

DELHI ELECTRICITY REGULATORY COMMISSION**NOTIFICATION**

Delhi, the 1st October, 2012

DELHI ELECTRICITY REGULATORY COMMISSION (RENEWABLE PURCHASE OBLIGATION AND RENEWABLE ENERGY CERTIFICATE FRAMEWORK IMPLEMENTATION) REGULATIONS, 2012

No. F. 3(292)/Tariff/DERC/2010-11/3026.— In exercise of powers conferred under sections 61, 62(1), 66, 86(1)(e) and 181 of the Electricity Act, 2003 and all other powers enabling it in this behalf, and after previous publication, the Delhi Electricity Regulatory Commission hereby makes the following regulations for the Renewable Purchase Obligation and Renewable Energy Certificate Framework Implementation:

1. Short Title and Commencement:

(1) These regulations may be called the Delhi Electricity Regulatory Commission (Renewable Purchase Obligation and Renewable Energy Certificate Framework Implementation) Regulations, 2012.

(2) These regulations shall come into force from the date of their publication in the Delhi Gazette

(3) These Regulations shall extend to all the areas under jurisdiction of the Commission.

2. Definitions and Interpretation:

(i). In these regulations, unless the context otherwise requires,

a) "Act" means the Electricity Act, 2003 (Act No. 36 of 2003) and subsequent amendment(s) thereof;

b) "Area of Supply" means the area(s) within which the distribution licensee is authorized to supply electricity;

c) "Captive user" shall have same meaning as defined in rule 3(2) of Electricity Rules 2005;

d) "Central Agency" means the agency, as the Central Commission may designate from time to time, under Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010;

e) "Central Commission" means the Central Electricity Regulatory Commission referred to in sub-section (1) of section 76 of the Act;

f) "Certificate" means the Renewable Energy Certificate (REC) issued by the Central Agency in accordance with the procedures prescribed by it and under the provisions specified in the Central

Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010;

g) "**Commission**" means the Delhi Electricity Regulatory Commission as referred in subsection (1) of section 82 of the Act;

h) "**Distribution Licensee**" means a licensee authorized to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply as defined in the Act;

i) "**Inter-connection point**" shall mean the interface point of the Renewable Energy Project with the transmission system or distribution system as the case may be;

j) "**Floor price**" means the minimum price as determined by the Central Commission in accordance with Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010, as amended from time to time;

k) "**Forbearance Price**" means the ceiling price as determined by the Central Commission in accordance with the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable energy Certificate for Renewable Energy Generation) Regulations 2010 as amended from time to time;

l) "**MNRE**" means the Ministry of New and Renewable Energy, Government of India;

m) "**Obligated Entity**" means the distribution licensee(s), Captive user(s) and Open Access Consumer(s) in the National Capital Territory of Delhi, which is mandated to fulfill Renewable Purchase Obligation under these Regulations;

n) "**Open access consumer**" means a consumer permitted by the Commission to receive supply of electricity from a person, other than distribution licensee of his area of supply, who has availed of or intends to avail of open access;

o) "**Person**" shall include any company or body corporate or association or body of individuals, whether incorporate or not, or artificial juridical person;

p) "**Power Exchange**" means any exchange operating as the power exchange for electricity in terms of the order(s) issued by the Central Commission;

q) "**Preferential Tariff**" means the tariff fixed by the Commission for generation from various renewable energy sources after considering capital subsidies/GBI/Carbon Credits, etc.;

r) "**Quantum of Purchase**" means the share of electricity from renewable energy sources required to be purchased by obligated entity/entities, expressed as a percentage of its total consumption, as specified in these regulations. The quantum would be the sum of all direct purchase from generating station(s) based on renewable energy sources.

s) "**Renewable Energy Sources**" means renewable sources such as small hydro, wind, solar including its integration with combined cycle, biomass, bio fuel cogeneration, urban or municipal waste and such other sources as recognized or approved by MNRE;

t) "Renewable Purchase Obligation (RPO)" means the requirement as specified under these Regulations under clause (e) of sub-section (1) of section 86 of the Act for the obligated entity to purchase electricity from renewable energy sources;

u) "State Agency" means the agency in the National Capital Territory of Delhi, as may be designated by the Commission to act as the agency for accreditation and recommending the renewable energy projects, for registration and to undertake functions under these regulations;

v) "State" means the National Capital Territory of Delhi.

w) "Year" means a financial year.

(ii). Words and expressions used in these Regulations and not defined herein but defined in the Act or the regulations issued by the Commission, shall have the same meaning assigned to them respectively in the Act or such regulations issued by the Commission.

3. Applicability:

These Regulations shall apply to:

(i) Distribution Licensee(s) operating in the National Capital Territory of Delhi;

(ii) Any Captive user, using other than renewable energy sources exceeding 1 MW; and,

(iii) Any Open Access Consumer with a contract Demand exceeding 1 MW from sources other than renewable sources of energy.

4. Renewable Purchase Obligation:

(1) Every obligated entity shall purchase electricity (in kWh) from renewable sources for fulfillment of a defined minimum percentage of the total quantum/consumption under the Renewable Purchase Obligation as specified in the Table below subject to Note 1:

Table -Defined Minimum Quantum of Purchase (in %age) from Renewable Energy Sources (in terms of energy equivalent in kWh) of Total Consumption Year	Solar	Total
(1)	(2)	(3)
2012-13	0.15%	3.40%
2013-14	0.20%	4.80%
2014-15	0.25%	6.20%
2015-16	0.30%	7.60%
2016-17	0.35%	9.00%

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Note-1

Purchase of renewable energy including solar shall not exceed the total cost of renewable energy as given in ARR under Regulation 7(1) for the obligated entity (if it is a distribution licensee supplying power in the GoNCT of Delhi). Any cost in excess of the above shall not be a pass through in tariff.

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 obligation of 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.

Provided that the Renewable Purchase Obligation from solar as specified in column 2 of Table 1 shall be fulfilled from the generation based on solar sources only;

Provided further, such obligation to purchase renewable energy shall be inclusive of the purchases, if any, from renewable energy sources already being made by concerned obligated entity;

Provided further that the power purchase from renewable energy sources under the power purchase agreement(s) already entered into by the distribution licensee(s) and consented to by the Commission, shall continue to be made till their present validity, even if the total purchase under such agreement(s) exceeds the percentage as specified herein above.

(2) Every obligated entity shall meet its RPO target by way of its own generation or by way of purchase from other licensee(s)/source(s) or by way of purchase of Renewable Energy Certificate(s) or by way of combination of any of the above options. Any Long term Power Purchase arrangements shall be made only with the prior approval of the Commission.

(3)(i) The Commission shall approve long term PPAs on case to case basis.

(3)(ii) There shall be automatic approval on year to year basis if tariff considering capital subsidies/GBI/Carbon credits etc. is < Average Power Purchase Cost (APPC) during a particular year.

(4) The Licensee(s) shall submit half yearly progress report to the Commission, on the capacity addition, generation and purchase of electricity from renewable energy sources in their area(s) of

supply, which is used by generator itself or sold to the third party under open access, and also post them on their website.

5. Certificates under the Regulations of the Central Commission:

(1) Subject to the terms and conditions contained in these regulations, the Certificates issued under the Central Electricity Regulatory Commission (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.

Provided that in the event of the obligated entity fulfilling the renewable purchase obligation by purchase of certificates, the obligation to purchase electricity from generation based on solar as renewable energy source can be fulfilled by purchase of solar certificates only, and the obligation to purchase electricity from generation based on renewable energy other than solar can be fulfilled by purchase of non solar certificates.

(2) Subject to such direction as the Commission may give from time to time, the obligated entity shall act consistent with the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 in regard to the procurement of the certificates for fulfillment of the Renewable Purchase Obligation under these regulations.

(3) The Certificates purchased by the obligated entities from the power exchange in terms of these regulation shall be deposited by the obligated entities to the Commission in accordance with the procedure prescribed by the Central Agency.

6. State Agency:

(1) The Commission shall designate an agency, as the State Agency, for accreditation and recommending the renewable energy projects for registration and to undertake functions under these regulations.

(2) The State Agency shall function in accordance with the directions issued by the Commission and shall act in consistent with the procedures/rules laid by Central Agency for discharge of its functions under the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010.

(3) The State Agency shall develop suitable protocol for collection of information from various sources such as renewable energy generating companies, obligated entities, SLDC, chief electrical inspector etc., on regular basis and compile such information to compute the compliance of RPO target by such obligated entities.

(4) The summary statement of renewable energy procurement and RPO compliance by different obligated entities shall be published by the State Agency on a cumulative basis every month by 10th day of the next month on its website.

(5) The information shall cover renewable energy procurement by each obligated entity comprising renewable energy procurement under preferential tariff route as well as renewable energy procurement through REC mechanism.

(6) The State Agency shall submit quarterly progress report to the Commission in respect of compliance of renewable purchase obligation by the obligated entities in the format and within the period as stipulated by the Commission and may suggest appropriate action to the Commission, if required, for compliance of the Renewable Purchase Obligation.

(7) The Commission may from time to time fix the remuneration and charges payable to the State Agency for discharge of its functions and the same shall be recovered from the accredited entities and the obligated entities.

(8) If the Commission is satisfied that the State Agency is not able to discharge its functions satisfactorily, it may by Order, and after recording reasons in writing, designate another agency to function as State Agency, as it considers appropriate.

7. Distribution Licensee(s):

(1) Each distribution licensee shall indicate along with sufficient proof thereof, the estimated quantum of purchase from renewable sources for the ensuing year in tariff/annual revenue requirement (ARR) petition in accordance with the regulations notified by the Commission.

(2) Despite availability of energy from renewable energy sources under the Power Purchase Agreements or the power exchange mechanism or from its own renewable sources, if the distribution licensee fails to fulfill the minimum quantum of purchase from renewable energy sources, it shall be liable as per clause 11 of these regulations.

8. Captive User(s) and Open Access Consumer(s):

(1) Every Captive User and Open Access Consumer shall submit necessary details regarding total consumption of electricity and purchase of energy from renewable sources for fulfillment of RPO on yearly basis on or before 30th April to the State Agency.

(2) Captive User(s) and Open Access Consumer(s) shall purchase renewable energy and/or Renewable Energy Certificate(s) as stated in clause 4(1) of these Regulations or generate renewable energy for its own consumption, which shall be considered for RPO purposes only after certification by the State Nodal Agency. If the Captive user(s) and Open Access consumer(s) are unable to fulfill the criteria as specified in clause 4(1) of these Regulations, the shortfall of the targeted quantum would attract payment of regulatory charge as per clause 11.

9. Renewable Energy Pricing:

(1) A new renewable energy project commissioned during the operative period shall have an option of following, either the tariff pricing structure, as may be stipulated in the relevant technology specific tariff regulations of the Commission, or adopt the REC mechanism for pricing of the electricity generated from the project.

(2) Projects which opt for preferential tariff shall have to continue with the same tariff pricing structure until the validity of Power Purchase Agreement ceases.

(3) Such new renewable energy project shall exercise its choice for selection of appropriate pricing mechanism prior to execution of the Power Purchase Agreement with the distribution licensee or with open access consumer, as the case may be.

(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.

Note 1 - The REC mechanism entails pricing of two components, namely, electricity component and renewable energy component representing environmental attributes of renewable energy generation. For the purpose of the operating period, the effective electricity component price shall be equivalent to "Pooled Cost of Power Purchase" of the distribution licensee, whereas, the price of RECs shall be as discovered in the Power Exchange.

Note 2 - "Pooled Cost of Power Purchase" is the weighted average pooled price at which the distribution licensee has purchased the electricity including cost of self-generation, if any, in the previous year from all the long-term and short-term energy suppliers, but excluding those based on renewable energy sources.

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Note 3 - The Central Commission may, in consultation with the Central Agency and the Forum of Regulators, from time to time prescribe the Floor price and the forbearance price separately for solar and non-solar Renewable Energy Certificate(s).

10. Priority for Open Access:

(1) An entity generating electricity from renewable energy sources irrespective of installed capacity shall have open access to any licensee's transmission system or distribution system or grid, as the case may be, and such a licensee shall provide appropriate interconnection facilities, as far as possible, before commercial operation commences.

(2) The interconnection facilities, whenever provided, shall follow the grid connectivity standards as specified in the Indian Electricity Grid Code/State Grid Code.

11. Effect of default:

(1) If an obligated entity fails to fulfill 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 in the manner as directed by the Commission, such amount as the Commission may determine on the basis of the shortfall in units of RPO and the forbearance price decided by the Central Commission:

Provided that the fund so created shall be utilized, as may be directed by the Commission, for purchase of the REC and/or promotion of renewable sources of energy;

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 fulfillment of the obligations, out of the amount in the fund;

Provided further that the distribution licensee shall be in breach of its license condition, if it fails to deposit the amount directed by the Commission within 15 days of the communication of the direction;

(2) Where any obligated entity fails to comply with the obligation to purchase the required minimum quantum of purchase from Renewable Energy Sources or the Renewable Energy Certificate(s), it shall also be liable for penalty, as may be decided by the Commission, under section 142 of the Act;

Provided that in case of genuine difficulty in complying with the renewable purchase obligation because of non-availability of Certificate(s), the obligated entity may approach the Commission for

carry forward of compliance requirement to the next year. However, credit for excess renewable energy purchase would not be adjusted in the next year.

Provided that where the Commission has consented to the carry forward of compliance requirement, the provision of clause 11(1) of the Regulation or the provision of section 142 of the Act shall not be invoked;

(3) The penalty enforced by the Commission on the obligated entity shall not be a pass through in the Aggregate Revenue Requirement, in case the obligated entity is a Distribution Licensee.

12. Appointment of Compliance Auditors:

(1) The Commission may appoint, from time to time, Compliance Auditors to inquire into and report on compliance of these Regulations. The Auditor shall also certify the fund created under clause 11(1) of these Regulations.

(2) The Auditor(s) shall be an individual person or a firm having persons with qualification and experience in Finance or Accounts and Engineering.

13. Power to Relax:

The Commission may, by order, for reasons to be recorded in writing, and after giving an opportunity of being heard to the parties likely to be affected, may relax any of the provisions of these regulations on its own motion or on an application made before it by a person.

14. Power to Amend:

The Commission may from time to time add, vary, alter, suspend, modify, amend or repeal any provision of these regulations.

15. Power to Remove Difficulties:

(1) In case of any difficulty in giving effect to any of the provisions of these regulations, the Commission may by order, issue appropriate directions to any generating company, distribution licensee, captive user, and open access consumer, to take suitable action, not being inconsistent with the provisions of the Act, which appear to the Commission to be necessary or expedient for the purpose of removing the difficulty.

(2) Any generating company, distribution licensee, captive user, open access consumer may make an application to the Commission and seek suitable orders to remove any difficulties that may arise in implementation of these Regulations.

16. Savings:

(1) Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary to meet the ends of justice or to prevent abuses of the process of the Commission.

(2) Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Electricity Act 2003 (36 of 2003) a procedure, which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters.

(3) Nothing in these Regulations shall, expressly or impliedly, bar the Commission dealing with any matter or exercising any power under the Electricity Act 2003 (36 of 2003) for which no Regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit.

SUNITA YADAV, Secy.