

**HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION
SHIMLA**

NOTIFICATION

Shimla, the 12th March, 2010

No. HPERC/438.- In exercise of the powers conferred by sub-section (1) of section 181, sub-section (1) of section 62, section 66, clauses (a), (b) and (e) of section 86 and clause (zi) of sub-section (2) of section 181 of the Electricity Act, 2003 (36 of 2003) and also read with section 21 of the General Clauses Act, 1897 (10 of 1897) and all other powers enabling it in this behalf, the Himachal Pradesh Electricity Regulatory Commission proposes to make the following Himachal Pradesh Electricity Regulatory Commission (Renewable Purchase Obligation and its Compliance) Regulations, 2010 published in Rajpatra, Himachal Pradesh (Extra ordinary) dated 21st June, 2007 and the same, as required by rule 3 of the Electricity (Procedure for Previous Publication) Rules, 2005 and by sub-section (3) of section 181 of the Electricity Act, 2003, are hereby published for the information of all the persons likely to be affected thereby; and notice is hereby given that the said draft regulations will be taken into consideration after the expiry of thirty days from the date of their publication in the Rajpatra, Himachal Pradesh, together with any objections or suggestions which may within the aforesaid period be received in respect thereto.

The objections or suggestions in this behalf should be addressed to the Secretary, Himachal Pradesh Electricity Regulatory Commission, Keonthal Commercial Complex, Khalini, Shimla.

DRAFT REGULATIONS

1. **Short title and commencement.-** (1) These regulations may be called the Himachal Pradesh Electricity Regulatory Commission (Renewable Purchase Obligation and its Compliance) Regulations, 2010

(2) These regulations shall come into force from the date of their publication in the Rajpatra, Himachal Pradesh.
2. **Definitions:** In these regulations, unless the context otherwise requires,
 - (a) “Act” means the Electricity Act, 2003 (36 of 2003);
 - (b) “Central Agency” means the agency as may be designated by the Central Commission under clause (1) of regulation 3 of the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010;
 - (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) “Commission” means the Himachal Pradesh Electricity Regulatory Commission;
- (f) “obligated entity” means the distribution licensee, consumer owning the captive power plants and open access consumers in the State of Himachal Pradesh which is mandated to fulfill renewable purchase obligation under these regulations;
- (g) “renewable energy sources” means non-conventional renewable electricity generating sources such as mini/micro/small hydro power projects upto and including 25 MW capacity, 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 the Central Government;
- (h) “State agency” means the agency in the State of Himachal Pradesh 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 such functions as may be specified under clause (e) of sub-section (1) of section 86 of the Act; and
- (i) the words and expressions used in these regulations and not defined but defined in the Act or the regulations issued by the Central Commission or any other regulations issued by the Commission, shall have the same meaning assigned to them respectively in the Act or such regulations issued by the Central Commission or such other regulations issued by the Commission.

3. Applicability of Renewable Power Purchase Obligation (RPPO) .- These regulations shall apply to :-

- (1) the distribution licensee;
- (2) any other person consuming electricity (i) generated from conventional Captive Generating Plant having capacity of 1 MW and above for his own use and/or (ii) procured from conventional generation through open access third party sale.

4. Quantum of Renewable Power Purchase Obligation (RPPO).- (1)(a) The distribution licensee shall purchase electricity (in kWh) from renewable sources, at a defined minimum percentage of the total consumption including transmission and distribution losses, within the area of the distribution licensee, during a year.

(b) The Captive and Open Access User(s)/ Consumer(s), shall purchase electricity (in kWh) from renewable sources, at a defined minimum percentage of his total consumption

Explanation.- For the purpose of this regulation “the defined minimum percentage” shall be as given in the table below:-

Table- Defined minimum percentages

Year (1)	Minimum Quantum of purchase (in %) from renewable sources (in terms of energy in kWh) of total consumption		
	Total (2)	Non -Solar (3)	Solar (4)
2010-11	10.1%	10 %	0.1%
2011-12	11.1%	11%	0.1%
2012-13	12.1%	12%	0.1%

Provided that where the minimum quantum of power purchase from solar sources is not available in a particular year, then in such cases, additional non-solar energy over and above that shown in column (3), shall be utilized for fulfillment of the RPPO in accordance with column (2):

Provided further that such obligation to purchase renewable energy shall be inclusive of .-

- (i) purchases from generating stations based on renewable energy sources,
 - (ii) purchases from any other distribution licensee which would arise from renewable sources,
 - (iii) the energy generated from its own renewable sources, if any,
- by the obligated entity:

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

- (2) Keeping in view supply constraints or other factors beyond the control of the licensee the Commission may, suo-motu or at the request of a licensee, revise the percentage targets for a year as per sub regulation (1) of this regulation.

- (3) The RPPO specified for the Financial Year 2012-13 shall be continued beyond 2012-13 till any revision is affected by the Commission in this regard.

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 renewable energy other than solar can be fulfilled by purchase of non-solar certificates and the obligation to purchase electricity from generation based on solar as renewable energy source can be fulfilled by purchase of solar certificates only. If solar certificates are not available in a particular year, then in such cases, additional non-solar certificates shall be purchased for fulfillment of the RPPO in accordance with Table- referred to in sub-regulation (1) of regulation 4 of these regulations.

(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 Power Purchase Obligation under these regulations.

(3) The Certificates purchased by the obligated entities from the power exchange in terms of the regulation of the Central Commission mentioned in sub-regulation (1) shall be deposited by the obligated entities with the Commission in accordance with the detailed procedure issued 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 accordance with the provisions of 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 submit quarterly status to the Commission in respect of compliance of renewable power 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.

(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.

7. Distribution Licensee.- (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 performance review petition in accordance with regulations notified by the Commission. The estimated quantum of purchase shall be in accordance with sub-regulation (1) of regulation 4. If the distribution licensee is unable to fulfil the obligation, the shortfall of the specified quantum of that year would be added to the specified quantum for the next year. However, credit for excess renewable power purchase would not be adjusted in the ensuing year.

(2) Despite availability of energy from renewable sources under the Power Purchase Agreements or the power exchange mechanism or from its own renewable sources, if the distribution licensee fails to fulfil the minimum quantum of purchase from renewable sources, it shall be liable to pay compensation as per sub-regulation 9.

8. Captive and Open Access User(s)/ Consumer(s).- (1) The quantum of RPPO mentioned in sub-regulation (1) of regulation 4 shall be applicable to captive and open access user(s)/ consumer(s) from the date as would be notified by the Commission in the Official Gazette.

(2) Every Captive and Open access consumer(s)/ user(s) shall have to submit necessary details regarding total consumption of electricity and power purchase from Renewable Energy sources for fulfillment of RPPO on yearly basis on or before the 30th April to the State Agency.

(3) Captive and Open Access Consumer(s)/ User(s) shall purchase renewable energy as stated in the Table below regulation 4. If the Captive user(s) and Open Access consumer(s) are unable to fulfill the criteria, the shortfall of the targeted quantum would attract payment of compensation as per sub-regulation 9.

(4) Captive/Open Access consumer(s)/ User(s) may fulfill its RPPO through the renewable energy certificate as provided in regulation 4.

9. Consequences of default.- (1) Where the obligated entity does not fulfil 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 RPPO and the forbearance price decided by the Central Commission:

Provided that the fund so created shall be utilised, as may be directed by the Commission partly for purchase of the certificates and partly for development of transmission infrastructure for evacuation of power from generating stations based on renewable energy sources:

Provided further that the obligated entities shall not be authorized to use the fund created in pursuance of regulation without prior approval of the Commission:

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 licence conditions 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 percentage of power from renewable energy sources or the renewable energy certificates, it shall also be liable for penalty as may be imposed by the Commission under section 142 of the Act:

Provided that in case of genuine difficulty in complying with the renewable power purchase obligation because of non-availability of certificates, the obligated entity can approach the Commission to carry forward the compliance requirement to the next year:

Provided further that where the Commission has consented to carry forward of compliance requirement, the provision of sub-regulation (1) or the provision of section 142 of the Act shall not be invoked.

- 10. Overriding effect.-** The provisions of these regulations shall have effect notwithstanding anything inconsistent therewith contained in any other regulations, framed by the Commission, relating to the determination of tariff, and/or making provisions for open access under the Act.

11. **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.
12. **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.
13. **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.
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 Order of the Commission,

Sd/-
Secretary