

## **HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION, SHIMLA**

In the matter of draft amendment Regulations of the Himachal Pradesh Electricity Regulatory Commission (Renewable Power Purchase Obligation and its Compliance) (Sixth Amendment) Regulations, 2020.

### **Statement of Reasons**

The Himachal Pradesh Electricity Regulatory Commission (hereinafter referred as “the Commission”) notified the Himachal Pradesh Electricity Regulatory Commission (Renewable Power Purchase Obligation and its Compliance) Regulations, 2010 (hereinafter referred as “RPO Regulations, 2010”), which were published in the Rajpatra, Himachal Pradesh, dated 29<sup>th</sup> May, 2010.

2. Ministry of Power, GoI has issued a clarification dated 01.02.2019 on its orders dated 22<sup>nd</sup> July, 2016 and 14<sup>th</sup> June, 2018 related to RPO trajectory. As per the clarification, the RPO of the CPP may be pegged at the RPO level applicable in the year in which the CPP was commissioned. As and when the company adds to the capacity of the CPP, it will have to provide for additional RPO as obligated in the year in which new capacity is commissioned. There should not be an increase in RPO of CPP without any additional fossil fuel capacity being added.
3. Consequent to the aforesaid clarification dated 1<sup>st</sup> February, 2019, Ministry of Power, GoI further issued clarification on the said notification relating to its applicability in different time periods.
4. Taking into consideration the above, the Commission has notified the draft amendment i.e. HPERC (Renewable Power Purchase Obligation and its Compliance)(Sixth Amendment) Regulations, 2019. The same was published in the Rajpatra, Himachal Pradesh on 26<sup>th</sup> November, 2019 in exercise of the powers conferred under sub-section (1) of section 181 of the Electricity Act, 2003 (36 of 2003).

5. As required vide sub-section (3) of the section 181 of the Electricity Act, 2003, the Commission invited public objections and suggestions by way of insertions in two News papers i.e. “The Tribune” and “Divya Himachal” on 29<sup>th</sup> November, 2019 under Rule (3) of Electricity (Procedure of Previous Publication) Rules, 2005 and the full text of the draft amendment regulations was made available on the Commission’s website: [www.hperc.org](http://www.hperc.org).
6. The Commission, vide letter dated 29.11.2019 and 07.12.2019, requested the major stakeholders, including Industries Associations, State Government, Directorate of Energy, Consumer Representative, HIMURJA, SLDC, Small Hydro Power Producers Associations and Distribution Licensee to send their objections/suggestions as per the aforesaid public notice.
7. The Directorate of Energy, Shanti Bhawan, Phase-III, Sector-6, New Shimla-09(HP) vide letter dated 18.12.2019 has submitted that they have no objection on the aforesaid proposal. Two stakeholders i.e. the B.B.N. Industries Association and M/s UltraTech Cement Ltd. have made the following submissions on the aforesaid draft amendment regulations:-
- A. Comments of the B.B.N. Industries Association:-
- The B.B.N. Industries Association submitted that standby power should be exempted from RPO obligation as the viability of the operations (running industries) is not possible at such high power cost and units will be forced to shut down their operation. Further to strengthen its view point, the Association made following submissions:-
- (i) As per the RPO obligation, all power units consumed by the captive plant including DG set kept as standby are eligible for calculating RPO. In this regard no distinction has been made between power generated by standby plant for captive use of power, power drawn from open access or any other source of power other than distribution companies.
- (ii) It seems here that the Commission is of the view that for RPO obligation what matter is only the power units generated and consumed other than supplied by distribution companies. However, it is worthwhile to mention that power units generated by standby units are not the outcome of consumer choice but the compulsion of the customers (Consumers). Due to power cut by distribution licensee, a customer has to use ‘Stand-by-power’. This way, it is

effectively equivalent to power supplied by the distribution licensee. If RPO obligation is due on such power, it should be the distribution licensee which should pay not the consumer.

- (iii) By forcing RPO obligations, the customer is burdened with double charges. First, the cost of generation by standby Gen Sets for captive power from fossil fuel is more than double the power supplied by the distribution licensee. Secondly, during the period when DG power is used, the fixed cost charges have to be paid to the distribution licensee i.e. HPSEBL. Over the above, the RPO obligation is also forced upon them.

**B. Comments of M/s UltraTech Cement Ltd.:-**

- (i) M/s UltraTech Cement Ltd. submitted that solar RPO in the State is on higher side as compared to other States, whereas due to low irradiance, the scope of solar power generation is limited in the State. So, the solar RPO should either be nullified or to be made at par the percentage specified for the Uttar Pradesh in such a way that the overall percentage of the purchase of renewable sources may be same. The stakeholder submitted the following data i.e. RPO for FY 2019-20 applicable in different States, in support of their suggestion(s), as tabulated below:-

State	Minimum quantum of purchase of (%) from renewable sources(in term of energy in kWh) of total consumption	Average Global Horizontal Irradiance @ kWh/M2/ Day
	<b>Solar</b>	
Himachal Pradesh	7.25	5.08
Maharashtra(Pune)	3.50	5.75
Uttar Pradesh	2.0	4.27
Chhattisgarh	5.0	5.29

- (ii) The stakeholder further submitted that the total consumption for REC mechanism should exclude transmission & distribution losses and total consumption should be the energy available at the consumer end only. It shall help to safe guard the consumer interest.

**Commission's View:-**

- (A) The present regulatory process is limited to capping of RPO for Captive Power Plants (CPP). The Ministry of Power, GoI in consultation with MNRE has decided that RPO of the CPP may be pegged at the RPO level applicable in the year in which the CPP was commissioned. The industry that has a captive generating plant with an installed capacity exceeding

5 MVA, based on conventional technology (i.e. other than any renewable energy technology) and consumes electricity from such plant for meeting its standby (or emergency backup) required in the exceptional circumstances of power cuts or breakdown etc. and takes supply from the distribution licensee for normal period shall be benefited with the proposed amendment as their energy generation from such unit(s) shall not be subject to increasing RPO trajectory and the same is pegged at the RPO level applicable in the year in which the CPP was commissioned. The Commission has already enhanced the capacity limit of standby DG sets, as far as RPO applicability is concerned, from 1.00 MW to the capacity exceeding 5MVA. The Commission does not find any merit in the aforesaid suggestion to accept the same. Moreover, it is corporate social responsibility of the obligated entities to offset the fossil fuel generation with certain percentage of renewable power.

(B) (i) As far as the suggestion of M/s UltraTech Private Limited to fix the solar RPO as 2.5% for FY 2019-20 i.e. equal to the percentage limit specified for the State of Uttar Pradesh is concerned, the Commission does not find merit in the said suggestion, keeping in view that solar RECs are available at equal floor price of non-solar RECs and in case non-availability of solar RE power in the State, the obligated entities have option to buy solar RECs for fulfilment of solar RPO obligation. It is further clarified that the Commission has already adopted and specified the RPO trajectory for FY 2016-17 to FY 2018-19 and FY 2019-20 to FY 2021-22 as per the Order of Ministry of Power, Govt. of India dated 22<sup>nd</sup> July, 2016 and 14<sup>th</sup> June, 2018 respectively issued as per the provisions of para 6.4(1) of the Tariff Policy, 2016.

(ii) The Commission does not find merit with the other suggestion of stakeholder relating to exemption of T&D losses for open access customers as the present regulatory process is only limited to capping the RPO for Captive Power Plant (CPP) at the level in which such CPP was commissioned.

8. The RPO trajectories of previous years which had been specified in the table of sub-regulation (1) of regulation 4 of the RPO Regulations, 2010 and were substituted/repealed through amendments of the RPO Regulations, 2010, shall also be applicable to the obligated entities for their RPO compliance of respective years. The following note shall be inserted below the table of sub-regulation (1) of regulation 4, namely:-

“Note: The RPO trajectory as specified by the Commission in these regulations or any other omitted/revised provisions, from time to time, for the respective years shall remain applicable and provisions to that extent shall be considered to have been saved in these regulations.”

The draft amendment regulations are finalized by incorporating changes as discussed above and approved as such and be notified accordingly.

Sd/-  
(Bhanu Pratap Singh)  
**Member**

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

Place: Shimla.  
Dated: 5<sup>th</sup> February, 2020