

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 183 of 2013

In the matter of
Suo Motu Proceedings for Verification and Compliance of Renewable Purchase
Obligation targets by Reliance Infrastructure Ltd – Distribution Business
cumulatively for three years i.e. FY 2010-11, FY 2011-12 and FY 2012-13 as
specified under MERC (RPO-REC) Regulations, 2010

Smt. Chandra Iyengar, Chairperson
Shri Vijay L. Sonavane, Member

Stake holders / Parties:

Reliance Infrastructure Ltd -Distribution (RInfra-D)

Maharashtra Energy Development Agency (MEDA)

Intervener- Green Energy Association

Present during the hearing:

Representative for RInfra-D	:	Shri. Kishor Patil.
	:	Shri. Ghanshyam Thakkar.
Representative for MEDA	:	Dr. Shri. J.V. Torane (Rep.)
Representatives for Intervener	:	Ms. Dipali Seth, Adv.
Consumer Representative	:	Dr. Ashok Pendse.

ORDER (SUO-MOTU)

Date: 6 March, 2014

1. In exercise of the powers vested under Sections 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 RPO Regulations, the Commission has specified the Renewable Purchase Obligation (RPO) targets for Obligated Entities, including Reliance Infrastructure Ltd's Distribution Business (RInfra-D), for FY 2010-11 to FY 2015-16. The RPO targets, as specified in the Regulations, are as given below:

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

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 project.

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 manner outlined under said Regulations upon ascertaining such shortfall. The relevant portion 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."***(Emphasis added)**

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 as 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. 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 portion 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."

7. The Commission vide Order dated 5 December, 2012 in Case No. 101 of 2012 in the matter of Verification and Compliance of RPO targets by Reliance Infrastructure Ltd. for FY 2010-11 and FY 2011-12 as specified under MERC (RPO-REC) Regulations, 2010, directed as follows;

*“14 Pursuant to the above Regulation and the Commission’s observations in the matter, the Commission decides that the cumulative shortfall in procurement of renewable energy by RInfra-D during FY 2010-11 and FY 2011-12 for fulfillment of RPO during these financial years shall be carried forward to FY 2012-13. Thus the Commission hereby relaxes/waives the provisions of Regulation 7 of the MERC (RPO-REC) Regulations, 2010 for the year during FY 2010-11 and FY 2011-12. **The Commission directs RInfra-D to fulfill the shortfall in RPO targets for both Solar and Non-Solar (including mini/micro hydro targets) for the years FY 2010-11, FY 2011-12 and RPO targets for FY 2012-13 cumulatively before 31 March, 2013.**”*

8. In accordance with Regulation 9.6 of MERC (RPO-REC) Regulations, 2010, MEDA, vide its letter dated 5 October, 2013 submitted the RPO settlement data for Obligated Entities, including RInfra-D for FY 2010-11 to FY 2012-13. The RPO compliance details of RInfra-D for FY 2010-11 to FY 2012-13 as submitted by MEDA are summarised in **Annexure I** of this Order.
9. MEDA has submitted that RInfra-D has fulfilled its cumulative Solar RPO targets. RInfra-D has also fulfilled its Non-solar RPO target but there is shortfall in meeting cumulative Mini/Micro hydro RPO target within Non-Solar RPO targets by end of FY 2012-13.
10. Since, FY 2012-13 has already been elapsed, the Commission decided to initiate Suo-Motu proceedings for verification of compliance with RPO targets and undertake necessary actions required in accordance with Regulation 12 of MERC RPO-REC Regulations, 2010. Accordingly, the Commission vide notice dated 18 December, 2013 directed RInfra-D to submit replies on data furnished by MEDA dated 5 October, 2013 on affidavit within two weeks from the date of the Notice.
11. In response to the above notice, RInfra-D vide its affidavit dated 9 January, 2014 submitted its replies wherein RInfra-D submitted that;
 - a. MEDA has considered figures of Gross Energy Consumption for FY 2010-11 and FY 2011-12 as per the order dated 5 December, 2012 in Case No.101 of 2012 and figures for FY 2012-13 have been considered as per submission of RInfra-D vide its letter dated 7 June, 2013. While the

Commission has passed trueing up order dated 4 April, 2013 for FY 2010-11 and FY 2011-12 in Case No.124 of 2012 and has done provisional true-up of FY 2012-13 vide MYT order dated 22 August, 2013 in Case No.9 of 2013. RInfra-D prayed to consider all the approved figures under above mentioned True Up Orders of the Commission for RPO verification.

- b. Regarding the confirmation of fulfilment of Solar and Non-Solar RPO compliance and shortfall in Mini/Micro hydro power RPO compliance cumulatively by FY 2012-13, RInfra-D submitted the detailed statement of project wise energy procurement in MUs from all solar and non-solar RE sources during FY 2010-11 to FY 2012-13 and confirmed the shortfall of 1.57 MUs as against specified RPO Target under Mini/Micro Hydro as there has been no procurement of power from Mini/Micro Hydro for the period FY 2010-11 to FY 2012-13 in view of non-availability of the same.
- c. Regarding the actions and efforts undertaken by RInfra-D to ensure compliance of RPO targets in respect of solar, non-solar and mini/micro hydro power cumulatively by FY 2012-13 separately, RInfra-D submitted that it has made all efforts to meet its RPO targets including entering into long term energy purchase agreement with a solar power plant –Dahanu Solar Private Limited for 40 MW for fulfilment of Solar RPO, entering into a PPA with a number of non-solar renewable energy power plants and purchasing Solar and Non-Solar RECs through power exchange to meet any shortfall.
- d. Regarding the shortfall in RPO Target under Mini/Micro Hydro, RInfra-D submitted that it was unable to meet its Non-Solar RPO target from Mini/Micro Hydro Power from FY 2010-11 to FY 2012-13 on account of absence of such projects in the license area of RInfra-D and further no response was received to the Expression of Interest for purchase of power from Mini/Micro Hydro power plants issued by them. RInfra-D further submitted that Mini/Micro Hydro REC are covered under non-solar REC only and there is no separate category for it. So, purchase of Non-solar RECs can be considered towards meeting compliance of Mini/Micro Hydro RPO.
- e. RInfra-D requested the Commission to consider that since there is no source available for procurement of Mini/Micro hydel energy and no

separate Mini/Micro hydro RECs were available, so separate compliance against this RE type was not possible during FY 2010-11 to FY 2012-13. Further by issuing EOI from time to time, it has not received any offers for the same. RInfra-D further submitted that it has purchased 9.29 MUs more than non-solar RPO target and since all REC other than solar REC is classified as one so the shortfall in purchase of 1.57 MUs towards Mini/Micro hydro target can be considered as having been met through Non-Solar REC.

12. M/s Green Energy Association has filed an impleadment application under Section 86 (1) (e) and Section 142 of the Electricity Act 2003 on 31 January 2014 in Case No. 183 of 2013. The applicant submitted that if the said Petition is allowed and relaxation of the compliance of the provisions of MERC (RPO-REC) Regulations-2010 is granted, the main parties to suffer shall be the RE Generators including members of the applicant and prayed the Commission to implead as a party in the matter.
13. The Commission vide Notice dated 18 December, 2013 scheduled a hearing in the matter on 4 February, 2014. During the hearing, RInfra-D submitted that it has already made its submission in response to the notice of the Commission. The Commission vide its Daily Order directed RInfra-D to serve the copy of its submission to Intervener, Green Energy Association. Intervener was further directed to make its submission, if any, within ten days.

Commission's Ruling with reasons:

14. The Commission vide its Order dated 5 December, 2012 in Case No 101 of 2012 had directed RInfra-D to fulfill the shortfall in RPO targets for both Solar and Non-Solar (including mini/micro hydro targets) for the years FY 2010-11, FY 2011-12 and RPO targets for FY 2012-13 cumulatively before 31 March, 2013. Relevant abstract of said Order is reproduced below;

“14 Pursuant to the above Regulation and the Commission's observations in the matter, the Commission decides that the cumulative shortfall in procurement of renewable energy by RInfra-D during FY 2010-11 and FY 2011-12 for fulfilment of RPO during these financial years shall be carried forward to FY 2012-13. Thus the Commission hereby relaxes/waives the provisions of Regulation 7 of the MERC (RPO-REC) Regulations, 2010 for

the year during FY 2010-11 and FY 2011-12. The Commission directs RInfra-D to fulfil the shortfall in RPO targets for both Solar and Non-Solar (including mini/micro hydro targets) for the years FY 2010-11, FY 2011-12 and RPO targets for FY 2012-13 cumulatively before 31 March, 2013.”

15. Having heard all the Parties and after considering the data submitted by MEDA and RInfra-D, the Commission observes that RInfra-D has fulfilled its Solar and Non-Solar RPO target except Mini /Micro hydro RPO targets (within Non-Solar RPO targets) cumulatively for three years FY 2010-11, FY 2011-12 & FY 2012-13 before 31 March, 2013 as per the directives of the Commission vide Order dated 5 December 2012 mentioned above.
16. The Commission has observed that RInfra-D has fulfilled its cumulative Solar RPO target with surplus of 2.13 MUs and Non-Solar RPO target with surplus of 9.29 MUs except Mini-Micro hydro RPO targets.
17. The Commission has also noted the submission of RInfra-D regarding details of action taken by RInfra-D to fulfil the RPO targets for Mini-Micro hydro within Non-Solar RPO targets wherein RInfra-D has submitted that;
 - a. It has issued EOI from time to time for purchase of RE Power from Mini/Micro Hydro source but no offers were received for the same.
 - b. All Mini/Micro Hydro stations are situated in MSEDCL licensed area and owing to the size of the plant many of them are connected at very low voltage level in the distribution system of MSEDCL. Due to that, Developers prefer to sell power only to MSEDCL due to higher distribution losses and wheeling charges.
 - c. Since there is no source available for procurement of Mini/Micro hydel energy and no separate Mini/Micro Hydro REC's was available, so separate compliance against this RE type was not possible during FY 2010-11 to FY 2012-13 as presently there are only two types of RE Certificates are available i.e. Solar REC and Non-Solar RECs in energy exchange. Further it has purchased 9.29 MUs more than non-solar RPO target and since all REC other than solar REC is classified as one so the

shortfall in purchase of 1.57 MUs towards mini/micro hydro target can be considered as having been met through Non-Solar REC.

18. The Commission is of the view that RInfra-D has given adequate justification to demonstrate that it has undertaken all the efforts for fulfilling the RPO targets for Mini-Micro hydro within Non-Solar RPO targets and in spite of the efforts undertaken by it, it has faced difficulty in meeting Mini-Micro hydro RPO targets. The Commission has also noted the submission of RInfra-D to waive the RPO targets for Mini/Micro hydro for FY 2010-11 to FY 2012-13 under Regulation 18 (power to Relax) of MERC (RPO-REC) Regulations-2010 or alternatively allow RInfra-D to meet target of Mini/Micro hydro by way of Non-Solar RECs purchased.

However the Commission is of the view that waiving of RPO targets for Mini/Micro hydro under Regulation 18 (power to Relax) of MERC (RPO-REC) Regulations-2010 will defeat the purpose of specifying separate target for Mini/Micro hydro within Non-Solar RPO targets. The objective of specifying separate target for Mini/Micro hydro within Non-Solar RPO targets was to facilitate promotion of power procurement from Mini/Micro hydro sources.

The Commission at this moment is not inclined to accept the prayer of RInfra-D to waive the RPO targets for Mini/Micro hydro for FY 2010-11 to FY 2012-13 under Regulation 18 (power to Relax) of MERC (RPO-REC) Regulations-2010 or alternatively allow RInfra-D to meet target of Mini/Micro hydro by way of Non-Solar RECs purchased. .

19. 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.”

20. Pursuant to the above Regulation and the Commission's observations in the matter, the Commission decides that cumulative shortfall in procurement of

power from Mini/Micro hydro sources during FY 2010-11 to FY 2012-13 shall be carry forward to FY 2015-16. Thus the Commission hereby relaxes/waives the provisions of Regulation 7 of the MERC (RPO-REC) Regulations, 2010 for the year during FY 2010-11 to FY 2012-13 for procurement of power from Mini/Micro hydro sources.

21. The Commission directs RInfra-D to fulfil the shortfall in RPO targets for Mini/Micro hydro for FY 2010-11 to FY 2012-13 for FY 2015-16 cumulatively before 31 March, 2016.

22. The total achievement of RInfra-D as per the details provided by MEDA and subsequent submissions by RInfra-D and shortfall in procurement of power from Mini/Micro hydro sources in MU terms for FY 2010-11 and FY 2012-13, to be carried forward to FY 2015-16 worked out is as given below;

Item	FY 2010-11		FY 2011-12		FY 2012-13		Total Achievement /Shortfall
	%	MUs	%	MUs	%	MUs	MUs
Gross Energy consumption in Mus	100%	8600.18	100%	7445.73	100%	7334.57	
Solar RPO target	0.25%	21.50	0.25%	18.61	0.25%	18.34	58.45
Solar RPO Met	0.00%	0.00	0.01%	0.46	0.82%	60.13	60.58
Cumulative Solar RPO achievement		21.50	0.24%	18.16	(0.57)%	(41.79)	(2.13)*
Non Solar RPO target	5.75%	494.51	6.75%	502.59	7.75%	568.43	1565.53
Non Solar RPO Met	6.80%	584.51	4.69%	349.47	8.73%	640.84	1574.82
Cumulative Non Solar RPO achievement	(1.05)%	(90.00)	2.06%	153.12	(0.99)%	(72.41)	(9.29)*
Mini/Micro Hydro purchase target (within Non Solar RPO target)	0.10%	0.49	0.10%	0.50	0.10%	0.57	1.57
Mini/Micro Hydro purchase target Met	0.00%	0.00	0.00%	0.00	0.00%	0.00	0.00
Mini/Micro Hydro purchase target to be carried forward (within Non Solar RPO target)	0.10%	0.49	0.10%	0.50	0.10%	0.57	1.57

*() indicates surplus achievement

23. The Commission also decides that no Regulatory charges shall be applicable on RInfra-D for non-fulfilment of RPO targets for Mini/Micro hydro during FY 2010-11 to FY 2012-13 provided that the same shall be fulfilled on a cumulative basis in addition to the RPO target for FY 2013-14 to FY 2015-16 before 31 March, 2016.

Summary of Ruling:-

24. The Commission has observed that RInfra-D has fulfilled its cumulative Solar RPO target with surplus of 2.13 MUs and Non-Solar RPO target with surplus of 9.29 MUs except Mini-Micro hydro RPO targets.

25. The Commission decides that cumulative shortfall in procurement of power from Mini/Micro hydro sources during FY 2010-11 to FY 2012-13 shall be carry forward to FY 2015-16. Thus the Commission hereby relaxes/waives the provisions of Regulation 7 of the MERC (RPO-REC) Regulations, 2010 for the year during FY 2010-11 to FY 2012-13 for procurement of power from Mini/Micro hydro sources.

26. The Commission directs RInfra-D to fulfil the shortfall in RPO targets for Mini/Micro hydro for FY 2010-11 to FY 2012-13 for FY 2015-16 cumulatively before 31 March, 2016.

27. The Commission also decides that no Regulatory charges shall be applicable on RInfra-D for non-fulfilment of RPO targets for Mini/Micro hydro during FY 2010-11 to FY 2012-13 provided that the same shall be fulfilled on a cumulative basis in addition to the RPO target for FY 2013-14 to FY 2015-16 before 31 March, 2016.

With the above, the matter in Suo- motu Case No. 183 of 2013 stands disposed of.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(Chandra Iyengar)
Chairperson

Annexure-I**Summary of RPO compliance data of RInfra-D from FY 2010-11 to FY 2012-13 as submitted by MEDA and RInfra-D**

Year	Submitted by	Gross energy consumption	Solar RPO		Non-Solar RPO						
			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			
						Non-Solar REC	Mini/Micro Hydro	Other Non-solar RE sources	Total Non-Solar procured against target		
							(a)	(b)	(c)	(a) + (b) + (c)	
FY 2010-11	MEDA	8612.58	21.53	0	495.22	0.49	0	0	584.51	584.51	
	RInfra-D	8600.18	21.50	0	494.51	0.49	0	0	584.51	584.51	
FY 2011-12	MEDA	7401.19	18.50	0.45	499.58	0.50	87.53	0	261.94	349.47	
	RInfra-D	7445.73	18.61	0.46	502.59	0.50	87.53	0	261.94	349.47	
FY 2012-13	MEDA	7262.02	18.16	60.13	562.81	0.56		0	640.84	640.84	
	RInfra-D	7334.57	18.34	60.13	568.43	0.57	504.75	0	136.09	640.84	