

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 57 of 2021

Case for Verification of compliance of Renewable Purchase Obligation targets by Nidar
Utilities Panvel LLP (NUPLLP) for FY 2018-19 and FY 2019-20

Coram

Sanjay Kumar, Chairperson
I.M. Bohari, Member
Mukesh Khullar, Member

Parties

1. Nidar Utilities Panvel LLP (NUPLLP)
2. Maharashtra Energy Development Agency (MEDA)
3. Maharashtra State Load Despatch Centre (MSLDC)

Appearance For

- | | |
|-----------|-----------------------|
| 1. NUPLLP | : Shri. Saurabh Gupta |
| 2. MEDA | : Shri. Manoj Pise |
| 3. MSLDC | : Smt. Juelee M. Wagh |

ORDER

Date: 7 September 2021

1. The MERC (Renewable Purchase Obligation, its Compliance and Implementation of Renewable Energy Certificate Framework) Regulations, 2016 (**'RPO-REC Regulations 2016'**) specify the Renewable Purchase Obligation (RPO) targets for Obligated Entities, including NUPLLP as Deemed Distribution Licensee, for FY 2018-19 and FY 2019-20. The RPO targets specified in Regulation 7.1 are as below:

Year	Quantum of purchase (in %) from Renewable Energy sources (in terms of energy equivalent in kWh)		
	Solar	Non-Solar (other RE)	Total
	(a)	(b)	(c)
2016-17	1.00%	10.00%	11.00%
2017-18	2.00%	10.50%	12.50%
2018-19	2.75%	11.00%	13.75%
2019-20	3.50%	11.50%	15.00%

Provided that each Distribution Licensee shall meet 0.2% per year of its Non-solar (other RE) RPO target percentage for the period from FY 2016-17 to FY 2019-20 by way of purchase from Mini Hydro or Micro Hydro Power Projects;

2. Regulation 12 of the RPO-REC Regulations, 2016 empowers the Commission to deal with shortfalls in compliance of RPO targets by Obligated Entities as follows:

“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.”

3. Through its Order dated 1 July 2010 in Case No. 21 of 2010, the Commission designated MEDA, Pune as the State Agency to undertake the functions envisaged under the Regulations.
4. As per Regulation 10.4 of the RPO-REC Regulations 2016, a Distribution Licensee is required to submit, at the end of each financial year, a detailed statement of energy procured from Renewable Energy (RE) sources, certified by its auditors.
5. The Commission had taken on record the status of NUPLLP, being a Special Economic Zone (SEZ) Developer, as a Deemed Distribution Licensee under the provisions of the Electricity Act (EA), 2003. NUPLLP started its operations as a Distribution Licensee from 1 October 2018 (during FY 2018-19). Thus, FY 2018-19 is first financial year in which NUPLLP has to comply with stipulated RPO targets. Accordingly, the Commission is verifying the compliance of the same for FY 2018-19 and FY 2019-20 through this proceedings.
6. In accordance with Regulation 9.5, MEDA, vide its letter dated 30 January 2020 and 30 December 2020, submitted the RPO settlement data for FY 2018-19 and FY 2019-20 in respect of NUPLLP which is summarized below:

RPO settlement data for NUPLLP as furnished by MEDA				
Item	FY 2018-19		FY 2019-20	
	%	MUs	%	MUs
Gross Energy consumption (GEC)	100%	1.322	100%	3.389
Solar RPO				
Target	2.75%	0.036	3.50%	0.119
Achievement	0.00%	0.00	2.24%	0.076
Shortfall /(Surplus)	2.75%	0.036	1.26%	0.043

Non-Solar RPO				
Target	11.00%	0.145	11.50%	0.389
Achievement	0.00%	0.00	0.00%	0.00
Shortfall /(Surplus)	11.00%	0.145	11.50%	0.389
Mini-Micro RPO (Within Non-Solar)				
Target	0.20%	0.00029	0.20%	0.00078
Achievement	0.00%	0.00	0.00%	0.00
Shortfall /(Surplus)	0.20%	0.00029	0.20%	0.00078
Total RE to be procured as per the Target	13.75%	0.182	15.00%	0.509
Total Actual RE Procured	0.00%	0.00	2.24%	0.076
Total Shortfall/(Surplus)	13.75%	0.182	12.76%	0.433

7. According to MEDA, the RPO status of NUPLLP for FY 2018-19 and 2019-20 is as below:

- a. In Solar RPO, for FY 2018-19 and FY 2019-20; NUPLLP has a shortfall of 0.036 MU and 0.0043 MU, respectively
- b. In Non-Solar RPO, for FY 2018-19 and FY 2019-20; NUPLLP has a shortfall of 0.145 MU and 0.389 MU, respectively.
- c. In Mini/Micro Hydro RPO (within Non-Solar RPO), for FY 2018-19 and FY 2019-20; NUPLLP has a shortfall of 0.00029 MU and 0.00078 MU, respectively.

8. The Commission asked NUPLLP to submit its response to the data furnished by MEDA. Further, the Commission sought replies from NUPLLP on the following points:

- a. Reconciliation statement along with rationale with regards to GEC data reported by MEDA and audited data of NUPLLP.
- b. Status of Solar, Non-Solar RPO compliance including Mini/Micro Hydro RPO compliance, as per the directives given in earlier Orders of the Commission along with detailed statement for project wise energy procurement in MU from all Solar & Non-Solar generating projects including Mini/Micro Hydro projects and project wise contracted Solar and Non-Solar power capacity in MW during FY 2018-19 to FY 2019- 20.
- c. Detailed list of action and efforts undertaken by it prior to and during FY 2018-19 and FY 2019-20 to ensure compliance of RPO targets in respect of Solar RPO, Non-Solar RPO and Mini/Micro Hydro RPO.
- d. Details of long term RE procurement plan (in MU and corresponding MW) for meeting the future RPO targets.

9. In its response dated 28 May 2021, NUPLLP stated as follows:

A. Reconciliation statement along with rationale with regards to GEC data reported by MEDA and audited data of NUPLLP.

9.1. For FY 2018-19 and FY 2019-20, the GEC data of MEDA completely matches with the audited data of NUPLLP.

B. Status of Solar, Non-Solar RPO compliance including Mini/Micro Hydro RPO compliance, as per the directives given in earlier Orders of the Commission along with detailed statement for project wise energy procurement in MUs from all Solar & Non-Solar generating projects including Mini/Micro Hydro projects and project wise contracted Solar and Non-Solar power capacity in MW during FY 2018-17 to FY 2019-20.

- 9.2. As per MERC (Grid Interactive Rooftop Renewable Energy Generating Systems) Regulations, 2019, a Distribution Licensee can fulfil its RPO obligations from the Renewable Energy purchased from its consumer having Grid Connected Solar Rooftop system under the Net Metering arrangement.
- 9.3. NUPLLP at present is fulfilling its RPO by purchasing the RE from its consumer M/s Persipina Developers Pvt. Ltd. (PDPL) who is also Developer of the Panvel SEZ and having grid interactive Solar Rooftop setup under Net Metering arrangement,.
- 9.4. At present, NUPLLP has no long term RE Power Procurement with any RE generators, hence, detailed statement for project wise energy procurement in MU is not available at this stage.

C. Detailed list of action and efforts undertaken by it prior to and during FY 2018-19 and FY 2019-20 to ensure compliance of RPO targets in respect of Solar RPO, Non-Solar RPO and Mini/Micro Hydro RPO.

- 9.5. NUPLLP is meeting its RPO from the Solar Rooftop Project installed under Net-metering arrangement from its consumer.
- 9.6. As regards to compensate the yearly difference in the Solar & Non-Solar RPO Targets, the settlement of the same was proposed to be met through REC, where NUPLLP made all the arrangements for the purchase of Renewable Energy Certificates (REC) from IEX trading platform. However, NUPLLP could not execute the same; due to stay on REC trading by virtue of Hon'ble APTEL's Judgement in DFR No. 247 of 2020 dated 24 July 2020.
- 9.7. Further, NUPLLP could not procure REC since March 2020 due to CoVID -19 lockdown restrictions and will be complying with its RPO cumulatively for FY 2018-19, FY 2019-20 and FY 2020-21 once there is a commencement of REC trading on IEX.
- 9.8. NUPLLP shall procure the entire unmet RPO Targets for the respective years (FY 2018-19, FY 2019-20 and FY 2020-21) within 4-6 months from the commencement of REC trading and would provide the details in its MYT Petition, which will be filed before the Commission in the month of December 2021.

D. Details for long term RE procurement plan (in MU and corresponding MW) for meeting the future RPO targets.

- 9.9. The details of the Long-Term RE Procurement plan (Both in MU and MW) for meeting the RPO targets based on the projected demand of Licensee Area will be furnished along with Power Procurement Plan before the Commission in the MYT Petition, which is expected to be filed in the month of December 2021.

Regulatory Process

10. Through a Public Notice dated 16 June 2021 published in the Loksatta and Maharashtra Times (Marathi) and Times of India and Indian Express (English) daily newspapers, the Commission invited suggestions and objections considering the submissions of MEDA and NUPLLP. The Commission also impleaded MEDA and MSLDC as Parties. An online Public e-Hearing was held on 9 July 2021.
11. The summary of RPO compliance of NUPLLP for FY 2018-19 & FY 2019-20, based on details provided by MEDA and NUPLLP, is at Annexure-1 of this Order. The list of persons who gave their comments in writing or made oral submissions during the Public Hearing is at Annexure-2 (A). The list of persons present at the Public Hearing is at Annexure-2(B). (These lists include persons/organizations concerned with the RPO compliance verification hearings held on the same day in respect of the other Distribution Licensees also.)
12. At the Public e-Hearing, NUPLLP reiterated the points regarding its compliance of RPO targets made in its written submissions.

Suggestions/Objections received

13. Shri Kiran Chaudhari vide email dated 30 June 2021 shared paper cuttings and objected levying of Green Tariff for supply of green energy by Distribution Licensee.

Commission's Analysis and Ruling

14. The Commission notes that the NUPLLP by its submission dated 28 May 2021 has confirmed that there is no discrepancy with the data submitted by MEDA for FY 2018-19 and FY 2019-20. Hence, status reported by MEDA has been considered. Accordingly, the status of achievement of RPO targets by NUPLLP, as determined by the Commission considering the details provided by MEDA, MSLDC and NUPLLP, is as shown in table below:

RPO settlement data for NUPLLP (Approved)					
Item	FY 2018-19		FY 2019-20		Cumulative RPO (Surplus)/ Short fall till end of FY 2019-20
	%	MUs	%	MUs	
Gross Energy consumption	100%	1.322	100%	3.389	
Solar RPO					
Target	2.75%	0.036	3.50%	0.119	0.155
Achievement	0.00%	0	2.24%	0.076	0.076
Shortfall / (Surplus)	2.75%	0.036	1.26%	0.043	0.079
Non-Solar RPO					
Target	11.00%	0.145	11.50%	0.389	0.534
Achievement	0.00%	0	0.00%	0	0
Shortfall / (Surplus)	11.00%	0.145	11.50%	0.389	0.534
Mini-Micro RPO (Within Non-Solar)					

Target	0.20%	0.00029	0.20%	0.00078	0.00107
Achievement	0.00%	0	0.00%	0	0
Shortfall /(Surplus)	0.20%	0.00029	0.20%	0.00078	0.00107

‘-’ or () indicates surplus

15. The Commission notes that NUPLLP has:

- a. Shortfall in its standalone Solar RPO targets for FY 2018-19 and FY 2019-20 by 0.036 MU and 0.043 MU, respectively. Further, NUPLLP has cumulative shortfall of 0.0079 MU at the end of FY 2019-20.
- b. Shortfall in its standalone Non-solar RPO targets for FY 2018-19 and FY 2019-20 by 0.145 MU and 0.389 MU, respectively. Further, NUPLLP has cumulative shortfall of 0.534 MU at the end of FY 2019-20.
- c. Shortfall in standalone Mini/Micro Hydro RPO targets (within Non-Solar RPO) by 0.00029 MU and 0.00078 MU for FY 2018-19 and FY 2019- 20, respectively. Further, NUPLLP has a cumulative shortfall of 0.00107 MU at the end of FY 2019-20.

16. The Commission notes that in FY 2018-19, NUPLLP started its operation as Distribution Licensee on 1 October 2018 i.e. 5 months of FY 2018-19. However, it is observed that NUPLLP has not made any efforts in FY 2018-19 for fulfilment of RPO. During FY 2019-20, NUPLLP has met part of its RPO from solar energy under net-metering arrangement and purchase of RECs. In present petition, NUPLLP has stated that it shall meet the entire shortfall in RPO Targets for FY 2018-19, FY 2019-20 and FY 2020-21 within 4-6 months from the commencement of REC trading and would provide the details in its upcoming MYT Petition. The Commission notes that considering such small quantum of RPO target to be met, procurement of REC would be appropriate option. Therefore, considering undertaking given by NUPLLP for procurement of RECs for meeting its RPO within 4-6 months of commencement of REC trading, the Commission thinks it proper not to take any action against NUPLLP as envisaged in Regulation 12 of MERC RPO Regulations 2016.

17. Accordingly, the Commission allows NUPLLP to carry forward cumulative RPO shortfall till FY 2019-20 to future years. The Commission notes that next Control Period i.e. FY 2020-21 to FY 2024-25 is governed by the ‘MERC (Renewable Purchase Obligation, its Compliance and Implementation of Renewable Energy Certificate Framework) Regulations, 2019’ (RPO - REC Regulations 2019). Said Regulations allows carry forward of shortfall from FY 2020-21 and FY 2021-22 to FY 2022-23, subject to the provision of Penalty in form of reduction in the Annual Revenue Requirement (ARR). The relevant excerpts from the RPO-REC Regulations 2019 are reproduced below:

“12.3 Any shortfall in meeting the minimum percentage of RE as specified in Regulation 7 may be carried forward from FY 2020-21 and FY 2021-22 to FY 2022-23 and from FY 2023-24 to FY 2024-25 and Obligated Entity shall meet such shortfall on cumulative basis by 31 March 2023 and 31 March 2025, respectively;

Provided that Distribution Licensee shall be subjected to reduction in Annual Revenue Requirement at a rate of Rs 0.10 per kWh for cumulative shortfall in total RE procurement target for each year;

Provided further that other Obligated Entities shall be subjected to penalty of Rs. 0.10 per kWh for cumulative shortfall in total RE procurement target for each year;

Provided further that any cumulative shortfall in RE procurement as on 31 March 2023 and/or 31 March 2025 shall not be carried forward for next year and be adjusted by imposing reduction in ARR for Distribution Licensees and imposing penalty for other Obligated Entities, at rate of floor price of respective REC as on that date;

Provided further that if Obligated Entity is able to demonstrate that even after taking all possible measures including procurement of RECs, it is not able to meet RPO then the Commission may reduce the penalty amount subject to conditions as may be stipulated in that Order.”

Thus, as per above Regulations, RPO shortfall cannot be allowed to be carried forward beyond 31 March 2023. Hence, the Commission allows NUPLLP to meet its cumulative shortfall till FY 2019-20 by 31 March 2023, failing which it will be liable for penal action as per above stated Regulations.

18. Further, the Commission notes that the Ministry of Power (MoP) Government of India, by its Order dated 29 January 2021 has notified the RPO trajectory for the Hydro Energy Sources i.e. the Hydro Power Obligation (HPO). As per the Order, the large hydro power projects (above 25 MW) which have come into commercial operation after 8 March 2019 shall be the eligible sources for HPO:

“4. On 8th March 2019, the Government had issued an order detailing various policy measures to promote hydropower sector in India inter-alia declaring large hydropower projects including pumped storage projects having capacity of more than 25 MW (LHPs) which come into commercial operation after 8.3.2019 as renewable energy source and to specify Hydropower Purchase Obligation (HPO) within Non-Solar Renewable Purchase Obligation (RPO).

5 In compliance of the above decision and with the objective to add 30,000 MW of hydropower capacity by the year 2029-2030, Ministry of Power has prepared a revised trajectory of RPO including long term trajectory for HPO considering the LHPs commissioned after 8th March 2019.

6 In super-session of orders dated 22nd July 2016 and 14th June 2018, Ministry of Power hereby specifies the following RPO Trajectory-

Year	Solar RPO	Non-Solar RPO			Total RPO
		HPO	Other Non-Solar RPO	Total Non-Solar RPO	

2019-20	7.25%	-	10.25%	10.25%	17.50%
2020-21	8.75%	-	10.25%	10.25%	19%
2021-22	10.50%	0.18%	10.50%	10.68%	21.18%
2022-23	<i>To be specified later</i>	0.35%	<i>To be specified later</i>	<i>To be specified later</i>	<i>To be specified later</i>
2023-24		0.66%			
2024-25		1.08%			
2025-26		1.48%			
2026-27		1.80%			
2027-28		2.15%			
2028-29		2.51%			
2029-30		2.82%			

.....”

The Commission has not yet amended its RPO Regulations 2019 to include HPO. However, the Commission notes that its RPO Regulations 2019 is based on broad principle of specifying achievable RPO targets as mandatory target and target set by the Central Government as overall target. Non achievement of mandatory target is liable for penalty, whereas obligated entities are incentivized (Rs. 0.25/kWh) for achieving overall target set by the Central Government. Relevant part of MERC RPO Regulations 2019 is reproduced below:

“12.2 Distribution Licensee shall endeavor to achieve total RPO target notified by the Central Government and for doing so it will get incentive of Rs. 0.25 per kWh for RE procured above the minimum percentage specified in Regulation 7 upto the percentage notified by the Central Government as under or as may be notified from time to time:

.....”

In view of above, HPO specified by the Ministry of Power vide order dated 29 January 2021 forms integral part of above provision of RPO Regulations 2019. Hence, Distribution Licensee would be eligible for above incentive of Rs. 0.25/kWh for meeting HPO targets specified by the Central Government. Accordingly, NUPLLP shall endeavor to achieve RPO and HPO targets specified by the Central Government.

19. The Commission notes that only objection received during the public process is from Shri. Kiran Chaudhari which was related to Green Tariff option approved by the Commission for consumer who voluntarily wish to procure only green energy from Distribution Licensee. Shri. Chaudhari has objected to levying extra charge for such supply of Green Energy. However, this issue is not part of the present proceeding beside the fact that it is just an enabling provision, the Commission is not addressing the same in this proceeding.
20. Next RPO verification process under RPO Regulations 2019 will be conducted for FY 2020-21 and FY 2021-22 as part of Mid Term Review process under MYT Regulations 2019.
21. Hence, the Following Order:

ORDER

- 1) The Case No. 57 of 2021 stands concluded with the following ruling:
- a. Nidar Utilities Panvel LLP has shortfall of its stand-alone Solar RPO target by 0.036 MU and 0.043 MU for FY 2018-19 and FY 2019-20, respectively. It has cumulative shortfall of 0.079 MU till FY 2019-20.
 - b. Nidar Utilities Panvel LLP has shortfall of its stand-alone non-Solar RPO target by 0.145 MU and 0.389 MU for FY 2018-19 and FY 2019-20, respectively. Further, the cumulative non-Solar RPO shortfall at the end of FY 2019-20 is 0.534 MU.
 - c. Nidar Utilities Panvel LLP has shortfall of its stand-alone Mini/Micro Hydro RPO target by 0.00029 MU and 0.00078 MU for FY 2018-19 and FY 2019-20, respectively. Further, the cumulative non-Solar RPO shortfall at the end of FY 2019-20 is 0.00107 MU.
- 2) Nidar Utilities Panvel LLP to fulfill its cumulative RPO shortfall till FY 2022-23.

Sd/-
(Mukesh Khullar)
Member

Sd/-
(I.M. Bohari)
Member

Sd/-
(Sanjay Kumar)
Chairperson


(Abhijit Deshpande)
Secretary



Annexure – 1

Summary of RPO compliance by NUPLLP for FY 2018-19 and FY 2019-20, as submitted by MEDA and NUPLLP

(in MU)

Discom- RPO targets compliance for FY 2018-19	GEC(Gross Energy Consumption) (Transmission Loss adjusted) (MU's)	Solar RPO			Non-Solar RPO			Mini/Micro Hydro		
		Target (2.75%)	Met	Shortfall (+ve) / Surplus (-ve)	Target (11.00%)	Met	Shortfall (+ve) / Surplus (-ve)	Target (0.2%) within Non-Solar RPO	Met	Shortfall (+ve) / Surplus (-ve)
As per MEDA	1.322	0.036	0	0.036	0.145	0	0.145	0.00029	0	0.00029
As per NUPLLP	1.322	0.036	0	0.036	0.145	0	0.145	0.00029	0	0.00029

Discom- RPO targets compliance for FY 2019-20	GEC(Gross Energy Consumption) (Transmission Loss adjusted) (MU's)	Solar RPO			Non-Solar RPO			Mini/Micro Hydro		
		Target (3.5%)	Met	Shortfall (+ve) / Surplus (-ve)	Target (11.50%)	Met	Shortfall(+ve)/ Surplus (-ve)	Target (0.2%) within Non-Solar RPO	Met	Shortfall (+ve) / Surplus (-ve)
As per MEDA	3.389	0.119	0.076	0.043	0.534	0	0.534	0.00107	0	0.00107
As per NUPLLP	3.389	0.119	0.076	0.043	0.534	0	0.534	0.00107	0	0.00107

Annexure -2

A] List of those who submitted written comments/suggestions or made oral submissions at the Online Public e-Hearing

1. Shri Kiran Chudhari

B] List of persons at the Online Public e-Hearing:

1. Shri. Prashant Kumar, TPC-D
2. Shri. Kishor Patil, AEML-D
3. Shri. N.N.Chhougule, BEST
4. Shri. S.S.Bansode, BEST
5. Shri. Pulkit Agarawal (Adv), Indian Railways
6. Shri. Saurabh Gupta, NUPLLP
7. Shri. Swapnil Kolwadkar, NUPLLP
8. Smt. Juelee M. Wagh, MSLDC
9. Shri. Manoj Pise, MEDA
10. Shri. Arif H.Shaikh, MEDA