sold 795.89 MUs of RE (Non-Solar) power outside its area of supply due to which there is a net deficit of 164.59 MUs in FY 2015-16, the HPSEBL had undertaken excess RE power sale which resulted in shortfall to the tune of 164.59 MUs in meeting its own non-solar RPPO obligations.

3. The HPSEBL prayed to the Commission:-

(a) for certificate of its recommendations, for issuance of non-solar RECs for purchase of non-solar RE power beyond RPPO for FY 2014-15;

(b) to allow self retention of non-solar RECs (the inventory of non-solar RECs already lying with the HPSEBL for FY 2013-14) of 164.59 MUs shortfall of non-solar RE against the RPPO of FY 2015-16.

4. Since the State Agency i.e. Directorate of Energy of Government of Himachal Pradesh is monitoring the compliance of Renewable Power Purchase Obligation (RPPO) of the obligated entities, being necessary party, the Commission vide interim order dated 06.05.2017 impleaded it as respondent.

5. The State Agency vide MA No. 61/2017 has filed written submissions stating that the free (royalty) power of Government of Himachal Pradesh from IPPs less than 25 MW i.e. 56.92 MUs and 74.18 MUs considered for FY 2014-15 and FY 2015-16. But, out of aforesaid energy 29.891 MUs for FY 2014-15 and 42.542 MUs for FY 2015-16 has already been claimed by the SHP developers, under REC Mechanisms, for issuance of RECs.

6. In response to MA No.61/2017, the HPSEBL vide MA No. 79/2017 has made following submissions that:-

(i) the Commission vide para-7 of Order dated 28.08.2014 in petition No. 122/2014 clarified that:-

“7. In order to promote generation from renewable sources, the Central Electricity Regulatory Commission framed regulations and issued order for giving effect to the Renewable Energy Certificates (RECs) framework. The Himachal Pradesh Electricity Regulatory Commission

(hereinafter referred as the Commission) has also framed the Himachal Pradesh Electricity Regulatory Commission (Renewable Power Purchase Obligation and its Compliance) Regulations, 2010 in-line with the Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificates for Renewable Energy generation) Regulations, 2010, which specifies that generation from renewable sources will be eligible for REC if it, inter alia,:

sells the electricity generated either (i) to the distribution licensee of the area in which the eligible entity is located, at the pooled cost of power purchase of such distribution licensee as determined by the Appropriate Commission, 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.”

“The IPPs under REC mechanism selling power to Discom at APPC rate are eligible for RE certificates under sub-clause (1) of para 7 quoted above. However, GoHP free power from IPPs cannot be construed to be a sale of power from IPPs to Government as it is a claim for GoHP on account of utilization of States natural resources by IPPs and the same is received by Government as percentage of total power generated by IPPs at “zero cost”. Therefore IPPs cannot claim REC certificates on GoHP free power under sub-clause (2) of para 7 quoted above.”

7. During the hearing of the petition, the Chief Engineer (SO), representing the HPSEBL, argued that since the SHPs are eligible for RECs only on energy selling/sold to the HPSEBL, on average pooled purchase cost (APPC) (i.e. total power generated-royalty power)and cannot claim the green attributes attached with this power. The royalty (free) power is available to the State Government at zero cost and the State Government is further selling the same to the HPSEBL, with green attributes attached with this power, at the rate decided by the Commission. It is further reiterated by the HPSEBL that small hydro project developers cannot claim RECs on the royalty power which belongs to the State Government and further sold to the HPSEBL with green attributes.
8. The representative of State Agency i.e. Directorate of Energy, during the hearing of the petition, stated that the Commission may take action as per the provisions of the RPPO Regulations, as far as fulfilment of non-solar RPPOs for FY 2014-15 and non-fulfilment of non-solar RPPOs for FY 2015-16 by the distribution licensee is concerned.

9. The Commission has made the Himachal Pradesh Electricity Regulatory Commission (Renewable Power Purchase Obligation and its Compliance) Regulations, 2010, specifying the minimum percentage of the total consumption, for Renewable Power Purchase Obligation (RPPO) for Non-solar and Solar energy for the Distribution Licensee, as well as the Captive and Open Access Users/Consumers, and provided that the certificates issued under the Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificates for Renewable Energy Generation) Regulations, 2010 (hereinafter referred as “the REC Regulations”) shall be the valid instruments for the discharge of the mandatory obligation set out in these regulations for the obligated entities to purchase electricity from renewable energy sources.
10. On 19th June, 2010, the Commission designated the “Directorate of Energy” which is an authority created under the administrative control of the Government of Himachal Pradesh, as the State Agency for the purposes of the RPPO Regulations and the State Agency has to undertake functions under RPPO Regulations. The RPPO regulations provide that the Captive and Open Access Consumer(s)/User(s) shall purchase renewable energy as stated in the table below regulation 4 thereof. If the Captive User(s) and Open Access Consumer(s) are unable to fulfil the criteria or if the Distribution Licensee fails to fulfil the minimum quantum of purchase from renewable sources, it shall be liable to pay compensation as per Regulation 9 of the RPPO Regulations (ibid), the shortfall of the targeted quantum would attract payment of compensation as per Regulation 9 of the RPPO Regulations (ibid).
11. In order to appreciate the submissions of the petitioner i.e. the HPSEBL, it will be useful to set out the provisions of regulations 4, 5, 7, 9 applicable in FY 2014-15 & FY 2015-16 and Annexure-1(i.e. estimated solar and non-solar renewable energy requirement (MUs) of the distribution licensee) of the RPPO Regulations to the extent as these are relevant to adjudicate this petition. These provisions (excluding the 2nd amendment dated 30th March, 2016, 3rd amendment

dated 24th March, 2017 and 4th amendment dated 6th December, 2017 of the RPP0 Regulations) read as under:

Regulation 4:

Quantum of Renewable Power Purchase Obligation (RPP0).- "(1) As specified in the Table below,-

- (a) the distribution licensee shall purchase electricity (in kWh) from renewable sources, at a minimum percentage of the total consumption including transmission and distribution losses, within area of the distribution licensee, during a year; and
- (b) the Captive and Open Access User(s) / Consumer(s), shall purchase electricity (in kWh) from renewable sources, at a minimum percentage of his total consumption during a year:-

Table-Minimum percentage for Renewable Power Purchase Obligation

| Year | Minimum Quantum of Purchase (in %*) from renewable sources (in terms of energy in kWh) of total consumption. | |
|---------|--|---|
| | Total RPP0 %age | Minimum Solar RPP0 %age of the total purchase |
| 2011-12 | 10.01 | 0.01 |
| 2012-13 | 10.25 | 0.25 |
| 2013-14 | 10.25 | 0.25 |
| 2014-15 | 10.25 | 0.25 |
| 2015-16 | 11.25 | 0.25 |
| 2016-17 | 12.25 | 0.25 |
| 2017-18 | 13.50 | 0.50 |
| 2018-19 | 14.75 | 0.75 |
| 2019-20 | 16.00 | 1.00 |
| 2020-21 | 17.50 | 2.00 |
| 2021-22 | 19.00 | 3.00 |

* The estimated Minimum Quantum of Purchase (in MU(s) from renewable sources is given in Annexure-I to these regulations:

Provided that the solar power purchase obligation shall be fulfilled from the generation based on solar sources only:

Provided further that such obligation to purchase renewable energy shall not include the power purchased at pooled cost as specified in the Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010, but shall be inclusive of .-

- (i) purchases from generating stations based on renewable energy sources,
- (ii) purchases from any other distribution licensee, which would arise from renewable sources,
- (iii) the energy generated from its own renewable sources, if any, by the obligated entity:

Provided further that the power purchases under the power purchase agreements for the purchase of renewable energy sources already entered into by the distribution licensees shall continue to be made till their present validity, even if the total purchases under such agreements exceeds the percentage as specified hereinbefore.

- (2) Keeping in view supply constraints or other factors beyond the control of the licensee, the Commission may, suo-motu or at the request of a

licensee, revise the percentage targets for a year as per sub-regulation (1) of this regulation.

Regulation 5:

Certificates under the regulations of the Central Commission.-

(1) Subject to the terms and conditions contained in these regulations, the Certificates issued under the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 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 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.

(2) Subject to such direction as the Commission may give, from time to time, the obligated entity shall act consistent with the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010, notified by the Central Commission in regard to the procurement of the certificates for fulfillment of the Renewable Power Purchase Obligation under these regulations.

(3) The Certificates purchased by the obligated entities from the power exchange in terms of the regulations of the Central Commission mentioned in sub-regulation (1) shall be deposited by the obligated entities with the Commission in accordance with the detailed procedure issued by the Central Agency.

Regulation 7:

Distribution Licensee.- (1) Each distribution licensee shall indicate, along with sufficient proof thereof, the estimated quantum of purchase from renewable sources for the ensuing year in tariff/annual performance review petition in accordance with regulations notified by the Commission. The estimated quantum of purchase shall be in accordance with sub-regulation (1) of regulation 4 of these regulations. If the distribution licensee is unable to fulfill the obligation, the shortfall of the specified quantum of that year would be added to the specified quantum for the next year. However, credit for excess renewable power purchase would not be adjusted in ensuing year.

(2) Despite availability of energy from renewable sources under the Power Purchase Agreements or the power exchange mechanism or from its own renewable sources, if the distribution licensee fails to fulfill the minimum quantum of purchase from renewable sources, it shall be liable to pay compensation as per Regulation 9 of these regulations.

Regulation 9:

Consequences of default.- (1) Where the obligated entity does not fulfil the renewable purchase obligation as provided in these regulations during any year and also does not purchase the certificates, the Commission may direct the obligated entity to deposit into a separate fund, to be created and maintained by such obligated entity, such amount as the Commission may determine on the basis of the shortfall in units of RPPO and the forbearance price decided by the Central Commission:

Provided that the fund so created shall be utilised, as may be directed by the Commission partly for purchase of the certificates and partly for development of transmission/ sub transmission infrastructure for evacuation of power from generating stations based on renewable energy sources:

Provided further that the obligated entities shall not be authorized to use the fund created in pursuance of regulation without prior approval of 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 fulfillment of the obligations, out of the amount in the fund:

Provided further that the distribution licensee shall be in breach of its licensee conditions if it fails to deposit the amount directed by the Commission within 15 days of the communication of the direction.

(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 imposed by the Commission under section 142 of the Act:

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

Provided further that where the Commission has consented to carry forward of compliance requirement, the provision of sub-regulation (1) or the provision of section 142 of the Act shall not be invoked.

Annexure-1
[see Regulation 4(1)]

| Estimated RPPO (in MUs) from renewable sources | | | | |
|---|---------|--|--|--|
| Financial year | Years | Total Energy Requirement in MUs including T&D Losses | Minimum Solar Power purchase Obligation in MUs | Total Renewable Power purchase Obligation in MUs |
| FY 12 | 2011-12 | 8244.00 | 0.82 | 825.22 |
| FY 13 | 2012-13 | 8748.00 | 21.87 | 896.67 |
| FY 14 | 2013-14 | 9168.00 | 22.92 | 939.72 |
| FY 15 | 2014-15 | 9159.20 | 22.89 | 938.81 |
| FY 16 | 2015-16 | 9719.37 | 24.30 | 1093.42 |
| FY 17 | 2016-17 | 10312.40 | 25.78 | 1263.26 |
| FY 18 | 2017-18 | 10926.18 | 54.63 | 1475.03 |
| FY 19 | 2018-19 | 11575.04 | 86.81 | 1707.31 |
| FY 20 | 2019-20 | 12260.97 | 122.60 | 1961.75 |
| FY 21 | 2020-21 | 12986.08 | 259.72 | 2272.56 |
| FY 22 | 2021-22 | 13752.57 | 412.57 | 2612.98 |

12. The sub-regulation (I-A) added to Regulation 5 of the CERC (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 (the REC Regulations), vide 3rd Amendment Regulations, 2014, w.e.f. 1st January, 2015 dealing with the conditions for registration with the Central Agency and for issuance and obtaining of certification from the Commission by the obligated entities which have procured renewable energy in excess of RPP0 target fixed by the Commission, reads as under:-

“(1A) A distribution licensee shall be eligible to apply for registration with the Central Agency for issuance of and dealing in Certificates if it fulfills the following conditions:-

(a) It has procured renewable energy, in the previous financial year, at a tariff determined under Section 62 or adopted under Section 63 of the Act, in excess of the renewable purchase obligation as may be specified by the Appropriate Commission or in the National Action Plan on Climate Change or in the Tariff Policy, whichever is higher:

Provided that the renewable purchase obligation as may be specified for a year, by the Appropriate Commission should not be lower than that for the previous financial year:

Provided further that any shortfall in procurement against the non-solar or solar power procurement obligation set by the Appropriate Commission in the previous three years, including the shortfall waived or carried forward by the said Commission, shall be adjusted first and only the remaining additional procurement beyond the threshold renewable purchase obligation-being that specified by the Appropriate Commission or in the National Action Plan on Climate Change or in the Tariff Policy, whichever is higher-shall be considered for issuance of RECs to the distribution licensees.

(b) It has obtained a certification from the Appropriate Commission, towards procurement of renewable energy as provided in sub-clause (a) of this regulation.”

13. The format 1.4 of model procedure/guidelines for accreditation of renewable energy generation project or distribution licensee, as the case may be, under REC mechanism by the State Agency dated 5th November, 2015 on which the Commission is required to recommend the case for issuance of RECs to the distribution licensee, also reiterates the similar conditions as imposed vide 3rd amendment of REC Regulations, the same are reproduced as below:-

“It is certified that;

1. Distribution Company has procured renewable energy, in the previous financial year, at a tariff determined under Section 62 or adopted under Section 63 of the Act, in excess of the renewable purchase obligation as may be specified by the Appropriate Commission or in the National Action Plan on Climate Change or in the Tariff Policy, whichever is higher.

2. The renewable purchase obligation as specified for a year, by the State Electricity Regulatory Commission is not lower than that for the previous financial year.
 3. Any shortfall in procurement against the non-solar or solar power procurement obligation set by the Appropriate Commission in the previous three years, including the shortfall waived or carried forward by the said Commission, has been adjusted first and only the remaining additional procurement beyond the threshold renewable purchase obligation-being that specified by the Appropriate Commission or in the National Action Plan on Climate Change or in the Tariff Policy, whichever is higher-has been considered for recommending for the purpose of issuance of RECs to the distribution licensees.”
14. The distribution licensee is eligible for solar/non-solar RECs, if it fulfills the conditions given in preceding para 13.
15. For self retention of RECs, the Central Electricity Regulatory Commission (CERC) has approved the following procedure:-
- (i) The eligible entity interested in retaining their Renewable Energy Certificates may apply to the host State Agency, where the eligible entity is located.
 - (ii) The eligible entities may apply online from 1st to 5th of every month and mention the quantity of RECs for which they want to retain and the name of their plant and the State for which the eligible entity wants to retain the application signed and stamped to the host State Agency in such a way so that it shall reach the office of State host agency latest by 12th of every month.
 - (iii) The host State Agency shall check the proposed volume for each eligible entity the quantity of valid RECs for that entity for both ‘Solar’ and ‘Non-Solar’ Certificates by 18th of every month.
 - (iv) In case the retained volume placed exceeds the quantity of valid RECs held by the eligible entity as per the records of the REC Registry, then, the State Agency shall limit the RECs that can be retained by the eligible entity to the number of valid RECs as per the records of REC Registry.
 - (v) The State Agency shall send the final list of certificates to be retained for eligible entities to the Central Agency for extinguishing of the RECs. The certificates will be extinguished by the Central Agency in the ‘First-in-First-out’ order by 22nd of the every month.
 - (vi) The State Agency shall issue the purchase certificate to the eligible entities.
16. From the statutory provisions set out in the preceding paras, it can be observed that:-
- (a) Regulation 4(1) of the RPPO regulations provides, that the distribution licensee shall purchase the quantum of the electricity (in kWh) from renewable sources, at a minimum percentage (as specified in the Table) of the total consumption including transmission and distribution losses within the area of the distribution licensee and the Captive and Open Access Users shall purchase electricity (in kWh) from renewable sources at a minimum percentage of the total consumption during a year. The

estimated minimum quantum of purchase (by the Distribution Licensee) in MU(s) from the Renewable sources is given in Annexure-I of the RPPO Regulations. The Solar Power Purchase obligation is to be fulfilled from the generation based on Solar Sources only.

- (b) Regulation 4 (2) of the RPPO Regulations provides that keeping in view supply constraints or other factors beyond the control of the licensee, the State Commission may, suo-motu or at the request of the licensee, revise the percentage targets specified under Regulation 4(1).
- (c) Regulation 5 provides that the certificates issued under the Central Regulations (i.e. REC Regulations) shall be valid instrument for the discharge of the mandatory obligations, set out in the RPPO Regulations for the obligated entities, to purchase electricity from renewable energy sources. In the event of the obligated entity fulfilling the renewable purchase obligation by procuring certificates, the obligation to purchase electricity from solar based generation can be fulfilled by purchasing the solar certificates (solar RECs) 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.
- (d) Regulation 7 of the RPPO Regulations provides for inclusion of estimates of the Renewable Energy Purchase in the tariff/annual performance review. The distribution licensees have to indicate, along with proof, the estimated quantum of purchase from renewable energy sources for the ensuing year in Tariff/APR petition. The Tariff/Annual Performance Review Petition is mandatorily subjected to public notice and public hearing under Section 64 of the Electricity Act, 2003. Thus, in the RPPO Regulations there is an inbuilt mechanism for planning and review of RPPO being subjected to public hearing. The distribution licensees have to indicate the estimated quantum of purchase from renewable energy sources for the ensuing year in tariff petition and the review of RPPO in the APR which is also a part of the petition. The stakeholders can file suggestions and objections regarding the proposal of the licensee for the ensuing year and in APR. This mechanism would ensure that the State Commission after considering the suggestions and objections of stakeholders could give directions to the distribution licensees for corrective action, if any, at the beginning of the ensuing year. Thus the State Commission is to consider the proposal of the licensee for compliance of the RPP Obligation for the ensuing year in the tariff petition and review of RPPO in Annual Performance Review (APR) proceedings to enable the public to offer their suggestions and objections. After completion of the financial year, the State Commission has to review the actual performance of the RPPO and pass necessary direction as per regulations either suo-motu or on a petition filed by a party.
- (e) Regulation 9 of the RPPO Regulations provides for consequences of default, whereunder, if the distribution licensee and other obligated entities do not fulfil the specified RPPO (Renewable Power Purchase Obligation) during a year and do not purchase the Renewable Energy Certificates, the State Commission may direct the licensee/obligated entity to deposit in a separate account such amount as determined by the State Commission on the basis of the shortfall in units of the RPPO and forbearance price decided by the Central Commission which shall be

utilized by the State Commission for purchase of RECs and for development of transmission infrastructure for evacuation of power from renewable sources of energy.

- (f) Regulation 5 (IA) of the REC Regulations lays down the conditions for registration with the Central Agency for issuance of certificates and the provisions for obtaining certification from the Commission by the obligated entities, which have procured renewable energy in excess of the RPPO target fixed by the Commission. While recommending the case for issuance of RECs to the distribution licensee, the State Commission needs to ensure that the conditions/guidelines laid down are duly complied with.
- (g) The Central Commission has already approved the procedure for self retention of RECs which means that if any obligated entity has inventory of RECs, the same may be utilised to fulfill their RPO compliance, by following the aforesaid procedure.

17. Taking into consideration the submissions made by the State Agency that in FY 2014-15 the royalty power of 29.891 MUs and in FY 2015-16 the royalty power of 42.542 MUs, the HPSEBL cannot claim for green attributes (equivalent RECs/RE power) as IPPs, given in the table below have already availed such benefit; the Commission vide letter No. HPERC/Petition No. 25/2017-1154-55 dated 29.07.2017, requested the State Government to convey their stand regarding actual beneficiaries of green attributes attached with the royalty/free power of small hydro projects:

| Sr. No. | Name of Power House | Installed Capacity (MW) | RECs claimed/received by the IPPs for royalty power for FY 2014-15 (in MUs) | RECs claimed/ received by the IPPs for royalty power for FY 2015-16 (in MUs) |
|---------|---------------------|-------------------------|---|--|
| 1 | Suman Sarwari | 2.50 | 0.36 | 0.615 |
| 2 | Jogini-II | 5.00 | 0.154 | 1.750 |
| 3 | Upper Joiner | 12.00 | 6.044 | 5.520 |
| 4 | Sumez | 14.00 | 6.626 | 7.657 |
| 5 | Beaskund | 9.00 | 4.205 | 4.975 |
| 6 | Kurmi | 8.00 | 1.498 | 3.123 |
| 7 | Jogini | 16.00 | 7.570 | 8.178 |
| 8 | Nanti | 14.00 | 3.434 | 6.347 |
| 9 | Shimla | 5.00 | 0 | 0.258 |
| 10 | Baner-II | 6.00 | 0 | 1.583 |
| 11 | Baragaon | 24.00 | 0 | 2.536 |
| | Total | 115.5 | 29.891 | 42.542 |

18. The Directorate of Energy (State Agency) vide letter no. DoE/SA-REC/RPPO/Vol.-V/2017-5290-91 dated 19.09.2017 conveyed the 'Cabinet Decision' dated 02.06.2014 that free power entitlement of GoHP in respect of project connected with the HPSEBL/HPPTCL systems shall be utilized by the HPSEBL for all times to come. Therefore, the HPSEBL is entitled to avail the green attributes attached with free power of small hydro projects as permissible under the regulations.

19. While framing the RPPO Regulations, the Commission has already specified the minimum percentage for Renewable Power Purchase Obligation and estimated RPPO of the distribution licensee (in MUs) from Renewable Sources (including Solar Energy) for period of 10 years (i.e. FY 2012 to FY 2022). Per regulation 4 of the RPPO Regulations, the HPSEBL i.e. the distribution licensee is to comply with solar and non-solar and RPPO as per the Table given as under:-

| Financial Year | Minimum Quantum of Purchase (in %*) from renewable sources (in terms of energy in kWh) of total consumption. | | |
|----------------|--|--|--|
| | Total RPPO % age | Minimum Non-Solar RPPO % age of the total purchase | Minimum Solar RPPO % age of the total purchase |
| 2010-11 | 10.00 | 10 | 0.00 |
| 2011-12 | 10.01 | 10 | 0.01 |
| 2012-13 | 10.25 | 10 | 0.25 |
| 2013-14 | 10.25 | 10 | 0.25 |
| 2014-15 | 10.25 | 10 | 0.25 |
| 2015-16 | 11.25 | 11 | 0.25 |

20. As per the submissions of the distribution licensee regarding compliance of non-solar RPPO for FY 2014-15 and FY 2015-16, the shortfall/surplus are as under:-

| Year | Demand (MUs) | Non-Solar RPPO | Total Obligation | Total non-solar RE available for supply to the consumers (MUs) | Surplus/shortfall (MUs) |
|---------|--------------|----------------|------------------|--|-------------------------|
| | | % age | MUs | | |
| 2014-15 | 8831.63 | 10.00 | 883.16 | 1066.25 | +182.77 |
| 2015-16 | 8800.33 | 11.00 | 968.04 | 803.44 | -164.59 |

21. The Model Power Purchase Agreement (PPA), under REC mechanism, approved by the Commission, provides as under:-

“2.2.52 ‘Net Saleable Energy’ means the electrical energy in kWh, delivered by the company at the Interconnection Point, less the Government Supply.”

“2.2.38 ‘Government Supply/Govt. Supply’ means the quantum of electrical energy which will be supplied by the Company, free of cost, at the Interconnection Point to the HPSEBL, as per the Implementation Agreement and also includes the free power to be provided towards the Local Area Development Fund as per the instruction of the Government.”

22. In the present case, there is surplus of non-solar RPPOs of 182.77 MUs in FY 2014-15 and shortfall of non-solar RPPOs of 164.59 MUs in FY 2015-16. The obligated entity i.e. the HPSEBL filed this petition to recommend their case for issuance of non-solar of RECs for equivalent surplus of non-solar RE procured by them in excess to the non-solar RPPO for FY 2014-15 and to allow self retention of available RECs

equivalent to shortfall of non-solar Renewable Energy viz-a-viz non-solar RPPO target for FY 2015-16.

23. While recommending the case for issuance of RECs to the distribution licensee, the Commission has to satisfy the following conditions, as per Central Commission REC Regulations and model procedure/guidelines issued there- under are fulfilled that:-

- (i) The Distribution Company has procured renewable energy, in the previous financial year, at a tariff determined under Section 62 or adopted under Section 63 of the Act, in excess of the renewable purchase obligation as may be specified by the Appropriate Commission or in the National Action Plan on Climate Change or in the Tariff Policy, whichever is higher.
- (ii) The renewable purchase obligation as specified for a year, by the State Electricity Regulatory Commission is not lower than that for the previous financial year.
- (iii) Any shortfall in procurement against the non-solar or solar power procurement obligation set by the Appropriate Commission in the previous three years, including the shortfall waived or carried forward by the said Commission, has been adjusted first and only the remaining additional procurement beyond the threshold renewable purchase obligation-being that specified by the Appropriate Commission or in the National Action Plan on Climate Change or in the Tariff Policy, whichever is higher-has been considered for recommending for the purpose of issuance of RECs to the distribution licensees.

24. The obligated entity may utilise the RECs inventory available with it in case it has a shortfall in RPPO of particular year(s), the Central Electricity Regulatory Commission (CERC) has approved the following procedure for self retention of RECs:-

- (i) The eligible entity interested in retaining their Renewable Energy Certificates may apply to the host State Agency, where the eligible entity is located.
- (ii) The eligible entities may apply online from 1st to 5th of every month and mention the quantity of RECs for which they want to retain and the name of their plant and the State for which the eligible entity wants to retain the application signed and stamped to the host State Agency in such a way so that it shall reach the office of State host agency latest by 12th of every month.
- (iii) The host State Agency shall check the proposed volume for each eligible entity the quantity of valid RECs for that entity for both 'Solar' and 'Non-Solar' Certificates by 18th of every month.
- (iv) In case the retained volume placed exceeds the quantity of valid RECs held by the eligible entity as per the records of the REC Registry, then, the State Agency shall limit the RECs that can be retained by the eligible entity to the number of valid RECs as per the records of REC Registry.
- (v) The State Agency shall send the final list of certificates to be retained for eligible entities to the Central Agency for extinguishing of the RECs.

The certificates will be extinguished by the Central Agency in the 'First-in-First-out' order by 22nd of the every month.

(vi) The State Agency shall issue the purchase certificate to the eligible entities.

25. As per the condition (iii) of preceding para 23, any shortfall in procurement against the non-solar or solar power procurement obligation set by the Appropriate Commission in the previous three years, including the shortfall waived or carried forward by the said Commission, has to be adjusted first. The Commission has already recommended for issuance of non-solar RECs for FY 2013-14, for excess non-solar RE energy of 541.09 MUs. The HPSEBL has submitted that Central Agency (NLDC) has already issued the non-solar RECs equivalent to the above said energy. While recommending the case for issuance of RECs, it has been authenticated by the Commission that the HPSEBL has already met the specified target in respect of non-solar RPPO in FY 2011-12 and FY 2012-13.

26. Taking into consideration, the stand of the State Government relating to green attributes available with royalty (free) power, provisions made in the model PPA under REC mechanism, the other statutory provisions set out in the preceding paras, the Commission is of the view that the distribution licensee i.e. the HPSEBL (obligated entity) is eligible for getting Commission's certificate of recommendation for issuance of non-solar Renewable Energy Certificates for excess non-solar energy purchased i.e. 182.77 MUs beyond Renewable Power Purchase Obligations target for FY 2014-15, as per the condition (iii) of para 23 of this Order. As regards the matter regarding self-retention of non-solar RECs equivalent to shortfall of 164.59 MUs for FY 2015-16, from the available inventory of non-solar RECs, the HPSEBL has to follow the procedure laid down by the CERC.

27. The Commission shall initiate the process of issuance of certificates as per the format 1.4 of model procedure/guidelines for accreditation of renewable energy generation projects or distribution licensee, for recommending the case for issuance of non-solar RECs to the distribution licensee i.e. the HPSEBL.

28. Keeping in view, the decision of the Government of Himachal Pradesh communicated through the Chief Engineer (Electrical), Directorate of Energy, GoHP vide letter DoE/SA-REC/RPPO/Vol.-V/2017-5290-91 dated 19.09.2017 and also Commission's decision to allow green attributes attached with royalty (free) power to the HPSEBL, the State Agency i.e. Directorate of Energy and SLDC shall take appropriate action accordingly.
29. Before parting with this order, the Commission would like to record that despite its best efforts, the Commission could not make and pronounce this Order immediately after the date on which the matter was last heard and orders were reserved because the data submitted by the HPSEBL required further examination with reference data available from the relevant sources, including the State Agency i.e. Directorate of Energy and to analyse the stand taken by State Government relating to green attributes attached with the royalty (free) power.

Place: Shimla.
Date: 5th January, 2018.

Sd/-
(S.K.B.S Negi)
Chairman