

**BEFORE THE HIMACHAL PRADESH ELECTRICITY REGULATORY  
COMMISSION SHIMLA**

**Review Petition No: 25 of 2023**  
Instituted on: 27.03.2023  
Heard on: 28.03.2023  
**Decided on: 29.03.2023**

**CORAM**

Devendra Kumar Sharma

**CHAIRMAN**

Yashwant Singh Chogal

**MEMBER (Law)**

Shashi Kant Joshi

**MEMBER**

**In the matter of:**

The H.P. State Electricity Board Limited through,  
Chief Engineer (Commercial),  
Vidyut Bhawan, Shimla-171004.

**.... Petitioner**

Versus

The Directorate of Energy through,  
Chief Engineer (Energy),  
Shanti Bhawan, Phase-III,  
Sector-IV, Shimla-171009.

1. The H.P. State Load Despatch Centre through,  
Chief Engineer, SLDC,  
Totu, Shimla-171011.
2. The H.P. Govt. Energy Development Agency through,  
Chief Executive Officer,  
Urja Bhawan, SDA Complex,  
Kasumpti, Shimla-171009

**.....Respondents**

**Petition under Section 94 (1) (f) of the Electricity Act, 2003 read with Regulation 63 of the HPERC (Conduct of Business) Regulations, 2005 for seeking review of the order dated 28.11.2022 passed in Petition No. 41 of 2022.**

**Present:**

Sh. Kamlesh Saklani, Authorised Representative with Sh. Anil Gautam, Chief Engineer (SO) for the Petitioner.

Sh. Shanti Swaroop, Ld. Legal Consultant with Sh. Manoj Kumar, Dy. Chief Engineer (E), for the Respondent No. 1

Sh. Partap Thakur, Chief Engineer (SLDC) for the Respondent No. 2.

Sh. Vineet Sood, Project Manager for the Respondent No. 3.

**ORDER**

This Review Petition has been filed by the Himachal Pradesh State Electricity Board Limited (HPSEBL for short) for reviewing Order dated 28.11.2022 in Petition No. 41 of 2022. The Petitioner in Petition No. 41 of 2022 had apprised the Commission about the shortfall of 181.03 MUs towards meeting Solar RPPO for FY 2021-22 due to some unprecedented events and had prayed the Commission to allow carry forward of the deficit of 181.03 MUs in the ensuing years. The Commission vide Order dated 28.11.2022 disposed off the said Petition wherein the Commission worked out an additional Solar RPPO of 4.33 MUs for FY 2016-17 to fill the gap of 0.25% between the Solar RPPO notified by the Commission and the Solar RPPO notified the Ministry of New and Renewable Energy, Government of India and also adjusted the same with solar energy procured by the Petitioner during FY 2021-22. In nutshell, a net deficit of 185.36 MUs was worked out by the Commission towards meeting of Solar

RPPO of FY 2021-22 and directed the Petitioner to offset the said balance by 31<sup>st</sup> January, 2023 through any of the following means:-

- i) By procurement of Solar RECs; and /or
- ii) By procurement of additional Solar Power during the remaining part of the current financial year dedicated for adjustment of this deficit.

2. It is averred that immediately after Order dated 28.11.2022 in Petition No. 41 of 2022, the HPSEBL initiated the process to procure Solar Renewable Energy Certificates (RECs for short) equivalent to the quantum of 185.36 MUs and accordingly, procured 50,000 RECs on 25.01.2023 equivalent to the quantum of 50.00 MUs on preference basis. However, as per the certificate, source of origin for 46137 RECs is Solar and remaining 3863 RECs is Non-solar.

3. Also averred that on 09.02.2022, a Miscellaneous Application was filed before the Commission seeking extension of time for compliance w.e.f. 31<sup>st</sup> January, 2023 which request was considered and the time to meet the compliance/ offsetting the balance was extended till 31.03.2023.

4. As per the HPSEBL, 1,00,000 RECs equivalent to 100 MUs were procured on 22.02.2023 through Indian Energy Exchange (IEX for short) on preference basis and as per the certificate of purchase issued by IEX, 48301 RECs (48.301 MUs) have originated from Solar whereas remaining

51,699 RECs equivalent to 51.69 MUs have originated from Non-solar due to shortage of RECs from solar sources.

5. It is averred that the Petitioner has also imported solar energy to the tune of 13.998 MUs under 'as and when banking arrangement' during December, 2022 to February, 2023 which are also qualified for offsetting the Solar RPPO balance to meet the deficit of FY 2021-22.

6. As per the Petitioner, despite having initiated the process of bidding of Solar RECs on both days of participation i.e. 25.01.2023 and 22.02.2023 in the IEX, the Petitioner has been allotted 55,562 RECs, equivalent to 55.562 MUs originated from non solar sources. It is averred that the non availability of the Solar RECs was because of the impact of applicability of the Central Electricity Regulatory Commission (Terms and Conditions of the Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2022 (CERC REC Regulations 2022 for short) w.e.f. 05.12.2022 wherein the distinction between the Solar RECs and Non-Solar RECs has been omitted (Annexure RP-1).

7. Further averred that the Hon'ble High Court of Delhi vide Order dated 20.12.2022 passed in WP(C) 15477 of 2022 & CM Appeal 48145 of 2022 titled as The Indian Wind Power Association Northern Region Council Vs. the Union of India & Ors., has stayed the trading in the RECs, issued prior to 31.10.2022 for a period of six weeks which has been

extended till March 2023. Therefore, the Solar RECs are not available for trading and consequently, the Petitioner could not purchase the dedicated Solar RECs to meet the deficit of 185.36 MUs in Solar RPPO for FY 2021-2022.

8. It is also averred that in the meanwhile, the Commission has also notified Himachal Pradesh Electricity Regulatory Commission (Renewable Power Purchase Obligation and its compliance) Regulations, 2003 vide notification dated 24.02.2023 wherein inter category convertibility of the certificates (Solar and Non-Solar) on the basis of certificate multipliers have been made applicable for the purpose for offsetting the shortfall and computing the surpluses.

9. It is averred that due to the market constraints and compelling circumstances, the Petitioner has been able to get the RECs/Energy till Feb., 2023 as under:-

Sr. No.	Description	Quantity (Nos.)	Quantum in terms of energy (MUs)
1.	A) Total No. of RECs procured through IEX having Solar as source of origin	94,438	94.438
	B) Total No. of RECs procured through IEX originated from Non-Solar sources	55,562	55.562
	Total No. of RECs Procured till February 2023	1,50,000	150.00
2.	Solar power imported under AS & WHEN BANKING Arrangement till February 2023	-	13.998
	<b>Total</b>		<b>163.998</b>

10. As per the Petitioner, they have procured around 112 MUs from solar power generators under long term tie-ups during FY 2022-23 till

Feb., 2023 which may be allowed to be adjusted against the aforesaid deficit of 185.36 MUs against Solar RPPOs for FY 2021-22.

11. As per the Petitioner, in view of the inter-category convertibility allowed by the Commission vide RPPO Regulations, 2023, order dated 28.11.2022 in Petition No. 41 of 2022 is required to be reviewed which is the new and important matter of evidence.

12. On notice of the Petition to the Respondents No. 1 to 3, no response/ reply has been filed. Sh. Shanti Swaroop, Ld. Legal Consultant with Sh. Manoj Kumar, Dy. Chief Engineer (E) appearing for the Directorate of Energy (the DoE) stated that the Commission may accept the request of the HPSEBL in light of the RPO Regulations and that the direction of the Commission shall be complied by the DoE in letter and spirit. Letter dated 28.03.2023 in this regard was also produced which is taken on record. Sh. Partap Thakur, Chief Engineer, SLDC and Sh. Vineet Sood, Project Manager, HIMURJA have also stated that no response/ reply on behalf of the Respondents No. 2 and 3 is to be filed.

13. We have heard Sh. Anil Gautam, Chief Engineer (System Operation) with Sh. Kamlesh Saklani, Authorised Representative for the Petitioner, Sh. Shanti Swaroop, Ld. Legal Consultant with Sh. Manoj kumar, Dy. Chief Engineer for the Respondent No. 1, Sh. Partap Thakur, Chief Engineer (SDLC) for the Respondent No. 2 and Sh. Vineet Sood,

Project Manager for the Respondent No. 3 and perused the entire record carefully.

14. The Petitioner is aggrieved of the Order dated 28.11.2022 passed in Petition No. 41 of 2022 whereby the Commission has concluded that though the Petitioner is compliant with its Non-Solar RPPO for FY 2021-2022 but is deficient in meeting Solar RPPOs and in case the Petitioner fails to offset the Solar RPPO deficit equivalent to 185.36 MUs by the 31.01.2023, the HPSEBL shall not only be liable to be penalized under Regulations 9 (2) of RPPO Regulations 2010 but may also have to face action under Section 142 of the Electricity Act, 2003.

15. In Para 29.3 of the Order dated 28.11.2022 passed in Petition No. 41 of 2022, the Commission has observed as under:-

*“Since the solar projects are not being commissioned in time in the State due to poor monitoring and planning resulting in non-compliance by the Distribution Licensee, the HPSEBL is directed to offset its deficit of 185.36 MUs of Solar RE Power by 31<sup>st</sup> January, 2023 through any of the available means i.e.*

- (i) By procurement of Solar RECs; and/or*
- (ii) By procurement of additional Solar power during the remaining part of the current financial year dedicated for adjustment of this deficit.”*

16. It is the case of the Petitioner that they have tried to make compliance of the Order dated 28.11.2022 in Petition No. 41 of 2022 but in view of the Order dated 20.12.2022 passed in WP(C) 15477 of 2022 & CM Appeal 48145 of 2022 titled as The Indian Wind Power Association

Northern Region Council Vs. the Union of India & Ors., and CERC REC Regulations 2022, Solar RECs are not available for trading and consequently, the Petitioner could not purchase the dedicated Solar RECs to meet the deficit of 185.36 MUs for FY 2021-22.

17. It is apparent from the Petition that the Petitioner has procured 94,438 Solar RECs through IEX on 25.01.2023 and 22.02.2023, equivalent to 94.438 MUs. The Petitioner have also procured/imported Solar RECs equivalent to 13.998 MUs till Feb., 2023 under banking arrangements. Not only this, the Petition shows that the Petitioner has also procured 112 MUs of Solar Energy/certificates in terms of long term tie-ups with solar power generators which as per Sh. Anil Gautam are equivalent to 111.93 MUs. Taking the aforesaid 94.438 MUs, 13.998 MUs and 111.93 MUs, the same are equivalent to 220.366 MUs. The Petitioner was in deficit of 185.36 MUs. Thus, the Petitioner has not only met the deficit but has surplus Solar RPPOs and has thereby met the compliance of FY 2022-2023 aggregating to 185.36 MUs.

18. Though, as per provision of Section 94(1)(f) of the Electricity Act, 2003 read with the Regulation 63 of the Conduct of Business Regulations, 2005 and Section 114, read with Order 47, of the Code of Civil Procedure, 1908, the Commission has wide powers to Review its own orders, but in

the present case, there is no error apparent on the face of the record warranting Review.

19. Be it as it may, as observed above, the Commission vide order dated 28.11.2022 in Petition No. 41 of 2022 had asked the Petitioner to offset the deficit of 185.36 MUs of Solar RE Power by 31.01.2023 through any of the following means:-

- (i) *By procurement of Solar RECs; and/or*
- (ii) *By procurement of additional Solar power during the remaining part of the current financial year dedicated for adjustment of this deficit.*

20. The HPSEBL had moved the Commission for extending the time for compliance of the directions/ Order dated 28.11.2022 passed in Petition No. 41 of 2022 and on considering said request, the Commission has permitted the HPSEBL to offset the deficit by 31.03.2023. Thus, having been surplus in Solar RPPOs as mentioned above, there was no need for filing Petition for Review. In fact, the Petitioner should have submitted the compliance before the Commission instead of filing the Review Petition as we do not find that there is no error apparent on the face of record in the Order dated 28.11.2022 in Petition No. 41 of 2022 warranting review of the order. The Petitioner was required to show the compliance before the Commission as directed, hence, the Petition is being treated as Compliance Petition and orders that the Petitioner is

compliant of Solar RPPOs as directed vide order dated 28.11.2022 in Petition No. 41 of 2022.

21. Before parting, the HPSEBL is required to be directed to initiate the process of getting non-solar RPO for the surplus energy i.e. 519.827 MUs of FY 2022-2023. However, as per the Petitioner, the Hon'ble High Court of Delhi in WP(C) 15477 of 2022 & CM Appeal 48145 of 2022 titled as The Indian Wind Power Association Northern Region Council Vs. the Union of India & Ors., has stayed the trading in the RECs till March 2023, therefore, we direct the HPSEBL to complete such process without Six months from the issuance of this Order and further directed to submit the status of getting non-solar RECs of surplus non-solar energy of the following years through affidavit by 20th April, 2023:-

<b>Sr. No.</b>	<b>Financial Year</b>	<b>Quantum of surplus non-solar energy in MUs after fulfillment of RPO in the respective years.</b>
1	2019-20	1260.21
2	2020-21	541.79
3	2021-22	519.83
	<b>Total</b>	<b>2321.83</b>

22. The Petition is disposed off. Be tagged to Petition No. 41 of 2022 for record.

**Announced**  
**29.03.2023**

**-Sd-**  
**(Shashi Kant Joshi)**  
**Member**

**-Sd-**  
**(Yashwant Singh Chogal)**  
**Member(Law)**

**-Sd**  
**(Devendra Kumar Sharma)**  
**Chairman**