

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 102 of 2012

In the matter of

**Verification and Compliance of Renewable Purchase Obligation targets by
Maharashtra State Electricity Distribution Co. Ltd. for FY 2010-11 and FY 2011-12
as specified under MERC (Renewable Purchase Obligation, its compliance and
Implementation of REC framework) Regulations, 2010**

Shri V.P. Raja, Chairman
Shri Vijay L. Sonavane, Member

Present during the hearing:

For Maharashtra State Electricity Distribution Co. Ltd : Shri. D. H. Kulkarni.
For Maharashtra Energy Development Agency : Shri. P. C. Diwakar

ORDER (SUO-MOTU)

Dated: 24 December, 2012

In exercise of the powers vested under Section 61, 66, 86(1)(e) and 181 of the Electricity Act 2003 ("EA 2003"), the Commission has notified the Maharashtra Electricity Regulatory Commission (Renewable Purchase Obligation, its compliance and Implementation of REC framework) Regulations, 2010, (hereinafter referred to as "MERC (RPO-REC) Regulations, 2010") on 7 June, 2010.

2. Under the said MERC (RPO-REC) Regulations, the Commission has specified the Renewable Purchase Obligation (RPO) targets for Obligated Entities, including Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL), for FY 2010-11 to FY 2015-16. The RPO targets, as specified in the Regulations, are as given below:

Year	Minimum Quantum of purchase (in %) from renewable energy sources (in terms of energy equivalent in kWh)		
	Solar	Non-Solar (other RE)	Total
2010-11	0.25%	5.75%	6.0%
2011-12	0.25%	6.75%	7.0%
2012-13	0.25%	7.75%	8.0%
2013-14	0.50%	8.50%	9.0%
2014-15	0.50%	8.50%	9.0%
2015-16	0.50%	8.50%	9.0%

Further, the Distribution Licensee(s) are also mandated to procure 0.1% per year of their Non-Solar (other RE) RPO obligation for the period from FY 2010-11 to FY 2012-13 and up to 0.2% of their Non-Solar (other RE) RPO obligation for the period from FY 2013-14 to FY 2015-16 by way of purchase from Mini Hydro or Micro Hydro power projects.

3. Regulation 12 of MERC (RPO-REC) Regulations, 2010 empowers the Commission to deal with shortfall in compliance of RPO target by Obligated Entities in the manner outlined under the said Regulations upon ascertaining such shortfall. The relevant extract is reproduced below:

“12. RPO Regulatory Charges

12.1 If the Obligated Entity fails to comply with the RPO target as provided in these Regulations during any year and fails to purchase the required quantum of RECs, the State 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 RPO, RPO Regulatory Charges and the Forbearance Price decided by the Central Commission; separately in respect of solar and non-solar RPO:

Provided that RPO Regulatory Charges shall be equivalent to the highest applicable preferential tariff during the year for solar or non-solar RE generating sources, as the case may be, or any other rate as may be stipulated by the State Commission:

Provided further that the fund so created shall be utilised, as may be directed by the State Commission."

4. Regulation 9.6 of the MERC (RPO-REC) Regulations, 2010 specifies that the State Agency appointed by the Commission shall submit quarterly status report of compliance of RPO targets by the Obligated Entities. The said Regulation is reproduced below:

“9.6 The State Agency shall submit quarterly status to the State Commission in respect of compliance of renewable purchase obligation by the Obligated Entities in the format stipulated by the State Commission and may suggest appropriate action to the State Commission if required for compliance of the renewable purchase obligation.”

5. The Commission, under its suo-motu Order dated 1 July, 2010 in Case No. 21 of 2010 designated the Maharashtra Energy Development Agency (MEDA) as the State Agency to undertake the functions envisaged under MERC (RPO-REC) Regulations, 2010.

6. In accordance with Regulation 9.6 of MERC (RPO-REC) Regulations, 2010, MEDA, vide its letter dated 27 February, 2012 submitted the RPO settlement data for Obligated Entities, including MSEDCL for FY 2010-11 and vide letter dated 30 July, 2012 submitted the RPO settlement data for FY 2011-12. The RPO compliance details of MSEDCL for FY 2010-11 and FY 2011-12 as submitted by MEDA is summarised in **Annexure I** of this Order. According to the information provided by MEDA, the Commission observes that MSEDCL has met its non-solar RPO target (except mini/micro hydro RPO targets) in FY 2010-11 as well as in FY 2011-12 but failed to meet its solar RPO target and mini/micro hydro RPO target in FY 2010-11 as well as in FY 2011-12.

7. Regulation 10.4 of MERC (RPO-REC) Regulations, 2010 specifies that the Distribution Licensee is required to submit detailed statement of energy procurement from various RE sources for a particular financial year, duly certified by the auditors. Relevant extract of said Regulations is reproduced below:

“10.4 At the end of each financial year, each Distribution Licensee shall submit a detailed statement of energy procurement from various RE sources, duly certified by the auditors.”

8. As FY 2010-11 and FY 2011-12 have already elapsed, the Commission decided to initiate suo-motu proceedings vide Case No. 102 of 2012 for verification of compliance by MSEDCL with the RPO targets specified for the respective years and take necessary action required in accordance with Regulation 12 of MERC (RPO-REC) Regulations, 2010. Accordingly, the Commission issued notice in this matter to MSEDCL, being Notice No. MERC/ Case No. 102 of 2012/01328 dated September 20, 2012.

9. In response to the above notice, MSEDCL filed an affidavit dated 20 October, 2012 before the Commission submitting, inter alia, that there are discrepancies in the mini/micro hydro RPO settlement details for FY 2010-11 and FY 2011-12, and Gross Energy Consumption (GEC) for FY 2011-12 furnished by MEDA along with details thereof. The summary of RPO compliance details for FY 2010-11 and FY 2011-12 as submitted by MEDA and that submitted subsequently by MSEDCL are given in **Annexure I** of this Order. In the said affidavit, MSEDCL also submitted details of actions and efforts undertaken by it to ensure compliance of RPO targets of respective categories for FY 2010-11 and FY 2011-12, and justification as to why action should not be initiated by the Commission against MSEDCL in pursuance of Regulation 12 of MERC (RPO-REC) Regulations, 2010.

10. In response to the query raised by the Commission in the notice dated 20 September, 2012 regarding efforts undertaken by MSEDCL to meet its non-solar RPO target including mini/micro hydro RPO for FY 2010-11, MSEDCL submitted that in order to meet its mini/micro hydro RPO, it executes the Energy Purchase Agreement (EPA) with the project holders as and when such project holders approach MSEDCL. MSEDCL also submitted that currently there are only three projects commissioned under the mini/micro hydro category.

11. In response to the query raised by the Commission in its notice dated 20 September, 2012 regarding the efforts undertaken by MSEDCL to meet its Solar RPO target for FY 2010-11 and FY 2011-12, MSEDCL submitted that it had executed EPAs with solar generators under various GoI/MNRE schemes. MSEDCL also submitted a list of solar generators with whom MSEDCL has executed the EPA.

12. In response to the query raised by the Commission in its notice dated 20 September, 2012 regarding why action should not be initiated by the Commission against MSEDCL in pursuance of Regulation 12 of MERC (RPO-REC) Regulations, 2010, MSEDCL submitted that the Commission, vide Order dated 16 August, 2012 in Case No. 19 of 2012 had directed MSEDCL to make up for the shortfall in procurement of mini/micro hydro power in FY 2010-11 by FY 2013-14 to meet its mini/micro RPO target. Further, the Commission, vide the same Order directed MSEDCL to make up for the shortfall in procurement of solar power cumulatively by FY 2015-16 to meet its solar RPO target. The relevant extract of the said order is reproduced as below:

“3.4.6 The Commission is of the view that MSEDCL should make efforts to fulfil its RPO obligation and should make up for the shortfall in procurement in mini/micro hydro projects in FY 2010-11 by FY 2013-14. With regard to solar RPO obligation, the Commission notes MSEDCL’s concern that there has been an unavailability of solar power in FY 2010-11. Therefore, the Commission directs MSEDCL to make up for the shortfall of solar RPO in FY 2010-11 by FY 2015-16.”

“4.4.72 MSEDCL has also provided the details of correspondence with the Government of Maharashtra in regard to the issue of not being able to fulfil the solar RPO for FY 2011-12 and FY 2012-13. The Commission observes that MSEDCL is making efforts to procure power from solar sources. However, the Commission directs MSEDCL to make up for the shortfall of procurement in solar RPO cumulatively by FY 2015-16.”

13. The Commission scheduled a hearing in the matter on 25 October, 2012. During the hearing, the Commission directed MSEDCL and MEDA to verify the GEC for FY 2011-12 and to submit an action plan for meeting its solar RPO on a cumulative basis by FY 2015-16.

14. In response to the directives given by the Commission during the hearing held on 25 October, 2012, MSEDCL submitted vide letter No. Comm/RPO/102 of 2012/34334 dated 12 December, 2012 that, as regards the GEC of FY 2011-12, the data submitted by MEDA was incorrect. According to MSEDCL, the GEC for FY 2011-12 was wrongly considered as 105739.14 MU by MEDA instead of 94967.357 MU. The Maharashtra State Load Despatch Centre (MSLDC) confirmed vide its letter dated 7 December, 2012, that the GEC as considered by MSEDCL is correct and generally in order.

15. MSEDCL also submitted in the said letter that as regards the action plan for meeting its solar RPO on a cumulative basis by FY 2015-16, it has contracted sufficient solar capacity from MSPGCL and other solar power developers in order to meet the solar RPO target up to FY 2012-13 and that MSEDCL is following up and providing all possible support to MSPGCL for early commissioning of the solar projects. MSEDCL also submitted that since it has already contracted sufficient solar power to meet its solar RPO requirement up to FY 2012-13, it has taken a policy decision to procure additional solar power only at APPC rate. Further, second hearing in the matter was held on 13 December, 2012. Shri. D. H. Kulkarni was present on behalf of MSEDCL.

16. Having heard all concerned and after considering relevant materials placed on record, the Commission is of the view that MSEDCL has given adequate justification to demonstrate that it has undertaken all the efforts in procuring renewable energy in order to meet its RPO targets and in spite of the efforts undertaken by it, it faced a genuine difficulty in meeting its solar RPO and mini/micro hydro RPO target. Further, the Commission opines that any constraint regarding availability of RE power or RECs for meeting RPO targets in future could be mitigated by tying up adequate quantum and sources for RE power in a timely manner through advance actions and/or timely purchase of RECs from the market.

17. As per Regulation 18.1 of MERC (RPO-REC) Regulations, 2010, the Commission has powers to relax or waive any of the provision of the said Regulations

after giving an opportunity of hearing to the parties likely to be affected. Relevant extract of said Regulations is as under:

“18.1 The Commission may by general or special order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected may relax or may waive any of the provisions of these Regulations on its own motion or on an application made before it by an interested person.”

18. Pursuant to the above Regulation, and in accordance with the Commission’s ruling in Order dated 16 August, 2012 in Case No. 19 of 2012, the Commission decides that the cumulative shortfall in procurement of mini/micro hydro power by MSEDCL during FY 2010-11 (4.42 MU) and FY 2011-12 (5.80 MU) aggregating to 10.22 MU shall be carried forward to subsequent years and be cumulatively fulfilled by FY 2013-14. Similarly, the Commission decides that the cumulative shortfall in procurement of solar power by MSEDCL during FY 2010-11 (212.26 MU) and FY 2011-12 (226.53 MU) aggregating to 438.79 MU shall be carried forward to subsequent years and be cumulatively fulfilled by FY 2015-16, as summarised in the following Table.

Item	FY 2010-11		FY 2011-12		Total to be carried forward
	%	MU	%	MU	MU
Gross Energy Consumption	100%	85357.35	100%	94967.36	
Solar RPO Target	0.25%	213.39	0.25%	237.42	
Solar RPO Met	0.001%	1.13	0.01%	10.89	
Solar RPO to be carried forward upto FY 2015-16		212.26		226.53	438.79
Non Solar RPO Target	5.75%	4908.05	6.75%	6410.29	
Non-Solar RPO Met	5.77%	4926.42	7.14%	6778.45	
Non-Solar RPO to be carried forward		(18.37)		(368.15)	Nil
Mini/Micro Hydro Purchase Target (within Non-Solar RPO Target)	0.10%	4.91	0.10%	6.41	

Item	FY 2010-11		FY 2011-12		Total to be carried forward
	%	MU	%	MU	MU
Mini/Micro Hydro Purchase Target Met (within Non-Solar RPO Target)	0.01%	0.49	0.01%	0.61	
Mini/Micro Hydro Purchase Target to be carried forward upto FY 2013-14 (within Non-Solar RPO Target)		4.42		5.80	10.22

19. Thus, the Commission hereby relaxes/waives the Solar RPO targets and target for Mini/Micro Hydro power as stipulated under Regulation 7.1 of the MERC (RPO-REC) Regulation 2010 for MSEDCL for FY 2010-11 and FY 2011-12.

20. The Commission also decides that no RPO Regulatory Charges shall be applicable on MSEDCL for non fulfilment of RPO targets during FY 2010-11 and FY 2011-12 provided that the same shall be fulfilled on a cumulative basis as specified in the relevant sections of this Order.

21. With the above, the Case No. 102 of 2012 stands disposed of.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman

Annexure 1: Summary of RPO compliance by MSEDCL for FY 2010-11 and FY 2011-12 as submitted by MSEDCL and MEDA

Year	Submitted by	Gross energy consumption	Solar RPO		Non-Solar RPO					Total energy to be procured as per RPO	Total RE procurement (Solar + Non-solar)
			Solar RPO Target @ 0.25%	Energy actually procured against target	Non-Solar RPO Target (Incl. Mini/Micro Hydro)	Mini/Micro Hydro Target	Energy actually procured against target				
		MU	MU	MU	MU		MU			MU	MU
						Non-Solar REC	Mini/Micro Hydro	Other Non-solar RE			
FY 2010-11	MEDA	85357.35	213.39	1.13	4908.05	4.91	0	0	4926.92	5121.44	4928.05
	MSEDCL	85357.35	213.39	1.13	4908.05	4.91	0	0.49	4926.42	5121.44	4928.05
FY 2011-12	MEDA	105739.14	264.35	10.89	7137.39	7.14	0	0	6779.05	7401.74	6789.95
	MSEDCL	94967.36	237.42	10.89	6410.29	6.41	0	0.61	6778.45	6647.71	6789.95