

Before the Himachal Pradesh Electricity Regulatory Commission, Shimla

In the matter of:-

Eligibility of Renewable Energy Certificates (RECs) to Distribution Licensee for Renewable Energy (Solar) purchased beyond Renewable Power Purchase Obligation.

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. 26 of 2017
(Decided on 05.09.2017)

CORAM:
S.K.B.S NEGI
CHAIRMAN

Counsels/Representatives:-
for petitioner:

Sh. Ramesh Chauhan
Authorised Representative
Sh. Suneel Grover, CE(SO),
Sh. Kaushesh 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. 26 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. In brief of the submission made by the petitioner in the petition are as under:

- (i) That the following data for consideration of the Commission for recommending their case for issuance of Solar Renewable Energy Certificates (RECs) in their favour, for solar power purchased in excess of solar Renewable Power Purchase Obligation (RPPO) targets specified by the Commission for FY 2015-16:-

Sr. No.	Description	Quantum (MUs)
1	Financial Year	2015-16
2	Total energy procured for supply with in State	8800.33
3	RE Obligation (Solar)(%)	0.25%
4	RE Obligation (Solar) in MUs	22.00
5	Carry forward for solar deficit of FY 2011-12	0.74
6	Total Obligation	22.74
7	Total RE (Solar) purchased	50.16
8	Total surplus (+)/Deficit (-)	27.42
9	Surplus Solar eligible for REC	27.42

- (ii) That the total RE (Solar) obligation for FY 2015-16 was 22.74 MUs, including 0.74 MUs of carry forward of shortfall of RE (Solar) for FY 2011-12 in compliance with the Commission order in suo-moto Case No. 93 (A)/2013 dated 29th July, 2013. However, HPSEBL had purchased 50.16 MUs of RE (Solar) power in FY 2015-16 and therefore, there is a net surplus of 27.42 MUs in respect of RE (Solar) power over and above the obligation of HPSEBL for FY 2015-16. And accordingly proposed to avail RE (Solar) Certificates against this surplus power;
- (iii) That the details of RE (Solar) power purchased during FY 2015-16 by the HPSEBL are given in the table/format as below:-

Format for information for obtaining certification of Renewable Energy (RE) procurement beyond RPO, for issuance and dealing in REC under Regulation 5(1A) of CERC Regulations 2010/2014			
Sr. No.	Description	Quantum	Remarks
1	Financial Year	2015-16	
2	Total Energy procured for supply(Requirement of the State)	8800.33 MUs	
3	Solar Renewable Purchase Obligation (%)	0.25%	
4	Solar Renewable Purchase Obligation (MUs)	22.00 MUs	
5.	a) Solar power purchased from NTPC's Singrauli solar plant	18.43 MUs	
	b) Solar power purchased from SECI	31.73 MUs	
6	Solar RE sold outside its area of supply.	0 MUs	
7	Total Solar RE purchased for supply (5-6)	50.16 MUs	
8	Less Solar RE deficit of previous three years.		

	Solar RE deficit of FY 2011-12	0.74 MUs	Shortfall of 0.74 MUs of FY 2011-12 has been ordered by HPERC to be met during FY 2015-16.
	Solar RE deficit of FY 2012-13	0.00 MUs	Shortfall of 18.4 MUs of FY 2012-13 has been ordered by HPERC to be met during FY 2016-17.
	Solar RE deficit of FY 2013-14	0.00 MUs	A penalty of Rs. 17.23 Crore was imposed upon HPSEBL for non compliance of Solar RPPO during FY 2013-14.
	Solar RE deficit of FY 2014-15	0.00 MUs	A penalty of Rs. 6.762 Crore was imposed upon HPSEBL for non compliance of Solar RPPO during FY 2014-15.
	Sub Total (8)	0.74 MUs	
9	Total surplus Solar RE eligible for REC (7-4-8)	27.42 MUs	

3. The obligated entity i.e. HPSEBL, in view of the above submissions there is surplus procurement of solar energy of 27.42 MUs in the FY 2015-16 after meeting the solar RPO and has approach this Commission to recommend their case for issuance of solar RECs for equivalent surplus solar energy procured in the excess of the solar RPPOs.
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 and the Commission served the notice to the State Agency accordingly.
5. The State Agency vide MA No. 62/2017 filed written submission stating that the data filed by HPSEBL, State Discom for recommending their case for issuance of solar REC for FY 2015-16, appears to be in order and the prayer made by the HPSEBL in this case can be considered in consonance with the law.
6. 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 Certificate 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.

7. 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 to promote power generation, 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).
8. The Commission has taken a suo-motu note of the matter regarding compliance of RPPOs for the FY 11-12 and FY 12-13 and observed that the distribution licensee has fully met and in fact exceeded the specified targets in respect of Non-Solar RPPOs for the last three years, but has not met the Solar RPPOs for the FY 2012 and FY 2013. The Commission, therefore, vide its order dated 29th July, 2013 passed in suo-motu Case No. 93(A)/2013, ordered that short fall of Solar RPPOs for FY 2011-12 and FY 2012-13 shall now be met during the FY 2015-16 and FY 2016-17 respectively in addition to the Solar RPPOs of those years. The Commission issued the detailed advisories to the HPSEBL to enable it to meet its minimum solar RPPO for the future.

9. The Commission in petition No. 129 of 2013-M/s Ujaas Energy Limited V/s HPSEBL and others, rendered its judgment on dated 10th November, 2014 related to Solar RPPO Compliance of FY 13-FY 14 by the distribution licensee as under:-

“31 The shortfall of 0.74 MU and 18.4 MU in the Solar RPPO during FY 2012 and FY 2014 has already been ordered to be met during the FY 16 and FY 17. In the MYT Order the Commission has already approved the purchase of Solar power by the HPSEBL during the Third Control Period (i.e. FY 14 to FY 2019) to meet its solar RPPOs.

32 Keeping in view the import of the judgement of Hon’ble APTEL dated 25.4.2014 rendered in Appeal No. 24 of 2013-Indian Wind Energy Association V/s Gujarat Electricity Regulatory Commission & others (Supra), the obligated entity cannot be directed to purchase electricity from renewable energy sources, to meet the shortfall of 2013-14 nor there can be direction for purchase of REC in 2014-15 against shortfall of 2013-14. Also since RECs were available, targets cannot be carried forward to future year(s).

33 In the light of above discussion, the Commission is of the view that the HPSEBL should deposit the compensation amount of Rs.17.23 Crore in a separate fund to be created by the HPSEBL in its accounts as RPPO Compensation Fund for non-compliance of RPPO in 2013-14. Renewable sources of energy are highly dispersed in the State and creation of sub-transmission system infrastructure is of paramount importance for promotion of renewable. Currently the HPSEBL is facing liquidity problems and creation of such infrastructure does not find desired impetus. Therefore, the Commission directs that this amount shall be utilised as HPSEBL’s share in project financing (10% share) to create sub-transmission infrastructure (11 kV and 33kV) during the next two years, the HPSEBL will deposit Rs.5.00 Crores this year which will be provided by the Commission in the true up order for FY 2013-14 and balance amount will be provisioned in the ARR of the FY 2015-16. This fund will be treated as grant/consumer contribution and, therefore, will not be admissible for depreciation and any other interest/return.”

10. During the hearing of this petition, the representative of State Agency i.e. Directorate of Energy stated that the Commission may take action as per the provisions of the RPPO Regulations, as far as non-fulfilment of Solar RPPOs for FY 2014-15 by the distribution licensee is concerned.
11. In order to appreciate the submissions of the petitioner i.e. HPSEBL, it will be useful to set out the provisions of regulations 4, 5, 7, 9 applicable in 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 and 3rd amendment dated 24th March, 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				
<i>Financial year</i>	<i>Years</i>	<i>Total Energy Requirement in MUs including T&D Losses</i>	<i>Minimum Solar Power purchase Obligation in MUs</i>	<i>Total Renewable Power purchase Obligation in MUs</i>
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 for issuance of and dealing with provision for obtaining certification from the Commission by the obligated entities which have procured renewable energy in excess of RPPO 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 RECs/non-solar RECs, if it fulfills the conditions given in preceding para 13.
15. 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 to 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.

16. 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

17. As per the submission of the distribution licensee regarding compliance of Solar RPPO for FY 2015-16, the shortfall is as under:-

Year	Demand (MUs)	Solar RPPO		Carry forward of solar deficit of FY 2011-12	Total Obligation	Achieved (MUs)	Surplus (MUs)
		% age	MUs				
2015-16	8800.33	0.25	22.00	0.74	22.74	50.16	27.42

18. The Commission while deciding the Suo-Moto Case No. 93(A)/2013, in its Order dated 29th July, 2013 had observed that HPSEBL had fully met and in fact exceeded the specified target in respect of Non-Solar RPPOs for the last three years but was unable to meet the Solar RPPOs for the FY12 and FY13. There was a shortfall of 0.74MU and 18.4MU in the Solar RPPOs during FY12 and

FY13. The Commission in the Order decided that the shortfall of Solar RPPOs for FY12 and FY13 shall be met during the FY16 and FY17 respectively, in addition to the Solar RPPOs of those years. The HPSEBL has already accounted for the shortfall of FY 2011-12 in its solar RPPO compliance of FY 2015-16.

19. The consequences of default on the part of the obligated entity to fulfil its RPPO are dealt with in Regulation 9 of the RPPO Regulations. If the distribution licensee fails to fulfil its RPPO, then it shall be liable to pay compensation as per Regulation 9 of the RPPO Regulations. Thus, in terms of Regulation 9, the State Commission may direct the distribution licensees/other obligated entities to deposit into a separate fund the amount, as may be 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 partly for purchase of REC and partly for development of transmission infrastructure for evacuation of power from renewable sources of energy. However, in case of any genuine difficulty in meeting RPPOs due to non-availability of power from renewable sources or the REC, the State Commission may carry forward the shortfall to the next year.
20. The Commission in petition No. 129 of 2013-M/s Ujaas Energy Limited V/s HPSEBL and others, rendered its judgment on dated 10th November, 2014 related to Solar RPPO Compliance of FY 13-FY 14 by the distribution licensee as under:

“33 the Commission is of the view that the HPSEBL should deposit the compensation amount of Rs.17.23 Crore in a separate fund to be created by the HPSEBL in its accounts as RPPO Compensation Fund for non-compliance of RPPO in 2013-14. Renewable sources of energy are highly dispersed in the State and creation of sub-transmission system infrastructure is of paramount importance for promotion of renewable. Currently the HPSEBL is facing liquidity problems and creation of such infrastructure does not find desired impetus. Therefore, the Commission directs that this amount shall be utilised as HPSEBL’s share in project financing (10% share) to create sub-transmission infrastructure (11 kV and 33kV) during the next two years, the HPSEBL will deposit Rs.5.00 Crores this year which will be provided by the Commission in the true up order for FY 2013-14 and balance amount will be provisioned in the ARR of the FY 2015-16. This fund will be treated as grant/consumer contribution and, therefore, will not be admissible for depreciation and any other interest/return.”

21. The Commission in petition No. 30 of 2016 related to Solar RPPO Compliance by the distribution licensee for FY 2014-15 rendered its judgment on dated 14th February, 2017, as under:

“In the light of above discussion, the Commission is of the view that the HPSEBL should deposit the compensation amount of Rs. 6.762 Crore, for shortfall of Solar RPPOs for FY 2014-15, in the fund already created by the HPSEBL in its accounts as RPPO Compensation Fund, for non-compliance of Solar RPPOs in FY 2013-14. Renewable sources of energy are highly dispersed in the State and creation of sub-transmission system infrastructure is of paramount importance for promotion of renewable. The HPSEBL is facing liquidity problems and creation of such infrastructure does not find desired impetus. Therefore, the Commission directs that 80% of the compensation amount i.e. Rs. 5.410 Crore shall be utilised as the HPSEBL’s share in project financing (10% share) to create sub-transmission infrastructure (11 kV and 33kV) during the next two years. Further 20% of the compensation amount i.e. Rs. 1.352 Crore shall be utilized before 31st March, 2017 for purchase of Solar RECs at the rate of floor price determined by the Central Commission. The fund amounting Rs. 5.410 Crore will be treated as grant/consumers contribution and, therefore, will not be admissible for depreciation and any other interest/return. Financial implication on purchase of Solar RECs as well as further utilization of compensation fund for renewable energy infrastructure, if prudently incurred, may be allowed as pass through in the ARR of FY 2017-18 and FY 2018-19 respectively.”

22. In the present case, there is surplus of Solar RPPOs of 27.42 MUs in the FY 2015-16 and the obligated entity i.e. HPSEBL filed this petition to recommend their case for issuance of solar RECs for equivalent surplus solar energy procured by them in excess to the solar RPPO.
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 :-
- (i) 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. 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 been adjusted first. The status of solar RPPO compliance of distribution licensee i.e. HPSEBL for the previous three years as under:

Sr. No.	Description	Shortfall in MUs	Remarks
	Solar RE deficit of previous three years.		
1.	Solar RE deficit of FY 2012-13	18.40 MUs	Shortfall of 18.4 MUs of FY 2012-13 has been ordered by HPERC to be met during FY 2016-17.
2.	Solar RE deficit of FY 2013-14	18.537 MUs	A penalty /compensation of Rs. 17.23 Crore were imposed upon HPSEBL for non compliance of Solar RPPO during FY 2013-14.
3.	Solar RE deficit of FY 2014-15	19.32 MUs	A penalty/compensation of Rs. 6.762 Crore were imposed upon HPSEBL for non compliance of Solar RPPO during FY 2014-15 out of said amount Rs. 5.410 Crore allowed to be utilized to create sub-transmission infrastructure and amount Rs 1.352 Crore allowed to be utilized for purchase of solar RECs.

25. In light of the above discussion, the Commission is of the view that to ascertain the eligibility of distribution license i.e. HPSEBL for recommending their case, for issuance of Solar Renewable Energy Certificates (Solar RECs) for Solar Energy purchased beyond Renewable Power Purchase Obligation target for FY 2015-16, as per the condition (iii) of para 23, the HPSEBL shall be eligible for solar RECs of (27.42 MUs-18.40 MUs) 9.02 MUs, after adjusting the shortfall of FY 2012-13. The Order dated 29.07.2013 in Suo-Moto Case No. 93(A)/2013 stands to be modified to the extent that the carry forward of 18.40 MUs of solar RPPO which are to be met during FY 2016-17, adjusted in FY 2015-16.

26. The technical wing of the Commission shall initiate the process of issuance of certificate 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 solar RECs to the distribution licensee i.e. HPSEBL.
27. Before parting with this order, the Commission would like to record that despite of 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 on the last date of hearing required further examination with reference data available from the relevant sources, including the State Agency i.e. Directorate of Energy.

Place: Shimla.

Date: 5th September, 2017.

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