

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 182 of 2013

In the matter of

***Suo-Motu* proceeding for Verification and Compliance of Renewable Purchase
Obligation targets of TPC-D cumulatively for three years i.e. FY 2010-11, FY 2011-12 &
FY 2012-13, as specified under MERC (Renewable Purchase Obligation, its compliance
and Implementation of REC framework) Regulations, 2010**

Smt. Chandra Iyengar, Chairperson

Shri Vijay L. Sonavane, Member

Stake holders / Parties:

Tata Power Company Limited (Distribution) (TPC-D)

Maharashtra Energy Development Agency (MEDA)

Green Energy Association (Intervener)

Consumer Representatives

Present during the hearing:

Advocate / Representative (s) for TPC-D : Ms. Swati Mehendale (Rep.)

Advocate/ Representative (s) for MEDA : Dr. J. V. Torane (Rep.)

Advocate / Representative (s) for Intervener : Ms. Dipali Seth, Adv.

Consumer Representative : Dr. Ashok Pendse.

ORDER (Suo-motu)

Date: 06 March, 2014

In exercise of the powers conferred under Sections 61, 66, 86 (1) (e) and 181 of the Electricity Act, 2003 and all other powers enabling it in this behalf, the Commission has notified the MERC (Renewable Purchase obligation, its compliance and Implementation of REC framework) Regulations, 2010 [hereafter referred as “MERC (RPO-REC) Regulations, 2010”] on June 7, 2010.

2. Under the said RPO Regulations, the Commission has specified the Renewable Purchase Obligation (RPO) targets for Obligated Entities, including the Tata Power Co. Ltd – Distribution (hereafter TPC-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 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.” (Emphasis added).

4. The Commission, under its *suo-motu* Order dated July 1, 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.

5. As per Regulation 10.4 of MERC (RPO-REC) Regulations, 2010, the distribution licensee is obligated to submit detailed statement of energy procurement from various RE sources, duly certified by the auditors. Relevant extract of said Regulation is as under:

"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."

6. The Commission vide its Order dated 5 December, 2012 in Case No. 99 of 2012 in the matter of Verification and Compliance of Renewable Purchase Obligation targets by the Tata Power Company Limited – Distribution Business for FY 2010-11 and FY 2011-12 as specified under MERC (RPO-REC) Regulations, 2010, directed as follows;

"17. 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 TPC-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) Regulation 2010 for the year during FY 2010-11 and FY 2011-12. The Commission directs TPC-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."

7. In accordance with Regulation 9.6 of MERC (RPO-REC) Regulations, 2010, MEDA, has submitted the RPO settlement data on 5 October, 2013, cumulatively by FY 2012-13 i.e. cumulatively for three years FY 2010-11, FY 2011-12 & FY 2012-13 for distribution licensees including TPC-D. RPO Settlement data for TPC-D as furnished by MEDA is given in the below table;

Table-A: RPO Settlement data for TPC-D as furnished by MEDA

Parameters	FY 2010-11	FY 2011-12	Shortfall units Carried Forward to next year	FY 2012-13	Cumulative RPO achievement by FY 2012-13
Gross Energy Consumption in Mus	4619.91	6122.03		6927.65	
Solar Target in Mus	11.55	15.31	22.69	17.32	40.01
Solar Achievement in Mus	0.05	4.12		4.70	4.70

Solar RPO Shortfall in Mus	11.50	11.19		12.62	35.31
Non-Solar Target in Mus	265.64	413.24	44.38	536.89	581.27
Non-Solar Achievement in Mus	219.17	415.33		583.76	583.76
Non-Solar RPO shortfall in Mus	46.47	(2.09)		(46.87)	(2.49)
Mini/micro hydro target (within Non-solar RPO) in Mus	0.27	0.41	0.68	0.54	1.22
Mini/micro hydro Achievement (within Non-solar RPO) in Mus	0	0		0.54	0.54
Mini/micro hydro shortfall (within Non-solar RPO) in Mus	0.27	0.41		0	0.68

MEDA has submitted that TPC-D is in shortfall to the extent of 35.31 MUs in meeting the solar RPO target cumulatively by FY 2012-13 and shortfall to the extent of 0.68 MUs in meeting the Mini/micro hydro RPO target (within Non-Solar RPO) cumulatively by FY 2012-13. MEDA also submitted that TPC-D has fulfilled its Non-Solar RPO targets with surplus of 2.5 MUs.

8. In line with the Commission's directives in Case No. 99 of 2012, as FY 2012-13 has already been elapsed, the Commission vide Case No. 182 of 2013 has decided to initiate suo-motu proceedings for verification and compliance of RPO target of TPC-D cumulatively by FY 2012-13 and to take necessary action required in accordance with Regulation 12 of MERC (RPO-REC) Regulations, 2010.

9. Accordingly, based on the RPO compliance data submitted by MEDA, the Commission vide Notice dated 18 December, 2013 scheduled a hearing (*Suo-Motu*) in this matter on 4 February, 2014, with copy to MEDA and four authorized Consumer Representatives and directed TPC-D to submit its says on affidavit within two weeks in respect of following points:

- a) TPC-D should verify the RPO settlement details cumulatively by FY 2012-13 i.e. cumulatively for three years (FY 2010-11, FY 2011-12 & FY 2012-13), as submitted by MEDA, under **Table-A** and highlight discrepancies, if any, along with proper justification.
- b) TPC-D should confirm shortfall in **Solar RPO compliance** cumulatively by FY 2012-13 i.e. cumulatively for three years (FY 2010-11, FY 2011-12 & FY 2012-13) as summarized under **Table-A**, along with detailed statement for project wise energy

procurement in MUs from all solar generating projects and project wise contracted solar capacity in MW during FY 2010-11 to FY 2012-13, duly certified by auditor.

- c) TPC-D should confirm the fulfilment of **Non-Solar RPO compliance** cumulatively by FY 2012-13 i.e. cumulatively for three years (FY 2010-11, FY 2011-12 & FY 2012-13) as summarized under **Table-A**, along with detailed statement for project wise energy procurement in MUs from various non-solar RE sources and project wise contracted non-solar RE capacity in MW during FY 2010-11 to FY 2012-13, duly certified by auditor.
- d) TPC-D should confirm the shortfall in **Mini/Micro Hydro power RPO compliance** cumulatively by FY 2012-13 i.e. cumulatively for three years (FY 2010-11, FY 2011-12 & FY 2012-13) as summarized under **Table-A**, along with detailed statement for project wise energy procurement in MUs from all Mini/micro Hydro projects and project wise contracted Mini/micro hydro capacity in KW during FY 2010-11 to FY 2012-13, duly certified by auditor.
- e) TPC-D should submit the detailed list of actions and efforts undertaken by it prior to and during FY 2010-11 to FY 2012-13 to ensure compliance of RPO targets in respect of solar, non-solar and mini/micro hydro power cumulatively by FY 2012-13 i.e. cumulatively for three years (FY 2010-11, FY 2011-12 & FY 2012-13) separately.
- f) TPC-D should submit its say along with proper justification as to why action should not be initiated by the Commission against TPC-D for noncompliance of Solar and Mini/micro hydro RPO target, in pursuance of Regulation 12 of MERC (RPO-REC) Regulations, 2010, without prejudice to any penalty that TPC – D may be liable for under the Electricity Act, 2003.

10. TPC-D's in its submission dated 16 January, 2014 submitted as under:

a. As regards to the fulfilment of solar RPO, TPC-D submitted that there are minor changes in the data submitted by MEDA. MEDA submitted that there is shortfall in meeting the solar RPO target cumulatively by FY 2012-13 to the extent of 35.31 MU. However, there is shortfall of 35.35MUs. This difference in the energy procurement is due to the final energy settlements which were carried out after the submission of RPO data to MEDA.

The Commission has directed TPC-D to fulfil the solar RPO targets on cumulative basis by FY2015-16 vide its Order dated 22 December 2013 in Case No. 159 of 2013. The relevant extract of the said Order is reproduced below:

“Thus, the Commission hereby relaxes/waives the Solar RPO targets as stipulated under Regulation 7.1 of the MERC (Renewable Purchase Obligation, its compliance

and Implementation of REC Framework) Regulations, 2010 , for TPC-D for FY 2010-11, FY 2011-12 and FY 2012-13 and directs TPC-D to fulfil the Solar RPO target on a cumulative basis by FY 2015-16.”

TPC-D submitted that it had tied up capacity with Solar at Mulshi (3MW) and at Carnac (Roof Top Solar Generating capacity of 60 kWp), but due to increase in sale of TPC-D in FY 2011-12 and FY2012-13, the Solar RPO requirement went up substantially by around 7 to 8 MUs thus, it became insufficient to meet the Solar RPO targets for TPC-D. It has submitted that the quantum of Solar REC traded in the market during FY 2012-13 was very low to the tune of 14 MUs including all RECs.

TPC-D has also submitted the action plan for meeting the cumulative Solar RPO target by FY 2015-16 wherein it is submitted that TPC-D is entering into a long term contract with 25 MW Solar Generating Station of Tata Power at Dhiganchi, Satara District, which is expected to commission in FY 2014.

b. As regards fulfilment of Non-Solar RPO compliance cumulatively by FY 2012-13, TPC-D submitted that, there are some discrepancies in the data submitted by MEDA. TPC-D has cumulatively procured 1217.59 MUs from Non-Solar RE generation with total contracted capacity equal to 176.60 MW.

c. With regard fulfilment of Mini/Micro hydro power RPO compliance cumulatively by FY 2012-13, MEDA has submitted that, there is shortfall in meeting the Mini/micro hydro RPO target (within Non-Solar RPO) cumulatively by FY 2012-13 by TPC-D to the extent of 0.68 MU. In this regard TPC-D submitted that as per the provisions in Regulation 8.1 of the MERC (RPO and REC framework) Regulations, 2010 REC certificates may be used for fulfilling the compliance with respect to Mini/Micro Hydro RPO targets. Regulation 8.1 of the MERC (RPO and REC framework) Regulations, 2010 is reproduced below;

“8.1 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 issue of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 shall be 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.”

Further, TPC-D has submitted that, by segregating the purchased REC certificates under Non-Solar and Mini/Micro hydro category TPC-D has met the targets of 1.22 MUs for Mini/micro hydro RPO target and there is no cumulative shortfall in meeting the Mini/micro hydro RPO target (within Non-Solar RPO) by FY 2012-13.

11. M/s Green Energy Association (GEA) filed an intervening application dated 31 January, 2014 under section 86 (1) (e) and section 142 of the Electricity Act 2003. GEA has submitted that if TPC-D is allowed and relaxation to 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.

12. As per scheduled, the hearing in the matter was held on 4 February, 2014. During the hearing, TPC-D made a presentation on its submission already made in response to the notice of the Commission. The Commission vide its daily Order dated 14 February, 2014 directed TPC-D to serve the copy of its submission to Intervener, Green Energy Association and also directed intervener to make its submissions within ten days.

13. M/s Green Energy Association's (GEA) in its submission dated 13 February, 2014 prayed as under:

The Commission be pleased to direct TPC-D to purchase Solar REC's which are available at floor price to comply with its deficit of Solar RPO in a time bound manner without giving any further relaxation , failing which TPC-D be required to pay the required charges under Regulation 12 of RPO Regulation.

14. TPC-D in its reply on 13 February, 2014 submitted that as contended by the Green Energy Association, it had not prayed before the Commission in Case No 159 of 2013, for waiver of the Solar RPO obligation but has sought to fulfil its Solar RPO obligation cumulatively by FY 2015-16. Consequently, TPC-D will be fulfilling its Solar RPO targets on cumulative basis by FY 2015-16 as directed by the Commission,

15. GEA vide its affidavit dated 17 February, 2014 further submitted that TPC-D's relaxation for cumulative compliance of Solar RPO be disallowed and TPC-D be directed to comply with the Solar RPO by procuring the available Solar RECs to meet its target.

Commission's Ruling:-

16. Having heard the Parties and after considering relevant materials placed on record, the Commission's view regarding compliance of RPO targets of TPC-D are as below;

a. Regarding fulfilment of cumulative Solar RPO Targets the Commission vide its Order dated 20 December, 2013 in Case No. 159 of 2013 has directed as under:

" 13. In this Order, the Commission has relaxed/waived the Solar RPO targets as stipulated under Regulation 7.1 of the MERC (Renewable Purchase Obligation, its compliance and Implementation of REC Framework) Regulations, 2010, for TPC-D for FY 2010-11, FY 2011-12 and FY 2012-13 and directs TPC-D to fulfil the Solar RPO target on a cumulative basis by FY 2015-16. However, since TPC-D's license is expiring on 15 August, 2014 this relaxation will continue subject to grant of licence to TPC-D for distribution of electricity."

Thus as far as Solar RPO targets and its cumulative fulfilment for TPC-D, is concerned, the Commission has already dealt the same in above Order dated 20 December, 2013.

b. Regarding fulfilment of cumulative targets for Non-Solar RPO by FY 2012-13, the Commission has observed that TPC-D has fulfilled its cumulative Non-Solar RPO targets by FY 2012-13 with surplus of 1.2 MUs except Mini-Micro hydro RPO Targets.

c. Regarding fulfilment of cumulative targets for Mini-Micro hydro RPO targets (within Non-Solar RPO targets) the Commission has noted TPC-D's submission that the Non-Solar RECs may be used for fulfilling the compliance with respect to Mini/Micro Hydro RPO targets. However, the Commission is of the view that segregation of Non-solar RECs for fulfilling the RPO targets for Mini/ Micro hydro under Regulation 8.1 of MERC (RPO-REC) Regulations-2010 will defeat the purpose of specifying separate target under Regulation 7.1 for Mini/Micro hydro within Non-Solar RPO targets. The objective of specifying separate target for Mini/Micro hydro within Non-Solar RPO targets is to facilitate promotion of power procurement from Mini/Micro hydro sources. At this moment the Commission is not inclined to accept the submission of TPC-D in this regard.

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 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 by TPC-D shall be carry forward to FY 2015-16. Thus the Commission hereby relaxes/waives the provisions of Regulation 7.1 of MERC (RPO-REC) Regulations, 2010 for TPC-D during FY 2010-11 to FY 2012-13 for procurement of power from Mini/Micro hydro sources and directs TPC-D to fulfil mini/micro hydro RPO target cumulatively by FY 2015-16.

19. The total achievement of TPC-D as per details submitted by MEDA and subsequent submissions by TPC-D and shortfall in procurement of power from Solar RE generation and Mini/Micro hydro sources in MU terms for FY 2010-11, FY 2011-12 and FY 2012-13, to be carried forward to FY 2015-16 worked out is as given below:

Total Shortfall/(Surplus) for TPC-D at the end of FY 2012-13							
Item	FY 2010-11		FY 2011-12		FY 2012-13		Total Shortfall/ (Surplus)
	%	Mus	%	Mus	%	Mus	Mus
Gross Energy consumption in Mus	100%	4619.91	100%	6124.84	100%	6948.82	
Solar RPO target	0.25%	11.55	0.25%	15.31	0.25%	17.37	44.23
Solar RPO Met	0.001%	0.05	0.067%	4.12	0.068%	4.70	8.87
Solar RPO to be carried forward	0.25%	11.50	0.18%	11.19	0.18%	12.67	35.36
Non Solar RPO target	5.75%	265.64	6.75%	413.43	7.75%	538.53	1217.60
Non Solar RPO Met	4.74%	219.17	6.78%	415.32	8.41%	584.31	1218.8
Cumulative achievement in Non-Solar RPO	1.01%	46.47	(0.03)%	(1.89)	(0.66)%	(45.78)	(1.2)*

Mini/Micro Hydro purchase target (within Non Solar RPO target)	0.10%	0.27	0.10%	0.41	0.10%	0.54	1.22
Mini/Micro Hydro purchase target Met (within Non Solar RPO target)	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%	0.27	0.10%	0.41	0.10%	0.54	1.22

* () indicates surplus achievement

Summary of Ruling:-

20. Regarding fulfilment of cumulative Solar RPO targets for TPC-D, the Commission has already dealt the same vide Order dated 20 December, 2013 in Case No. 159 of 2013 and has directed TPC-D to fulfil its Solar RPO target for FY 2010-11, FY 2011-12 and FY 2012-13 on a cumulative basis by FY 2015-16.

21. Regarding fulfilment of Non-Solar RPO target cumulatively by FY 2012-13, the Commission has observed that TPC-D has fulfilled its cumulative Non-Solar RPO targets by FY 2012-13 with surplus of 1.2 MUs except Mini-Micro hydro RPO Targets.

22. The Commission hereby relaxes/waives the provisions of Regulation 7.1 of the MERC (RPO-REC) Regulations, 2010 for the year during FY 2010-11 to FY 2012-13 for TPC-D for procurement of power from Mini/Micro hydro sources and directs TPC-D to fulfil the shortfall in RPO targets for Mini/Micro hydro for FY 2010-11 to FY 2012-13 cumulatively by FY 2015-16 i.e. cumulatively before 31 March, 2016. However, since TPC-D's license is expiring on 15 August, 2014, this relaxation will continue subject to grant of licence to TPC-D for distribution of electricity.

With the above, the matter in *Suo-Motu* Case No. 182 of 2013 stands disposed of.

Sd/-

**(Vijay L. Sonavane)
Member**

Sd/-

**(Chandra Iyengar)
Chairperson**

Annexure-I

Summary of RPO compliance data of TPC-D for FY 2010-11 , FY 2011-12 and FY 2012-13 as submitted by MEDA and TPC-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							Non-Solar REC	Mini/Micro Hydro	Other Non-solar RE	Total Non-Solar procured against target
			MU	MU	MU	MU							
							(a)	(b)	(c)	(a) + (b) + (c)			
FY 2010-11	MEDA	4619.91	11.55	0.05	265.64	0.27	0.00	0.00	219.17	219.17			
	TPC-D	4619.91	11.55	0.05	265.64	0.27	0.00	0.00	219.17	219.17			
FY 2011-12	MEDA	6122.03	15.31	4.12	413.24	0.41	0.00	0.00	415.33	415.33			
	TPC-D	6124.84	15.31	4.12	413.43	0.41	188.38	0.00	226.94	415.32			
FY 2012-13	MEDA	6927.65	17.32	4.70	536.89	0.54	0.00	0.54	583.76	584.30			
	TPC-D	6948.82	17.37	4.70	538.53	0.54	261	0.00	323.31	584.31			