

**BEFORE**  
**THE ARUNACHAL PRADESH**  
**STATE ELECTRICITY REGULATORY COMMISSION ITANAGAR**

**Suo-Motu Petition No. 2/2018**

**In the Matter of**

**Compliance of Renewable Purchase Obligation targets as specified under APERC (Renewable Power Purchase Obligation And Its Compliance) Regulations 2012, APERC (Renewable Power Purchase Obligation And Its Compliance) (First Amendment) Regulations 2016, And APERC (Renewable Power Purchase Obligation and its Compliance) (Second Amendment) Regulations,2016 notified by the Commission.**

**Respondents:**

Department of Power, Govt. of Arunachal Pradesh represented by the respective Chief Engineers of three distribution zones, viz. Western, Eastern & Central Electrical Zones

**Facts of the Case:**

1. The Commission has notified APERC (Renewable Power Purchase Obligation And Its Compliance) Regulations 2012, APERC (Renewable Power Purchase Obligation And Its Compliance) (First Amendment) Regulations 2016, And APERC (Renewable Power Purchase Obligation And its Compliance) (Second Amendment) Regulations,2016 which, inter-alia, stipulates the Renewable Power Purchase Obligation (RPO) to be fulfilled by the Distribution Licensees including the Deemed Distribution Licensee/DOP/Captive and open access consumers in the State of Arunachal Pradesh during the period 2012-13 to 2018-19.

Regulation 4 of the principal Regulations viz. APERC (Renewable Power Purchase Obligation and Its Compliance) Regulations 2012, APERC (Renewable Power Purchase Obligation and Its Compliance) (First Amendment) Regulations 2016, and APERC (Renewable Power Purchase Obligation and its Compliance) (Second Amendment)\_Regulations,2016 reads as under:

**“4. Quantum of Renewable Power Purchase Obligation (RPPO) APERC (Renewable Power Purchase Obligation and it Compliance) Regulations, 2012**

4.1(a) The distribution licensee shall purchase electricity (in kWh) from renewable sources, at a defined minimum percentage of the total consumption including transmission and distribution losses, within the area of the distribution licensee, during a year.

Similarly, 4.1(b) The Captive and Open Access User(s)/ Consumer(s), shall purchase electricity (in kWh) from renewable sources, at a defined minimum percentage of his total consumption.

**Defined Minimum Percentages Minimum Quantum of purchase (in %) from renewable sources (in terms of energy in kWh) of total consumption**

The table 1 provided in Principal Regulation of 2012 under 4.1 shall be substituted by following table 1 as amended in the APSERC RPPO & its compliance Regulation(2<sup>nd</sup> Amendment) 2016:

<b>Year</b>	<b>Minimum Quantum of purchase (in %) from renewable sources (in terms of energy in kWh) of total consumption.</b>		
<b>(1)</b>	<b>Total(2)</b>	<b>Non- Solar(3)</b>	<b>Solar( 4)</b>
2012-13	4.2%	4.1%	0.1%
2013-14	5.6%	5.45%	0.15%
2014-15	7.0%	6.8%	0.2%
2015-16	7.0%	6.8%	0.2%
2016-17	11.5%	8.75%	2.75%
2017-18	14.25%	9.5%	4.75%
2018-19	17%	10.25%	6.75%

2. The Commission in exercise of the powers conferred under Sections 61(h), 86(1)(e) and 181 of the Electricity Act, 2003 in conjunction with APSERC (Renewable Power Purchase Obligation and its Compliance Regulations 2012, APSERC (Renewable Power Purchase Obligation and its Compliance (First Amendment) Regulations, 2016 (Notification No.19 of 2016), APSERC (Renewable Power Purchase Obligation and its Compliance(Second Amendment) Regulations, 2016 (Notification No.20 of 2016) and all other powers enabling it in this behalf has notified the regulation which have come into force from the respective dates as mentioned therein and hence the Renewable Power Purchase Obligation Regulations are applicable to distribution licensees, Captive and Open Access User(s)/Consumer(s).

3. In case of non-compliance of the Regulation 4 mentioned above and Regulation 7 & 9 mentioned below of APSERC (Renewable Power Purchase Obligation and Its Compliance) Regulations 2012 along with

subsequent amendments shall be invoked.

***“7. Distribution Licensee-***

*2) Despite availability of energy from renewable sources under the Power Purchase Agreements or the power exchange mechanism or from its own renewable sources or purchase of certificates, 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 these regulations.*

***9. Consequences of default –***

*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 fulfilment of the obligations, out of the amount in the fund:*

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

*2) 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.”*

4. Regulation 5 of the Principal Regulations provides an alternate mechanism for fulfilment of R.P.O. which reads as under:

***“5. Certificates under the Regulations of the Central Commission***

*5.1 Subject to the terms and conditions contained in these Regulations, the Certificates issued under the*

*Central Electricity Regulatory Commission's (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....."*

5. Further, the Commission has notified, Arunachal Pradesh Energy Development Agency (APEDA) as the State Agency to monitor the compliance of the RPO vide Regulation No. 6 (3) of 2012. Thus, it is the duty of the APEDA to monitor the fulfilment of the RPO by the obligated entities and in case of non-fulfilment of the RPO by the obligated entity (ies), should inform the same to the Commission, to enable the Commission to take appropriate decision regarding non-compliance of RPO by the entity concerned as provided in the Regulations. Further, apart from the Distribution Licensees, Captive and Open Access consumers within the State have also been identified as Obligated Entities who should comply with RPO targets stipulated at RPO compliance Regulation No. 8. of 2012.

6. The Commission has observed that till date DOP has not complied with the Solar RPO w.r.t compliance of Renewable Power Purchase Obligations from FY 2012-13 till FY 2017-18 in spite of directions issued by it from time to time and the Tariff Orders of respective years. It makes the Commission to believe that the DOP authorities at the appropriate level have not given heed to the lawful requirements of the said Regulations and the subsequent directions of the Commission from time to time.

7. Considering the above facts, and the Commission has decided to initiate Suo-Motu proceedings under provisions of Section 142 of the Indian Electricity Act-2003 and Clause 12 of the APERC Conduct of Business Regulations-2011 in order to verify non-compliance of Solar RPO by the deemed distribution licensees (DOP), of the State and in case of any default by the deemed distribution licensee, to decide the appropriate actions that may be required to be initiated against the defaulting distribution Licensee concerned/ person(s) responsible for this lackadaisical attitude of the DOP , in accordance with the provisions of the Electricity Act, 2003 read with APERC(Renewable Power Purchase Obligation and its Compliance) Regulations, 2012 read with amendments made thereto till date.

8. Commission therefore, direct the Chief Engineer Western, Eastern & Central Electrical Zones of the Deptt. of Power, Govt. of Arunachal Pradesh, Itanagar, the Respondents being the Heads of the three Distribution Zones of the Deemed Distribution Licensee in the State of Arunachal Pradesh, responsible to implement the said Regulations, to submit the reasons for non- compliance of APERC(Renewable Power Purchase Obligation and its Compliance) Regulations, 2012 read with amendments made thereto till date and delaying the matter as enumerated at Sl. No. 1 to 6 above for so long. The Respondents should file their

submissions including necessary supporting documents along with affidavit in support thereof in three copies to the Commission on or before 22/03/2018 in accordance to the procedure laid down in the relevant provisions of APSERC Conduct of Business Regulations-2011. APSERC in exercise of its powers under Section 94(1)(a) of the Indian Electricity Act -2003 as amended up to date advises the Respondents to be present in person before the Commission for hearing of the matter on a date to be intimated separately. All the three Respondents may however, choose to either file a combined reply for the Deptt. as a whole or to file individual replies for their respective Zones.

9. Commission also directs the Secretary of the Commission that the present Suo-Motu Petition be hosted on the website of the Commission.

10. Commission further directs the Director APEDA, being notified as the State designated agency for monitoring of the RPO compliance, to be also made a party to this Suo-Motu proceeding and to assist the Commission in hearings. The status of compliance of RPO from FY 2012-13 till FY 2016-17, based on the data furnished by distribution licensees which is given at **Annexure-I below**, APEDA may also submit any other facts which it may consider appropriate for consideration of the Commission in three copies with an affidavit in support of its submission before 22/3/2018. Further, the Director APEDA is also advised be present on the date of hearing to be notified at a later date as desired by the Commission under the provisions of Section 94(1)(a) of the Indian Electricity Act-2003 amended upto date.

### **Annexure -I**

#### **RPO Status report of obligated entity from FY 2012-13 to FY 2018-19**

S.No	Year	Total RPO%	Solar %	Non Solar %	Actual Solar % Compliance
1	2012-13	4.2%	0.1%	4.1%	Nil
2	2013-14	5.6%	0.15%	5.45%	Nil
3	2014-15	7%	0.2%	6.8%	Nil
4	2014-15	7%	0.2%	6.8%	Nil
5	2016-17	11.5%	2.75%	8.75%	Nil
6	2017-18	14.25%	4.75%	9.5%	-
7	2018-19	17%	6.75%	10.25%	-

11. The Commission will pass an appropriate order in the matter after hearing all the respondents and concerned persons. The matter will be heard by the Commission in the Court Room of the Commission on an appropriate date to be notified in due course.

**Secretary, APSERC**

**Date: 28<sup>th</sup> Feb'2018**

**Place: Itanagar**

**No. APSERC/RA-23/I/2017-18/1102**

**Dated 28<sup>th</sup> Feb'2018**

**Copy to:**

1. All Respondents..
2. The Director APEDA

**Secretary, APSERC**