



Delhi Electricity Regulatory Commission
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 110 017.

F.11(1786)/DERC/2020-21/6817

Petition No. 21/2020

In the matter of: Petition under Section 86(1) (e) of the Electricity Act, 2003 read with Second Point under Note-2 of Regulation 4(1) of the DERC (Renewable Purchase Obligation and Renewable Energy Certificate Framework Implementation) Regulations, 2012 and DERC Comprehensive (Conduct of Business) Regulations, 2001

Tata Power Delhi Distribution Ltd.

...Petitioner

Vs.

BSES Yamuna Power Ltd. & Ors.

.....Respondents

Coram:

Hon'ble Shri Justice Shabihul Hasnain 'Shastri', Chairperson

Hon'ble Dr. A. K. Ambasht, Member

Appearance:

1. Mr. Buddy A Ranganadhan, Adv., TPDDL
2. Mr. Raunak Jain, Adv., TPDDL
3. Mr. Hasan Murtaza, Adv., BRPL and BYPL
4. Mr. Tushar Jain, Adv., Duggar Fiber Pvt Ltd
5. Mr. Tarun Johri, Adv., DMRC
6. Ms. Mansi Bajaj, Adv., RGCIRC
7. Mr. Saksham Mishra, Adv., RGCIRC
8. Mr. Sohil Yadav, Adv., Hotel Oberoi Maidens
9. Mr. Arijit Mazumdar, Adv., Hotel Oberoi Maidens

ORDER

(Date of Hearing: 27.09.2021)

1. The aforesaid Petition has been filed by TPDDL as per Second Point under Note-2 of Regulation 4(1) of the DERC RPO Regulations 2012 seeking reduction of the RPO of the Petitioner taking into consideration the excess RE power being brought into the system of the Petitioner over and above the RPO of obligated entity. The Petitioner has made the following prayers in its Petition:

WEAR FACE MASK

WASH HANDS REGULARLY

MAINTAIN SOCIAL DISTANCING

- a) To undertake reconsideration and downward revision/reduction in RPO targets of the Petitioner, in consumer interest.

2. Brief facts of the case:

- a) The present Petition has been filed by the Petitioner as per Second Point under Note-2 of Regulation 4(1) of the DERC (Renewable Purchase Obligation and Renewable Energy Certificate Framework Implementation) Regulations, 2012 ("RPO Regulations, 2012") seeking reduction of the Renewable Power Purchase Obligation ("RPO") of the Petitioner taking into consideration the excess Renewable Energy ("RE") power being brought into the system of the Petitioner over and above the RPO of obligated entity.
- b) The Petitioner has submitted that the Open Access (OA) consumers availing energy from RE sources within or outside Delhi, stand benefitted through exemptions from payment of Transmission, Wheeling and Additional Surcharge for RE power procured by them.
- c) These exemptions being availed by the OA consumers over and above their RPO, are resultantly being borne by other OA (seeking power under OA from conventional sources) and non-OA consumers of the Petitioner. Thus, the consumers at large of the Petitioner are entitled to the benefits which would accrue from reduced RPO targets of Petitioner.
- d) This is based on the rationale that reduction in RPO target sought will decrease the financial pressure on Petitioner's ARR and consequently non-OA consumers.

3. In the present Petition there are 12 Respondents out of which following Respondents have submitted their respective replies:

- a. BSES Yamuna Power Ltd.
- b. BSES Rajdhani Power Ltd.
- c. Delhi Metro Rail Corporation Ltd.
- d. M/s Duggar Fiber Pvt. Ltd.
- e. M/s Max Health Care Institute Ltd.
- f. M/s Rajiv Gandhi Cancer Institute and Research Centre.

Petitioner Submissions

4. The Petitioner has made the following submissions in its Petition:

- a) On 03.01.2006, the Commission notified the DERC (Terms and Conditions for Open Access) Regulations, 2005 (**“OA Regulations”**) specifying the applicable charges for OA users. Regulation 12 of the said OA Regulations has provided as under: -

“(1) The Open Access Customers shall pay the transmission charges, wheeling charges, surcharges, additional surcharges, scheduling charges (payable to State Load Despatch Centre), unscheduled inter-change (UI) Charges, reactive energy charges and such other charges as the Commission may determine from time to time, as a part of the tariff under section 61, 62 and 86 of the Act or otherwise decide or authorise the Nodal Agency to charge in exercise of its regulatory powers under the Act.”

- b) Further on 01.10.2012, the Commission notified the RPO Regulations, 2012. The relevant provisions of the said RPO Regulations are as under-

“4. Renewable Purchase Obligation:

(1) Every Obligated entity shall purchase electricity (in kWh) from renewable sources for fulfilment of defined minimum percentage of the total quantum/ consumption under the Renewable Purchase Obligation

*....
Note-1*

*.....
Note-2*

In case of any schemes introduced by GoNCTD for promotion of off Grid renewable use/ power generation by individual consumers, all installations seeking to avail the benefits of one-time capital subsidy or generation based incentive under such schemes shall need to register themselves with the State Nodal Agency who will issue clearance for their availing any such subsidies/incentives.

In case the total off grid usage/ generation capacity established under such schemes exceeds 10 Percent of the total RPO obligations of the Delhi Distribution Licensees in the relevant category, the Commission may re-fix the RPO

obligations of the distribution licensees taking into consideration such off grid usage/generation capacity.

*.....
.....”*

Regulation 9 of the said RPO Regulations, 2012 provides exemption of CSS for OA consumers to the extent of RPO and the same is reproduced below: -

“9. Renewable Energy Pricing:

(1)....

.....

(4) Open Access Consumer receiving electricity from renewable energy sources shall be exempted from the cross-subsidy surcharge determined by the Commission from time to time to the extent of RPO. However, no banking facility shall be provided for supply of electricity from renewable energy sources through open access.

.....”

c) In exercise of the powers vested under regulation 12 & 17 of the OA Regulations, 2005, the Commission passed the Order dated 01.06.2017 in the matter of determination of OA charges and other related matters. As per para 6 of the said Order dated 01.06.2017: -

“6. Quantum of Renewable Purchase Obligation (RPO):

(1) Open Access consumer shall fulfil its RPO as per DERC (Renewable Purchase Obligation and Renewable Energy Certificate Framework Implementation) Regulations, 2012 as amended from time to time.

(2) Wheeling, Transmission and Additional surcharge shall not be applicable on Open Access Consumers availing energy from all renewable sources within or outside Delhi. Open Access consumer receiving electricity from renewable energy sources shall be exempted from the cross subsidy surcharge to the extent of RPO:

Provided that the generators using renewable energy sources shall certify that No REC/RPO claim for this power has been made.

.....”

- d) TPDDL has 9 OA consumers having tie-up with non-solar RE sources (Small Hydro or Waste Management Sources) except Delhi Metro Rail Corporation (DMRC) that is taking power from Solar RE source. These consumers are availing total exemption on Open Access charges i.e. Wheeling charges, Transmission charges and Additional Surcharge on entire power consumed from RE sources and further exemption on payment of cross subsidy surcharge (CSS) to the extent of RPO in case total procurement in a year is from Green Power. As an obligated entity under the RPO Regulations, 2012, the above stated 9 consumers are to mandatorily comply with the RPO which is stipulated by DERC for FY 2019-20 at 17% (Non-Solar 10.25% and Solar 6.75%). However, these open access consumers have consumed 100% power through OA from RE sources during various years, thus being more than the RPO target set for OA consumers.
- e) Further, these OA consumers consume/ shall consume approx. 200 MU from RE Sources in a year. Observing the RPO target set by the Commission, approx. 40 MU out of these 200 MU is utilized by these OA consumers towards their RPO while remaining 160 MU are in excess. On one hand the Open Access Consumers are procuring renewable energy beyond their RPO for getting waiver of Open access charges which is borne by other Non OA Consumers, at the same time due to shortage of Renewable Power in market the DISCOMs are forced to buy RECs at forbearance price/ Renewable power at high costs.
- f) The 160 MU translating to approx. Rs. 51 Crores is costing equivalent to REC cost including GST considering Rs. 3020 per MWH through REC purchase (average of forbearance price of solar & non-solar RECs). As per DERC Order dated 01.06.2017, the total waiver for 30 MW on RTC basis for these 9 consumers is calculated at approx. Rs. 69 Crores and consequently being borne by other OA and non-OA consumers of the Petitioner.
- g) It is respectfully submitted that The State Commission may reduce the RPO Targets for the Distribution Licensees taking into consideration such off grid usage/generation capacity, for which various dispensation /promotional measures have been provided by the

GoNCTD, as stipulated under Second point to Note-2 of regulation 4(1) of the RPO Regulations, 2012. Applying the principle of the said provision to the present case, it is clear that since the OA consumers are availing exemptions on the power consumed by them from RE sources, the Petitioner is only seeking reducing of the RPO target by taking into account the excess RE energy being brought into the system of the Petitioner over and above the RPO of obligated entities.

- h) For the reason that total exemption on Open Access charges i.e. Wheeling charges, Transmission and Additional Surcharge on entire power consumed from RE sources by OA consumers has been provided by this Commission and also exemption on payment of CSS is provided to the extent of RPO for procuring 100% Green power on a year, it is requested that this Commission may undertake reconsideration and downward revision/reduction in RPO targets of the Petitioner, in consumer interest.

Respondents Submissions

Respondent No.1 and 2 (BRPL and BYPL)

- 5. The Respondents agree with the Petitioner that increased use of renewable energy power by open access consumers over and above their RPO mandate should be considered for compliance of RPO of the Respondent. It is submitted that this would help in offsetting additional cost towards meeting RPO target.

Respondent No. 4 (DMRC)

- 6. Respondent No. 4, DMRC, has made the following submissions:
 - a) The Petitioner is not entitled to seek reconsideration of Renewable Energy procured by and Open Access(OA) consumer against their RPO target unless associated benefits such as exemption of Inter-state transmission (ISTS) charges and losses, Wheeling, Transmission and Additional surcharge, Cross-subsidy surcharge, Intra-state transmission and distribution losses are passed to Open Access consumer. DMRC is procuring the Open access power entirely/only

from Renewable Source of Energy (Solar Power) and the recent clarification issued by DERC on 20.01.2020 does not stipulate applicability of DERC (Renewable Purchase Obligation and Renewable Energy Certificate Framework Implementation) Regulations, 2012 on such Open Access consumer. Therefore, despite contributing in promoting use of RE power, DMRC is not getting any relief in ISTS charges and losses, Cross-subsidy surcharge, Intra-state transmission and distribution losses. Despite taking solar energy @ Rs. 3 per unit tariff from solar project developer at Rewa, these regulatory charges and losses is resulting in the additional impact of Rs. 2.50 per unit.

- b) Note 2 only deals with a situation where the total off grid usage/generation capacity established under such scheme exceeds 10% of the total RPO obligation of the Delhi Distribution Licensee in the relevant category. However, the same is not applicable on the facts of the instant case, in as much as, admittedly in the instant case, the Petitioner has based its claims on the renewable energy being brought into the system by Open Access customers. The Petitioner has not even averred in the Petition that its total off grid usage/generation capacity established under such scheme exceeds 10% of total RPO obligation of the Delhi Distribution Licensee in the relevant category. Thus, Note-2 of Regulations, nowhere covers the case of Petitioner.
- c) DMRC is not having any objection against the Petitioner's claim for downward revision/reduction in RPO targets in lieu of excess renewable energy beyond RPO procured by the Respondents in their respective jurisdiction only if and subject to the associated benefits as mentioned above being passed to Open Access consumer (including consumers procuring the OA power only from Renewable source of energy).
- d) The Government of India has set target of installing 175 GW of renewable energy capacity by the year, 2022 which includes 100 GW from solar, 60GW from wind, 10 GW from bio-power and 5GW from small hydro-power. It is a fact that DISCOMs payment delays to renewable energy generators act as one of the major barriers to

scaling up renewable energy in India. Open Access is a possible solution to circumvent this risk. An alternative mechanism to the conventional power system, where generators can bypass the counter-party risk posed by the DISCOMs. Therefore, various states commissions including DERC in 2017 has provided exemption of various charges including Wheeling, Transmission and Additional surcharge for availing renewable energy by an open access consumer for promoting use of renewable energy.

- e) There has been a drastic increase in cross-subsidy charge for BRPL, BYPL and TPDDL for year 2019-20. This steep increase in Cross Subsidy Surcharge, is adversely affecting the financial viability of procuring renewable energy by the Open Access Customer, and also discourages open access consumer from purchase of the electricity directly, which was not the actual intent of the Commission and National Tariff Policy.
- f) Ministry of Power vide Order No. 23/12/2016-R&R dated 13.02.2018 had extended the exemption of Inter State Transmission charges and losses to all entities, including Distribution Companies for power from solar and wind power projects for compliance of renewable purchase obligation (RPO), for projects commissioned till 31st March, 2022. Accordingly, solar power from Rewa plant procured by DMRC was booked by SLDC under the head of Delhi DISCOMs (BRPL, BYPL and TPDDL) without Intra State transmission losses, till July, 2020. But Intra-State Transmission losses are being levied by DISCOMs (BRPL BYPL and TPDDL) on solar power being procured by DMRC from Rewa Solar Plant through Open Access from the date of start of open access i.e. 18.04.2019. On 03.08.2020, SLDC has informed, regulations/order of DERC would prevail and there is no provision of waiver of intrastate transmission losses on renewable power in DERC open access order/regulation.
- g) DMRC has extensive 33kV and 25kV cables in its distribution network for interconnecting 66 kV and 220 kV cable links to DTL. Some of these lightly loaded or unloaded cables generate reactive power. Solar power is available for 12 hours only (i.e. 06:00 hrs to 18:00 hrs). Therefore, OA Consumers are compelled to meet the power

requirement during night time (i.e 18:00 hrs. to 06:00 hrs.) from the DISCOMs. As per DERC order dated 01.06.2017, Energy Charges in KWH and Reactive energy in KVARH are being levied from OA consumers by DISCOMs. Further, DISCOMs levying energy charges during night time on KVAH. Since, KVAH includes both KWH and KVARH, this results in levying of reactive energy charges twice from open access consumer by DISCOMs.

- h) The Respondent request the Commission that, the Open Access Power procured by it over and above RPO, be included in the RPO of the DISCOMs, provided, that all the exemption be given to DMRC in respect of open access charges including cross subsidy surcharge as provided to open access consumers procuring power from Waste Energy Resources vide Commission's Order dated 21.01.2019

Respondent No. 6 (Duggar Fiber Pvt. Ltd.)

7. Respondent No. 6, Duggar Fiber Pvt. Ltd, has made the following submissions:

- a) NCT of Delhi has no or little or renewable power producing capacity and accordingly to ensure the adequate consumption of renewable power in the NCT of Delhi, the Commission has incentivized the OA consumers consuming renewable energy by providing various exemptions in form of Transmission, Wheeling and Additional Surcharge (hereinafter referred to as the "Exemptions")
- b) The RPO Regulations does not differentiate in the percentage requirement of the RPO between the obligated entities.
- c) The Petitioner vide the present Petition has put forth the rationale wherein it has projected its case in a way wherein, it will ride over and on the back of the entities like Answering respondent and the renewable power procured by them in turn is to be accounted to the account of the Petitioner.
- d) Under the current legal regime, any shortfall by the obligate entity to purchase the renewable energy directly shall be fulfilled by the purchase of RECs. Accordingly, as on date the obligated entities including the Petitioner and the Respondent purchase RECs to bridge the gap between the actual renewable energy purchased by them

and the shortfall in the same as required to comply with the RPO obligation. Further, such RECs which are required to be purchased by the obligated entities to fulfil the quantum of RPO (or renewable energy for particular financial) comes for a certain value.

- e) Purchase of REC shall be deemed to be the purchase of renewable energy. further, any gap between the physical purchase of the renewable energy has to be bridged by the purchase of RECs. Accordingly, direct purchase of renewable power by the Answering Respondent or purchase of RECs in lieu of that has to be to the credit of the Answering Respondent. Also, applying the said principle physical power or the RECs purchased by the Answering Respondent cannot be deemed to be the renewable energy purchased by the Petitioner.
- f) The Respondent being the OA consumer and any renewable energy sourced by it shall have to be construed in literal terms to be the energy of the Answering respondent only and in no way the benefit of the same can be extended to the Petitioner.
- g) Regardless of any benefits/exemptions which are being provided by this Commission by virtue of Electricity Act, 2003 or any regulations made thereunder or by various policies issued on the subject, the matter of fact that the renewable power procured by the entity shall be for the exclusive benefit of such procurer of renewable energy.

Respondent No. 7 (Rajiv Gandhi Cancer Institute and Research Centre)

- 8. Respondent No. 7, RGCIRC, has made the following submissions:
 - a) The RPO Regulations does not differentiate in the percentage requirement of the RPO between the obligated entities. In this regard regulations 2(m) and 4 of the RPO Regulations are reproduced herein below for the Commission's perusal: 2(m) "Obligated Entity//means the distribution licensee (s), captive users(s) and Open Access Consumer(s) in the National Capital Territory of Delhi, which is mandated to fulfil Renewable Purchase Obligation under the Regulations.
 - b) It is further submitted that under the current legal regime, any shortfall by the obligated entity to purchase the renewable energy directly

shall be fulfilled by the purchase of REC's. Accordingly, as on date the obligated entities including the Petitioner and the Answering Respondent purchase RECs to bridge the gap between the actual renewable energy purchased by them and the shortfall in the same as required to comply with the RPO obligations. Further, such RECs which are required to be purchased by the obligated entities to fulfil the quantum of RPO (or renewable energy for a particular financial year) comes for a certain value.

- c) We have been procuring power under Open Access (from Renewable Energy). In the present instance, the intention of the DISCOM is that as the consumer i.e. Rajiv Gandhi Cancer Institute & Research Centre, is purchasing excess power from renewable energy sources, so the DISCOM i.e. Tata Power Delhi Distribution Limited (TPDDL) wants advantage of the Renewable Purchase Obligation (RPO) in future.
- d) As we have been procuring power from Renewable Energy sources, so the extra power which we are procuring from renewable energy should be adjusted in our future RPO. Concluding, we want to stat that the benefit of RPO should be only given to the consumer. The benefit of RPO should be provided to the consumer and the excess power procured from renewable energy should be adjusted in our future RPO.

Respondent No. 9 (Max Healthcare)

- 9. Respondent No. 9, Max Healthcare. has made the following submissions:
 - a) We have been procuring power under Open Access (from Renewable Energy). In the present instant, the intention of the DISCOM is that as the consumer i.e. Max Healthcare Institute Limited, is purchasing excess power from renewable energy sources, so the DISCOM i.e. Tata Power Delhi Distribution Ltd. (TPDDL) wants advantage of the Renewable Purchase Obligation (RPO) in future.
 - b) Procuring power from Renewable Energy sources, so the extra power which we are procuring from renewable energy should be adjusted in our future RPO. Concluding, we want to state that the benefit of RPO should be only given to the consumer. The benefit of RPO should

be provided to the consumer and the excess power procured from renewable energy should be adjusted in our future RPO.

10. The Petitioner in its Written Submission has further submitted that:

- i. The Respondent No. 1 & 2 accepted and adopted the submissions of the Petitioner and prayed that similar relief should also be extended to them as it would benefit Delhi as a whole by reducing power purchase cost substantially.
- ii. In response to the contentions of DMRC that it should be exempted from payment of Intra-State Transmission & Distribution Losses, DMRC has itself admitted that the issues regarding ISTS charges as well as Intra-State Transmission & Distribution Losses are currently pending with the Commission for clarification. Hence, DMRC cannot be permitted to raise these issues in the present Petition. Further, it is clarified that the wheeling charges, STU transmission charges and additional surcharge are not charged to DMRC for its green power in line with DERC Open Access Regulations.
- iii. In response to the contention of Respondent No. 6, DFPL, that it is not getting any benefit if relief is favourably granted to the Petitioner as prayed, it is submitted that the relief in the form of waiver of transmission charges, wheeling charges, additional surcharge in totality is provided to consumers taking power from renewable open access sources. Further, waiver of CSS to the extent of RPO is also provided. The prayer of the Petitioner if accorded for would reduce by subsuming the Renewable Power of OA consumers in RPO of DISCOM thereby reducing the tariffs and resultant wheeling charges and CSS. Further, in response to the second submission of DFPL, that as per Hon'ble APTEL's judgment in Appeal No. 258 of 2013, purchase of RECs purchased by Respondent No. 6 DFPL cannot be taken over by the Petitioner, it is submitted that quantum of power purchased by Respondent No. 6, DFPL, over and above its RPO is totally different from the RECs Respondent No. 6, DFPL, may purchase to fulfil its RPO target. The Petitioner is not at all suggesting that the RECs purchased by Respondent No. 6 be given or credited to the Petitioner's account as they are solely for meeting RPO obligation of one obligated entity

and not more. The Petitioner is only seeking the surplus RE power purchased by OA consumers (over and above their RPO) to be treated as part of DISCOM's RPO compliance.

Commission Analysis

11. The present Petition has been filed by TPDDL seeking reduction of their RPO target taking into consideration the excess Renewable Energy (RE) being brought into the system of TPDDL over and above the RPO of other obligated entities (OA Consumers).
12. TPDDL has submitted that the power scheduled by open access consumers over and above their RPO mandate should be considered for compliance of distribution licensees. Further, increased use of RE by open access consumers embedded in the licensed area of the distribution licensee results in decreased scheduling of conventional power by distribution licensee and increase in RE flowing in the licensed area. Consequently, RE is being promoted in the area of distribution licensee. However, it would be beneficial for the distribution licensee, its consumers and the public at large, if the excess renewable energy scheduled by its open access consumers over and above their RPO is allowed to be utilised by distribution licensee's RPO compliance.
13. Further, TPDDL has submitted that the open access consumers availing energy from renewable sources within or outside Delhi are benefited through exemption of payment of Transmission, Wheeling, CSS and additional surcharge on entire quantum of RE procured by them.
14. On the issue regarding reduction of the RPO target of the Petitioner, it is to be noted that as per Second Point of Note -2 of said Regulation, 2012, the Commission may refix the RPO obligations of the Distribution Licensee taking into consideration off grid usage/generation capacity in case the total off grid usage/generation capacity established under such schemes (as mentioned in Para 4(b) of this Order) exceeds 10% of the total RPO Obligation of the Delhi Distribution Licensee in the relevant category. The

Petitioner has not even averred in the Petition that the total off grid usage/generation capacity exceeded 10% of its total RPO obligation. Therefore, Note-2 of Regulations 4(1) of the DERC (Renewable Purchase Obligation and Renewable Energy Certificate Framework Implementation) Regulation, 2012 does not cover the case of the Petitioner and as such the relief sought by the Petitioner cannot be granted.

15. With regard to the contention of the Petitioner that open access consumers availing energy from renewable sources within or outside Delhi are benefited through exemption of payment of Transmission, Wheeling, CSS and additional surcharge on entire quantum of RE procured by them, it is to be noted that *DERC (Renewable Purchase Obligation and Renewable Energy Certificate Framework Implementation) Regulations 2021* have been notified in the Gazette on 13/04/2021. These Regulations shall now supersede the earlier Regulations of 2012. As per Regulation 4(1) of *DERC (Renewable Purchase Obligation and Renewable Energy Certificate Framework Implementation) Regulations 2021*, Every Obligated Entity shall purchase electricity from Renewable Energy Sources for fulfilment of a defined minimum percentage of the total consumption during the year, under the Renewable Purchase Obligation, as specified in Table 1: RPO Targets for Obligated Entities, for control periods 2020-2023. Regulation 7(1) of the above said Regulations stipulates that:

“All Open Access Consumers receiving electricity from Renewable Energy Sources shall be exempted from the Wheeling, Transmission, Cross Subsidy Surcharge and Additional Surcharge to the extent of quantum of RPO compliance.”

16. As per clause 6 of the Commission's Order dated 01.06.2017, the benefit of Transmission Charges, Wheeling Charges, Additional Surcharge etc. has been provided to Open Access Consumers on entire quantum of renewable energy being procured by them, exemption of CSS is capped till the extent of RPO. However, the Commission has amended the Clause 6 of the Order dated 01.06.2017, w.e.f., 03.09.2021, in accordance with Delhi Electricity Regulatory Commission (Renewable Purchase Obligation

and Renewable Energy Certificate Framework Implementation) Regulations, 2021, and the same benefits of waiver of Wheeling Charges, Transmission Charges, Cross Subsidy Charges and Additional Surcharge to Open Access consumers has been capped till their RPO compliance only. By restricting such waiver till the quantum of RPO compliance shall result into collection of higher revenue by DTL and DISCOMs, which increases the non-tariff income and thereby subsidizes the transmission tariff for DISCOMs and resultantly reduce retail tariff for end consumers.

17. Further, the contention of the Petitioner is that due to shortage of Renewable Power in market, the DISCOMs are forced to buy RECs at forbearance price/ Renewable power at high costs. It is to be kept in mind that it was the National Tariff Policy, 2016, which mandated that even such costly power from renewable energy may be procured by the DISCOMS and made it mandatory just to take care of environmental issue related to electricity generation. The cost of ignoring RPO may be inestimable in comparison to the cost likely to incur to meet the RPO. It is not the monetary loss which has to be looked upon to see the intent of the Legislature or the Government in making the RPO a mandatory obligation. It may also be noted that in initial years the targets for RPO were kept low and it was not beyond the capability of Petitioner to meet such obligations.
18. The Commission is of the view that provision of REC itself is a measure that in case there is no availability of renewable energy sources in the state, the utility may opt for purchase of REC to meet their Renewable Energy Purchase Obligations. The RPO cannot be looked upon in narrowly, limited within the boundary of the state rather it is for the country as a whole and addresses the mankind requirement for a better environment. Therefore, the plea of the Petitioner DISCOM that the renewable energy sources in Delhi are deficient can never be accepted as an argument to further their case. In this regard, it has been observed by the Hon'ble Appellate Tribunal for Electricity (APTEL) in Gujarat Urja Vikas Nigam Limited versus Green Infra Corporate Wind Power Limited as under:

“Accordingly, the obligated entities have to fulfil the Renewable Power Purchase Obligations. Due to any reason, if the development of Renewable Sector enters into problem, then due to non-

availability of actual renewable power, the obligated entities have to purchase renewable energy certificate to fulfil the RPO Obligations and also to meet their actual demand, they have to purchase equivalent power from conventional energy generators. It is therefore necessary to protect and encourage renewable energy generators.

(b) Further, it is also to mention here that due to development of renewable energy power sector, the consumers at large, will be benefited by way of green/clean energy and thereby the global pollution will be reduced due to reduction in equivalent generation by way of conventional energy and thereby the depletion of the existing fossil fuels like coal, oil and gas can be averted.

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3. In view of these situations to safeguard the Renewable Energy Sector, this Tribunal has given several instructions to the State Commissions to take necessary steps for the development of Renewable Energy Sector."

19. It is to be understood Section 61 (h), Section 86(1)(e) shows thrust to promote the renewable energy. The relevant portion is reproduced herein:

"Section 86(1) of the Electricity Act, 2003 stipulates that State Commission shall discharge following function namely:

(a).....

(b).....

(e) promote cogeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;
....."

"Section 61 (Tariff regulations):

The Appropriate Commission shall, subject to the provisions of this Act, specify the terms and conditions for the determination of tariff, and in doing so, shall be guided by the following namely:

....

(h) the promotion of co-generation and generation of electricity from renewable sources of energy;

...."

20. The relief sought by the Petitioner if granted, would make the provisions as mentioned in, Section 61(h), Section 86(1)(e) of the Electricity Act and Regulation 4(1) and 12 of DERC (Renewable Purchase Obligation and Renewable Energy Certificate Framework Implementation) Regulations 2021, otiose.
21. In view of the above discussion and reasons therein, the Petition is dismissed.

Sd/-
(Dr. A.K. Ambasht)
Member

Sd/-
(Justice Shabihul Hasnain 'Shastri')
Chairperson