

ASSAM ELECTRICITY REGULATORY COMMISSION
Guwahati

NOTIFICATION

Draft AERC (Renewable Purchase Obligation and its Compliance) Regulations, 2010.

Dated Guwahati the 21st June, 2010

In exercise of 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, and after previous publication, the Assam Electricity Regulatory Commission hereby makes the following regulations for the Renewable Purchase Obligation and its compliance:

1. Short title and commencement

- 1.1 These regulations may be called the AERC (Renewable Purchase Obligation and its Compliance) Regulations, 2010.
- 1.2 These regulations shall come into force from the date of their publication in the Assam Gazette.
- 1.3 These Regulations shall apply throughout the State of Assam.

2. Definitions and Interpretation:

- 2.1 In these regulations, unless the context otherwise requires,
 - a) 'Act' means the Electricity Act, 2003 (Act No.36 of 2003) and subsequent amendment thereof;
 - b) 'Central Agency' means the agency operating the National Load Dispatch Centre or such other agency as the Central Commission may designate from time to time
 - c) 'Central Commission' means the Central Electricity Regulatory Commission referred to in sub section (1) of section 76 of the Act;
 - d) 'Certificate' means the renewable energy certificate 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;
 - e) 'AERC' or 'Commission' means the Assam Electricity Regulatory Commission as referred in subsection (1) of section 82 of the Act;
 - f) 'floor price' means the minimum price as determined by the Commission in accordance with these regulations at and above which the certificate can be dealt in the power exchange;

- g) '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, within which only the Certificate can be dealt in power exchange;
- h) 'MNRE' means the Ministry of New and Renewable Energy; Government of India;
- i) 'Obligated entity' means the distribution licensee, consumer owning the captive power plants and open access consumer in the state of Assam which is mandated to fulfill renewable purchase obligation under these Regulations;
- j) 'Power Exchange' means any exchange operating as the power exchange for electricity in terms of the orders issued by the Central Commission;
- k) 'preferential tariff' means the tariff fixed by the Appropriate Commission for sale of energy from a generating station based on renewable energy sources to a distribution licensee;
- l) '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;
- m) 'State agency' means the agency in the State to 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;
- n) 'State' means the state of Assam.
- o) 'Year' means a financial year.

2.2 The words and expressions used and not defined in these regulations but defined in the Act or the Regulations issued by the Central Electricity Regulatory Commission or any other Regulations issued by the Commission, shall have the same meaning assigned to them in the Act or such Regulations issued by the Central Commission or such other Regulations issued by the Commission.

3. Applicability of the Order

3.1 These regulations shall be applicable to the obligated entities.

4. Renewable Purchase Obligation

4.1 Every obligated entity shall purchase not less than 1.4%, 2.8%, 4.2%, 5.6% and 7% of its total energy handled during 2010-11, 2011-12, 2012-13, 2013-14 and 2014-15 respectively from renewable energy sources under the Renewable Purchase Obligation or until reviewed by the Commission.

Provided that 0.05 percentage point out of the renewable purchase obligation so specified in the year 2010-11 shall be procured from generation based on solar as renewable energy source and shall be increased at a rate of 0.05 percentage every year thereafter till 2014-15 or until reviewed by the Commission.

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 also that the power purchases under the power purchase agreements for the purchase of renewable energy sources already entered into by the distribution licensees and consented to by the Commission shall continue to be made till their present validity, even if the total purchases under such agreements exceed the percentage as specified hereinabove.

5. Certificates under the Regulations of the Central Commission

- 5.1 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.

- 5.2 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 notified by the Central Commission in regard to the procurement of the certificates for fulfillment of the Renewable Purchase Obligation under these regulations.
- 5.3 The Certificates purchased by the obligated entities from the power exchange in terms of the regulation of the Central Commission mentioned in clause (5.1) of this Regulation shall be deposited by the obligated entities to the Commission in accordance with the detailed procedure issued by the Central Agency.

6. State Agency

- 6.1 The Commission shall designate an agency as State Agency for accreditation and recommending the renewable energy projects for registration and to undertake functions under these regulations.
- 6.2 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.
- 6.3 The State Agency shall submit quarterly status to the Commission in respect of compliance of renewable purchase obligation by the obligated entities in the format as

stipulated by the Commission and may suggest appropriate action to the Commission if required for compliance of the renewable purchase obligation.

- 6.4 The Commission may from time to time fix the remuneration and charges payable to the State Agency for discharge of its functions under these regulations to be recovered from the accredited entities and obligated entities.
- 6.1 If the Commission is satisfied that the State Agency is not able to discharge its functions satisfactorily, it may by general or special order, and by recording reasons in writing, designate any other agency to function as State Agency as it considers appropriate.

7. Effect of Default

- 7.1 If the obligated entities does not 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 by such obligated entity, 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 certificates.

Provided further that the Commission may empower an officer of the State Agency to operate the fund and 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 also that the obligated entities shall be in breach of its licence condition if it fails to deposit the amount directed by the Commission within 15 days of the communication of such direction.

- 7.2 Where any obligated entity fails to comply with the obligation to purchase the required percentage of power from renewable' energy sources or the renewable energy certificates, 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 certificates, the obligated entity can approach the Commission for carry forward of compliance requirement to the next year:

Provided further that where the Commission has consented to the carry forward of compliance requirement, the provision of clause (7.1) of the Regulation or the provision of section 142 of the Act shall not be invoked.

8. Appointment of Compliance Auditors

- 8.1 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 operated by the State Agency and created under Regulation (7.1) of these

Regulations. The Auditors could be an individual person or a firm having persons with qualification and experience in Finance or Accounts, Commerce and Engineering.

9. Overriding Effect

9.1 Notwithstanding anything contained contrary -

- a) in the AERC (Terms and Conditions for Determination of Tariff) Regulations, 2006; and
- b) in the AERC (Terms and Conditions for Open Access) Regulations. 2005; and
- c) in the AERC (Co-generation and Generation of Electricity from Renewable Sources of Energy) Regulations 2009

framed by the Commission under section 181 of the Electricity Act 2003; these regulations will have overriding effect.

10. Power to remove difficulties:- If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may, either suo motu or on an application made to it, by general or special order, direct the licensee/ generator or any other person to take suitable action, not being inconsistent with the Act, which appears to the Commission to be necessary or expedient for the purpose of removing the difficulty.

11. Issue of orders and directions:- Subject to the provisions of the Act and these regulations, the Commission may, from time to time, issue orders and practice directions with regard to the implementation of these regulations and procedure to be followed for such implementation and matters incidental or ancillary thereto.

12. Saving of Inherent Powers of the Commission:- Nothing contained in these Regulations shall limit or otherwise affect the inherent powers of the Commission to adopt a procedure, which is at variance with any of the provisions of these regulations, if the Commission, in view of the special circumstances of the matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient to depart from the procedure specified in these regulations.

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

14. Interpretation:- All issues arising in relation to interpretation of these regulations shall be determined by the Commission and the decision of the Commission on such issues shall be final.

(By the order of the Commission)

Secretary
Assam Electricity Regulatory Commission