

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SITE NO. 3, BLOCK B, SECTOR 18-A, MADHYA MARG, CHANDIGARH

Petition No. 64 of 2022
Date of Order: 11.07.2023

Petition under Section 86(1)(e) of the Electricity Act, 2003 read with Regulation 6(2), 7, 8 and 10 of the PSERC (Renewable Purchase Obligation and its Compliance) Regulations, 2011, seeking carry forward of Renewable Purchase Obligation (RPO) for FY 2019-20, FY 2020-21, FY 2021-22 and FY 2022-23 to FY 2023-24 and for seeking relaxation/removal of difficulty/waiver in relation to Regulation 42(2) of the PSERC (Terms and Conditions for Intra-State Open Access) Regulations, 2011.

AND

In the matter of: Northern Railways, through Sr. DEE/TRD, Ambala Division, DRM office, Northern Railway, Ambala Cantt-133001.

...Petitioner

1. Punjab Energy Development Agency (PEDA), Solar Passive Complex, Plot No. 01 & 02, Sector 33-D, Chandigarh- 160020 through its Director.
2. Punjab State Transmission Company Limited, through CE/SLDC, 220 KV Substation, SLDC Building, Ablowal, Patiala147001.
3. Punjab State Power Corporation Limited, through CE/PP&R/PSPCL, D-3 Shed, Shakti Vihar, Patiala-147001.

...Respondents

Present: Mr. Viswajeet Khanna, Chairperson
Mr. Paramjeet Singh, Member

Railway: Ms. Puja Priyadarshini, Advocate
PEDA: Sh. Aditya Grover, Advocate
PSTCL: Sh. Anand K Ganesan
PSPCL: Sh. R.S. Randhawa, EIC/ARR&TR

ORDER:

1. The Petitioner has filed the present petition seeking carry forward of Renewable Purchase Obligation (RPO) for FY 2019-20, FY 2020-21, FY 2021-22 & FY 2022-23 to FY 2023-24 and consequent relaxation in Regulation 42(2) of the PSERC (Terms and Conditions for Intra-State Open Access) Regulations, 2011 for grant of NOC for STOA. The submissions made by the petitioner are summarized as under:
 - 1.1 Petitioner is availing 35 MW traction power under open access at its 11 Nos. Traction Sub Stations (TSSs) in the State as a deemed licensee since 24.11.2019. As per PSERC RPO Regulations, an Obligated Entity is under an obligation to comply with the prescribed RPO either through purchase of renewable energy or RECs and failure thereof for non-justifiable reasons, attracts penalty under Section 142 of the Electricity Act. Notably, in terms of the first proviso; in case of genuine difficulty because of non-availability of RECs or otherwise, the obligated entity can approach the Commission for carrying forward of RPO to the next year and the second proviso enables the Commission to provide the relief in such circumstances. Further, Regulations also contains specific provisions regarding inherent powers, removal of difficulty and power to relax.

1.2 The Petitioner was not in a position to comply with the RPO for reasons completely beyond its control and owing to:

a) High handed approach of PSTCL/PSPCL:

After commencing supply of power on 24.11.2019, the Petitioner has been applying for STOA to procure power through Power Exchanges since March, 2020. However, the said requests for STOA are continually being denied by PSPCL/PSTCL on diverse grounds. The stand of PSTCL/PSPCL has been shifting every few months:

- Around March 2020, the initial stand of PSTCL was that the Petitioner's request was not in consonance with provisions of the PSERC OA Regulations, since PSTCL firmly believed that STOA and LTOA cannot be taken in conjunction with each other.
- Thereafter, around September 2020, STOA was denied to the Petitioner on the ground that the Petitioner has already availed STOA for a period of 89 days and any further open access would fall under MTOA.
- In March 2021, PSTCL took a stand that it will not allow STOA on account of alleged outstanding dues in relation to Gehri Baghi TSS pertaining to arbitrary invoices claiming additional surcharge and demand surcharges as well as interest over amounts which were not even chargeable by it in the first place.
- Around February 2022, PSTCL took a stand that only

after grant of STOA consent by PSPCL, grant of NOC to the Petitioner to purchase power from Exchange can be processed by SLDC/PSTCL as per prevailing regulations and procedures.

- Around April 2022, PSTCL further revised its stand to assert that permission for STOA cannot be granted to the Petitioner owing to non-fulfilment of RPO.

b) Non-availability of RECs

Trading in RECs was put on hold in July, 2020 pursuant to an order from APTEL and trading of RECs was resumed only from 24.11.2021. Therefore, for this period, the Petitioner was not in a position to purchase RECs due to non-availability thereof in light of non-trading of RECs. Further, the procurement of RECs in the present circumstances would be financially onerous for the Petitioner as on one hand it would be incurring the costs towards purchase of RECs and on the other hand, it will still have to procure additional energy to meet its load requirements. In such circumstances, it is prudent for the Petitioner to straightway cater to its load requirements by purchase of renewable energy.

- 1.3 On 23.08.2022, a meeting was held under the Chairmanship of Principal Secretary, Power, GoP. After discussion, it was decided in the meeting that for the purposes of grant of open access (from Indian Exchange), the Petitioner will have to pay the outstanding amount to PSPCL and requested that this amount be frozen and no further charges be levied. Further, on the issue of RPO, the following was advised:

“3. CMD, PSPCL informed that Renewable Purchase Obligations (RPO) amounting to Rs. 33 crore are pending towards Northern Railways since November, 2019. Either the Railways will have to purchase RE Certificates for RPO compliance or it has to file a Petition before PSERC and get its approval of PSERC to carry forward the RPO in next year. As per Regulation 42(2) of PSERC (Terms and Conditions for Intra State Open Access) Regulations, 2011 in case, the Open Access customer fails to comply with the RPO as specified by the Commission in the Punjab State Electricity Regulatory Commission (Renewable Purchase Obligation and its compliance) Regulations, 2011 as amended from time to time, for the period/year during which Open Access customer has been availed, the distribution licensee(s) shall withhold permission to such Open Access customer to avail open access during the next period/year till the shortfall in RPO compliance is made.

Railways requested that to comply with Renewable Purchase Obligation, NOC of Energy Exchange is required to procure green power for compliance of RPO. Principal Secretary Power said that Railways may file a Petition with PSERC for one time relaxation of this condition and PSPCL will not object for granting NOC for Energy Exchange provided Railways fulfils its RPO as soon as possible after getting NOC of Exchange.”

Accordingly, the Petitioner is constrained to file the present petition seeking immediate intervention of the Commission.

1.4 Railway electrification works are progressing at a rapid pace in Punjab and the Petitioner wishes to exercise the option available to it under the PSERC RPO Regulations and wishes to meet its RPO targets by availing the actual power from renewable energy sources rather than purchase RECs. It is submitted that:

- a) Indian Railways has a target of Net Zero Carbon by 2030 and is setting up renewable energy plants which will be commissioned in the next 2-3 years. Indian Railways has planned a gradual transition of its power portfolio completely to renewable energy sources and is setting up Renewable Energy Plants.
- b) Even today, the Petitioner is ready to comply with the RPO obligations by purchasing renewable power through power exchange(s). However, the same cannot be effectuated in the absence of any avenues for procurement of renewable power by way of availing open access. Therefore, a relaxation of the above Regulation 42(2) is imperative. Petitioner is reasonably confident that it will be able to purchase renewable energy to meet its RPO compliance, if given a chance.
- c) It is clarified that the Petitioner is not averse to purchase of RECs in case it is unable to meet its RPO targets by tying up adequate renewable energy capacity. Petitioner is neither shying away from meeting its RPO targets nor is it trying to wriggle out of its obligation to promote renewable energy. It is requested that it must at the very least be given a chance to procure renewable energy through Power Exchange till it is able to tie up adequate renewable energy under LTOA, rather than straightaway forcing it to purchase RECs.

1.5 In light of the above, it is prayed that the Commission may be pleased to-

“a) Carry forward the Petitioner’s RPO target for FY 2019-20, FY 2020-21, FY 2021-22 and FY 2022-23 to FY 2023-24;

- b) Relax Regulation 42(2) of the PSERC (Terms and Conditions for Intra-State Open Access) Regulations, 2011;*
- c) Direct PSTCL to forthwith grant NOC for STOA to the Petitioner without insisting on fulfilment of RPO;*
- d) Issue such other/further orders as this Hon'ble Commission may deem fit in the present facts and circumstances."*

2. The petitioner was directed to submit the year-wise details of RPO shortfall, before the date of hearing. On 16.01.2023, the petitioner submitted the year-wise details of RPO shortfall as under:

Year	Consumption (MUs)	Solar RPO Compliance (MUs)		Non-Solar RPO Compliance (MUs)	
		Requirement	Done	Requirement	Done
2019-20	86.21	3.44	Nil	4.74	Nil
2020-21	146.12	7.30	Nil	9.49	Nil
2021-22	286.56	18.62	Nil	22.92	Nil
Total	518.89	29.36	Nil	37.15	Nil

3. On 18.01.2023, after hearing the Ld. Counsel of the petitioner, the petition was admitted, with directions that "Notice be issued to the respondents, who may file reply to the petition within two weeks with a copy to the petitioner and the petitioner may file rejoinder to the reply filed by the respondents within one week thereafter.
4. PEDA submitted its reply on 09.03.2023 stating that the majority of pleadings are related to PSPCL/PSTCL thus PEDA is filing a need based short reply. It was stated that:

4.1 The petitioner is yet to comply with the shortfall of RPOs, which is a conceded case of the petitioner itself. The petitioner should have procured RE power or RECs at the right time i.e. the year in which

the obligation occurred. Equity & level playing field is required to be maintained amongst all the obligated entities. While considering the request of the petitioner, the Commission has to consider the performance of the petitioner qua the fulfilment of RPO during the period.

4.2 The petitioner has sought carry forward of RPO on account of “Non availability of RECs.” Whereas, during the impugned period of 01.04.2019 to 31.01.2023 (46 months), the trading in RECs remained suspended, as per the website of the REC registry, only for the period July 2020 to October 2021 (16 months). Thus trading was held for 30 months out of 46 months and abundant quantum of RECs was available for purchase by the obligated entities.

4.3 The Commission has decided similar matters on earlier occasions. However in those cases, the obligated entities have met a part of the obligation through purchase of RECs, thereby praying for carryover of balance quantity of RECs but have never prayed for relaxation of RPO Regulations with regard to continuation of open access. Also, the petitioner has filed the petition only when its open access application was refused by PSPCL/PSTCL.

4.4 PSPCL has been also seeking carry forward of RPO from time-to-time. However, PSPCL had been meeting part of the RPO liability during the year itself and carry forward was sought only for the unmet RPO obligation due to reasons beyond its control.

4.5 As per the directives of APTEL in judgment dated 20.04.2015 in O.P No. 1, 2 and 4 of 2013, the carry forward of RPO should be allowed strictly as per the provisions of the Regulations.

4.6 The petition is silent with regard to the period by which it will be in a position to meet the RPO liability. No time limit has been prescribed to purchase RECs. In case of non-definitive plan to meet the RPO, the alternate of deposit of the cost of RPO liability (worked out as Rs. 33 crore by PSPCL) as per Regulations has to be followed.

5. PSTCL/SLDC filed its reply on 10.03.2023 submitting as under:

5.1 As per the provisions of Open Access Regulations, as amended from time to time, PSTCL has been notified as the Nodal agency for grant of Long-Term Access (LTA)/ Medium Term Open Access (MTOA), while SLDC has been notified as Nodal agency for Short Term Open Access (STOA).

5.2 Regulation 10 of the PSERC Open Access Regulations lays down the eligibility conditions for grant of Open Access. One of the conditions being that there should not be outstanding dues against the applicant for more than two months billing of the distribution/transmission licensee at the time of application. Further, in terms of Procedures 4.1, 4.3 (iii) and 4.3 (iv) of LTA/ MTOA Procedures approved by the Commission, the consent of the distribution licensee is required before processing of an open access application.

5.3 The contention of the Petitioner w.r.t. High handed approach of PSTCL in blocking all avenues of the Petitioner to purchase renewable energy through Open Access is wrong as narrated below:

- (i) It is denied that PSTCL has in any manner denied open access or levied any sort of arbitrary charges on the Petitioner. PSTCL has only raised relevant charges related to open access as availed by the Petitioner in terms of the prevailing Regulations and Procedures.
- (ii) PSTCL, as a statutory authority, cannot be the arbitrator or adjudicating authority on the conditions for grant of NOC. PSTCL operates within the four corners of the Regulations and grants or rejects the open access applications based on the conditions as prescribed in the Regulations and the procedures laid down thereunder.
- (iii) The Petitioners' application dated 12.03.2020 for grant of STOA for purchase of upto 35 MW power through collective transaction (power exchange) for approximately three (3) months i.e., from 01.04.2020 to 29.06.2020, couldn't be allowed in the absence of NOC by PSPCL with the observation that the STOA sought for a period of 3 months is not in line with the provisions of PSERC Open Access Regulations. PSPCL's observations were forwarded by PSTCL to the Petitioner on the same day.
- (iv) Thereafter, the Petitioner, on 06.04.2020, submitted the revised STOA application for upto 20 MW power for the period from 01.05.2020 to 31.05.2020. The said application was forwarded to PSPCL *vide* e-mail dated 06.04.2020. PSPCL issued the STOA consent on 15.04.2020, subject to certain conditions. Accordingly, PSTCL on 16.04.2020 issued the STOA approval

to the Petitioner. However, no energy was actually transacted/ purchased by Northern Railway under STOA during May, 2020.

- (v) STOA applications dated 11.06.2020, 09.07.2020 and 05.08.2020, for purchase of upto 20 MW power from 20.06.2020 to 19.07.2020, 35 MW from 20.07.2020 to 18.08.2020 and 35 MW from 19.08.2020 to 16.09.2020 were received from the Petitioner for the subsequent months. That the said applications were forwarded by PSTCL to PSPCL on the same days. Subject to similar terms and conditions as earlier, PSPCL issued STOA consent on 19.06.2020, 17.07.2020 and 17.08.2020 respectively. Accordingly, STOA approval was issued by PSTCL to the Petitioner on 19.06.2020, 17.07.2020 and 18.08.2020 respectively.
- (vi) On 20.08.2020, PSPCL intimated PSTCL that the Open Access for a period equal to or exceeding 3 months but not exceeding 5 years, falls under MTOA and therefore further NOC for grant of STOA to the Petitioner would not be granted by PSPCL. The same was intimated by PSTCL to the Petitioner *vide* an e-mail dated 20.08.2020.
- (vii) The Petitioner *vide* letter dated 14.09.2020, submitted the STOA application to PSTCL for the subsequent month i.e., 17.09.2020 to 18.09.2020. The letter and the application were forwarded to PSPCL on 14.09.2020. PSPCL returned the STOA application of the Petitioner to PSTCL on 17.09.2020, stating that as the STOA had been allowed continuously for a period of 89 days (20.06.2020 to 17.09.2020), according to the

P SERC Intra-State Open Access (8th amendment) Regulations 2019, any further Open Access would thus fall under MTOA, defined as open access for a period equal to or exceeding 3 months but not exceeding 5 years. That *vide* email dated 18.09.2020, the stand taken of PSPCL was intimated by PSTCL to the Petitioner.

(viii) Regarding the Petitioner application, received on 22.02.2021, for STOA for purchase of upto 35 MW power through Collective Transaction (Power Exchange). The same was forwarded by PSTCL to PSPCL *vide* memo no. 693 dated 22.02.2021. PSPCL *vide* memo no. 66 dated 04.03.2021, returned the STOA application of the Petitioner mentioning that as per the information received from field offices of PSPCL, bills amounting to Rs. 74,25,860/- for the period 25.07.2020 to 13.01.2021 were pending against Northern Railway. The same was intimated to the Petitioner by PSTCL *vide* email dated 05/03/2021.

(ix) From the narration of sequence of events it is clear that PSTCL had duly forwarded all applications as made by the Petitioner to PSPCL for grant of open access. It is submitted that in terms of the applicable regulations, PSTCL cannot grant open access to the Petitioner without getting the requisite NOC from PSPCL. No allegation has been made by the Petitioner against PSTCL that the applications as made by the Petitioner were not forwarded to PSPCL or that the reasons granting/rejecting the applications by PSPCL were not intimated to the Petitioner.

5.4 Being an Open Access Customer, the Petitioner had to comply with RPO obligations as per the provisions of Regulation 42 (2) of PSERC Open Access Regulations either by purchasing Renewable Energy Certificates or by procuring RE Power. However, the Petitioner lacks seriousness towards the issue and has failed to meet its RPO Obligations. Moreover, the Commission may take a suitable view considering the facts and circumstances of the present case, in context of the applicable Regulations.

6. PSPCL filed its reply on 27.03.2023, submitting as under:

6.1 Regulation 10 of the PSERC Open Access Regulations lays down the eligibility conditions for grant of Open Access. One of the conditions being that there should not be outstanding dues. Further, in terms of Procedures 4.1, 4.3 (iii) and 4.3 (iv) of LTA/MTOA/STOA Procedures approved by the Commission, the consent of PSPCL is required before processing of open access application. Eligibility conditions are needed to be checked/ verified by field offices of PSPCL before the grant of Open Access.

6.2 It is denied that PSPCL has in any manner changed its stand as sought to be alleged by the Petitioner:

(i) The consent for the Petitioner's application dated 12.03.2020 for grant of STOA for purchase of upto 35 MW power through collective transaction (power exchange) for drawl at 11 No. TSS within the State of Punjab for approximately 3 months i.e., from 01.04.2020 to 29.06.2020 was denied for the following reasons:

- The Petitioner had entered into Bulk Power Transmission Agreement (BPTA)/ LTA agreement with PSTCL for availing 35 MW power through LTA and Standby Power Supply Agreement for 5 MVA with PSPCL and there was no provision in BPTA, according to which the Petitioner can avail full quantum of power through STOA in case of shutdown.
 - Further, the STOA, as sought by the Petitioner for a period of 3 months, was not in line with the provisions of PSERC Open Access Regulations.
- (ii) The STOA consent for revised application for purchase of upto 20 MW power for the period from 01.05.2020 to 31.05.2020, was issued *vide* e-mail dated 15.04.2020. Accordingly, SLDC/PSTCL on 16.04.2020, *vide* memo no. 1613/SO/OA, issued STOA approval to the Petitioner. However, no energy was actually transacted/ purchased by Northern Railway under STOA during May, 2020
- (iii) Similarly, STOA consents for applications dated 11.06.2020, 09.07.2020 and 05.08.2020, were issued for purchase of upto 20 MW power from 20.06.2020 to 19.07.2020, 35 MW from 20.07.2020 to 18.08.2020 and 35 MW from 19.08.2020 to 16.09.2020. Accordingly, STOA approval was issued by SLDC/PSTCL.
- (iv) NOC for grant of STOA was denied by PSPCL to the Petitioner for subsequent month i.e. 17.09.2020 to 18.09.2020 as the STOA had already been allowed continuously for a period of 89 days (20.06.2020 to 17.09.2020), any further Open Access would

thus fall under MTOA (open access for a period equal to or exceeding 3 months but not exceeding 5 years), according to the PSERC Intra-State Open Access (8th amendment) Regulations 2019.

7. The petitioner filed its rejoinder to the reply of PSTCL and PSPCL on 12.04.2023, reiterating/submitting as under:

7.1 PSTCL and PSPCL have continuously been blocking grant of open access and changing their stands. PSPCL & PSTCL have been making every endeavour to make open access exorbitantly expensive for Northern Railways.

7.2 PSTCL has wrongly stated in its reply that the consent of the distribution licensee is required for grant of open access. As per PSERC (Terms and Conditions for Intra-State Open Access) Regulations, 2011, the processing & grant of connectivity is to be carried out by STU and the only consultation permissible is with other agencies involved in intra-State transmission including SLDC. The Distribution licensee has no role to play in the consultation process.

7.3 PSTCL is selectively reading Regulation 10(4) in isolation and the entire Regulation 10 needs to be seen to decide on the issue. Regulation 10(1) applies to the entities seeking connectivity to the transmission system, whereas Regulation 10(2) deals with entities seeking connectivity to the distribution system. Thus, for seeking connectivity to transmission system, the outstanding dues of transmission licensee have to be checked and conversely, for seeking connectivity to the distribution system, the outstanding

dues of the distribution licensee have to be verified. PSPCL is erroneously interpreting the phrase “distribution/transmission licensee” employed under Regulation 10(4) to read “/” as “and” which is not permissible.

7.4 The petitioner is not a consumer of PSPCL, neither is it connected to the distribution network of PSPCL nor does it require consent pertaining to use of standby power or start-up power. Thus, reliance upon Clause 4.1 of the Procedure for Intra State MTOA & LTOA by PSPCL is misplaced.

7.5 PSTCL has erroneously forwarded the STOA applications of petitioner to PSPCL for granting consent. As per Clause 4 of the procedure, SLDC shall forward the application to the distribution licensee for verification of field data and feeder status and the distribution licensee shall verify & confirm the same. Thus, the consent required from PSPCL was only pertaining to the field data and feeder status. The petitioner does not require a NOC from the distribution licensee.

7.6 By way of petition no. 03 of 2017, the Commission issued specific directions to PSTCL to process the application of Railways for issuance of NOC for availing MTOA and STOA as per the CERC/PSERC Regulations in a tie bound manner. Thus, the conduct of PSPCL and PSTCL are violative of the Regulations.

7.7 There were no outstanding dues on the part of the Petitioner as outstanding dues considered by the Respondents are nothing but illegal demands including, demands for Additional Surcharge, CSS and Demand Charge. PSTCL was insisting on payment of

outstanding dues for Gehri Baghi TSS while continuing to raise arbitrary invoices claiming additional surcharge and demand surcharges as well as interest over amounts which were not even chargeable by it. The petitioner is not liable to pay-

- Additional Surcharge in light of Order dated 28.02.2018 issued by the Commission read with APTEL interim order dated 30.05.2022 in Appeal No. 186 of 2022.
- Demand Surcharge (except for the 86 time blocks) in light of the Commission's Order dated 22.03.2022 in Petition No. 14 of 2022.
- CSS in light of APTEL interim orders dated 13.05.2019 and 20.09.2021 in Appeal No. 170 of 2019.

7.8 Regarding the issue of STOA beyond 89 days by the Petitioner, the said issue was already a subject matter in Petition No. 14 of 2021 and has been already adjudicated by the Commission by way of its Order dated 22.03.2022. APTEL by way of its Order dated 30.05.2022 in Appeal No. 186 of 2022 has issued a stay against the Order dated 22.03.2022.

7.9 PSPCL is trying to show that there is a lack of willingness on the part of petitioner to fulfill its RPO obligations. However;

- (i) It has suppressed material facts including its own conduct of blocking open access and trying to force it to procure power from PSPCL, its connivance with PSTCL to extract illegal charges & then to show outstanding dues and in turn, use it as

a pretext for refusing open access and restricting the petitioner from complying with the RPO targets.

- (ii) On one hand it is insisting on compliance of RPO and on the other hand was refusing to process the open access applications which would enable it to procure renewable power.
- (iii) Even today, the petitioner is ready to comply with the RPO obligations and in this regard, immediate intervention of the Commission is sought in getting the open access approvals for procurement of renewable power.
- (iv) On 06.12.2022, the Petitioner submitted an application along with all relevant supporting documents on the web portal of Green Open Access Registry (“GOAR”), seeking open access for procurement of renewable energy. The Application approval entailed grant of NOC by the concerned STU for STOA, on the same day, the Petitioner submitted an application to PSTCL requesting them to grant NOC for renewable power purchase from energy exchange for one month. In continuation of its past illegal practice, PSTCL forwarded the Petitioner’s application for STOA NOC requesting for PSPCL’s consent. It is only in cases where an applicant is connected to the network of the distribution licensee that NOC of the distribution licensee is required. On 09.12.2022, the Petitioner sent a reminder/representation to PSPCL and PSTCL/SLDC highlighting that it can procure green power through GTAM only after NOC is granted and Petitioner is not being afforded an opportunity to fulfil the RPO compliance requirements.

- (v) On 13.12.2022, PSLDC refused to grant the standing clearance/NOC to the Petitioner for purchase of renewable energy on the ground that PSPCL didn't grant consent for STOA due to non-compliance of RPO. On 16.12.2022, the Petitioner wrote to PSPCL & PSTCL highlighting its constraints regarding purchase of renewable energy unless NOC is issued by PSPCL & PSTCL.
- (vi) The Petitioner has held several rounds of meetings with various officials of PSPCL & PSTCL and sent various representations to the said offices for resolution of this issue. PSPCL and PSTCL have continually been blocking open access avenues to force the Petitioner to avail standby power from PSPCL and in the process, also blocking all avenues for fulfilment of RPO by advising the Petitioner to purchase RECs instead of buying actual green power.
- (vii) The petitioner is committed to achieving its Net Zero Carbon target by 2030 and has set up/setting up renewable energy plants to achieve this purpose. In addition, Indian Railways is already availing power from GDAM in 8 other states including Karnataka, UP, Maharashtra, Madhya Pradesh, Gujarat, Rajasthan, Jharkhand and Delhi to meet its RPO targets and hence, the Petitioner is reasonably confident that the RPO compliance can be met even in the State of Punjab.
- (viii) PSTCL and PSPCL are ready to give connectivity to the upcoming TSSs of Northern Railways under "consumer mode" but whenever connectivity directly to STU as a deemed

distribution licensee is being sought; the requests are being blocked on some pretext or the other. Such conduct of the State Utilities is arbitrary.

8. After hearing the Ld. Counsel for the parties on 24.05.2023, Order was reserved. The Petitioner, on 31.05.2023, also submitted the year wise detail of its total RPO shortfall (including of FY 2022-23) as under, with the submission that it proposes to fulfil the same by procurement of green power through energy exchange and/or RECs in FY 2023-24 and FY 2024-15:

S. No.	Financial Year	Actual Consumption (MUs)	RPO Calculation				
			SPO		NSPO		Total (MUs)
			%age	MU	%age	MU	
1	2019-20	86.22	4.00%	3.45	5.50%	4.74	8.19
2	2020-21	146.12	5.00%	7.31	6.50%	9.50	16.80
3	2021-22	286.56	6.50%	18.63	8.00%	22.92	41.55
4	2022-23	361.56	8.00%	28.92	9.50%	34.35	63.27
Total		880.46		58.31		71.51	129.82

9. Findings and Decision of the Commission

The Commission has carefully gone through the petition, replies by the respondents, rejoinder by the Petitioner and the arguments/submissions by the parties. The Petitioner Northern Railways is seeking carry forward of its Renewable Purchase Obligations (RPO) for FY 2019-20, FY 2020-21, FY 2021-22 and FY 22-23 to FY 2023-24 and consequent relaxation to that extant in the Regulation 42(2) of the PSERC (Terms and Conditions for Intra-State Open Access) Regulations, 2011.

The Commission observes that the Petition has been filed by the Petitioner under Section 86(1)(e) of the Electricity Act, 2003 read with Regulation 6(2), 7, 8 and 10 of the PSERC (Renewable Purchase Obligation and its Compliance) Regulations, 2011. The Commission analyse the same as under:

9.1 Section 86 (1) (e) of the Electricity Act, 2003 states that the State Commission shall:

(e) promote co-generation and generation of electricity from renewable sources of energy....., and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licence;

As is evident, under the said mandate by the Electricity Act, the RPO target specified by the Commission is an obligation cast on the obligated entities to procure a part (%age specified as RPO targets) of its total consumption of electricity from the RE sources. It does not cast any obligation to increase consumption/capacity to meet the same. As noted from the submissions, Railways is having a sanctioned LTOA of 35 MW in the State. Accordingly, to meet its mandated RPO compliance the Petitioner has to plan its power procurement portfolio in such a way so as to include a part (%age as specified as RPO) of said 35 MW power from the RE sources.

Since, the specified RPO targets do not cast any obligation for increase in its consumption/capacity; the Petitioners' plea that it couldn't fulfil the same on account of non-grant of its request/NoC for STOA (in addition to the already existing LTOA) by SLDC/PSPCL is not maintainable.

It is however, also noted with concern that while STOA permissions have been granted the Petitioner at various times as detailed in the replies filed by the Respondents, the Petitioner has, even then, made no attempt to meet its RPO commitments by sourcing RE power.

9.2 Further, Regulation 6(2) of the PSERC (Renewable Purchase Obligation and its Compliance) Regulations, 2011, reads as under:

“6. Effect of default

.....

(2) Where any obligated entity fails to comply with the obligation to purchase the required percentage of electricity 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 or otherwise, the obligated entity can approach the Commission for carrying forward of compliance requirement to the next year;

Provided that on being so approached, the Commission may review the fulfilment of the renewable purchase obligation by the obligated entity, keeping in view its performance and allow the shortfall to be carried forward to the next year in addition to the renewable purchase obligation for that year. At the end of 3 years period, the Commission may, if deemed appropriate, review the fulfilment of renewable purchase obligation by the obligated entity and pass suitable order(s);

Provided that where the Commission has consented to the carry forward of compliance requirement, the provision of clause (1) of the Regulation or the provision of section 142 of the Act shall not be invoked.”

- a) Above Regulation 6(2) provides that in case of genuine difficulty in complying with the renewable purchase obligation because of non-availability of certificates or otherwise, the obligated entity can approach the Commission for carrying forward of compliance requirement to the next year.

The Commission notes that, in the instant case, the Petitioner's is citing difficulty in complying with the renewable purchase obligation because of non-availability of certificates (RECs) as well as highhandedness on part of PSTCL and PSPCL, for seeking carrying forward of compliance requirement to the next year. The Commission examines the same as under:

- (i) Regarding the Petitioners' plea of 'Non availability of RECs' the Commission notes the PEDAs' submission that during the impugned period of 46 months (01.04.2019 to 31.01.2023) the trading in RECs were remained suspended only for the period of 16 months (July 2020 to October 2021), indicating that abundant quantum of RECs was available for purchase by the obligated entities. Thus the said plea of non-availability of RECs by the Petitioner is not maintainable in the instant case.
- (ii) Further, as regard to the Petitioners' plea of citing high handedness on the part of PSTCL (SLDC) and PSPCL in denying its request/NoC for STOA is concerned, the Commission has already observed, in Para 9.1 above, that the said plea is not maintainable. Herein, the Petitioner has

tried to confuse the issue by unnecessarily raising the issue of its various disputes with SLDC/PSTCL and PSPCL concerning the grant of STOA under the PSERC Open Access Regulations. The Commission is of view that the Petitioner may seek adjudication of the same, separately, under the 'Redressal Mechanism' available to it under the relevant Regulations.

- b) Regulation 6(2) also specifies that on being approached, the Commission may review the fulfilment of the renewable purchase obligation by the obligated entity, keeping in view its performance and allow the shortfall to be carried forward to the next year in addition to the renewable purchase obligation for that year.

In this regard, the Commission notes that the Petitioner is availing 35 MW of power through LTOA in the State continuously since 24.11.2019. Thereafter, as detailed in the replies filed by the Respondents, it also availed STOA for a period of about 89 days in FY 2020-21. However, till date, it has not cared to purchase even a single unit of RE power towards fulfilment of its RPO compliance requirements. During the pendency of this petition also, the Petitioner didn't procure any power from RE sources to meet even a part of its RPO shortfall. Therefore, the Petitioner cannot even claim any attempt at meeting its mandated RPO compliance, to support its prayer or show its intent.

9.3 Further, Regulations 7, 8 and 10 of the PSERC (Renewable Purchase Obligation and its Compliance) Regulations, 2011, reads as under:

“7. Inherent powers of the Commission

Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent powers of the Commission to make such orders as may be necessary for ends of justice or to prevent the abuse of process envisaged in these Regulations.

8. Power to remove difficulties

If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, do anything, not inconsistent with the provisions of the Act, which it considers necessary or expedient for the purpose of removing the difficulties.

10. Power to Relax

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 any of the provisions of these Regulations of its own or on an application made before it by an interested person.”

As is evident, Regulation 7 (Inherent powers of the Commission) can be invoked by the Commission to make such orders as may be ‘necessary for ends of justice’ or ‘to prevent the abuse of process’ envisaged in these Regulations, which does not fit the bill in the instant case. Further, Regulation 8 (Power to remove difficulties) is to be invoked, in case there is any difficulty in giving effect to any of the provisions of these Regulations. This is also not the case here. However, under Regulation 10 (Power to Relax), 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 any of the provisions of these Regulations of its own or on an application made before it by an interested person.

The Commission observes that the affected parties i.e. PEDDA, SLDC/PSTCL as well as PSPCL has been already heard as respondents in the matter, who have not expressed any reservation with regard to the prayer made by the Petitioner for allowing it to carry forward its cumulative RPO shortfall to FY 2023-24;

Further, the Commission also observes that the Railways is a deemed distribution licensee and national carrier engaged in transporting passenger and goods, thereby also involved in public interest;

The Commission also Refers to Hon'ble APTEL's observation made in Order dated 21.08.2019 in the case of M/s Green Energy Association vs. Chhattisgarh State Electricity Regulatory Commission and Ors. (Appeal Nos. 106 of 2016 and 65 of 2017), which reads as under:

"9.40 In an ideal case, as per the National Tariff Policy, the State Regulatory Commission are required to enforce the RPO compliance by monitoring the same on real time basis but, while deciding the matter relating to RPO, the Commission is also required to keep in mind the difficulty being faced by the licensee, impact on retail tariff, availability of RECs in the market, etc."

Thus, while expressing its displeasure to the Petitioner for not even making an attempt over the past several years to meet its RPO commitments, taking a lenient view, the Commission decides to allow the carry forward of the Petitioners' cumulative RPO shortfall of FY 2019-20, FY 2020-21, FY 2021-22 and FY 2022-

23 to FY 2023-24 with the condition that the Petitioner shall fulfil the said RPO shortfall within 3 months of issue of this Order. The State Agency PEDDA shall monitor the same and submit the status of compliance within a week thereafter. The Petitioner shall also file a compliance report with the Commission as an adjunct to this order. In the interim period, provision of Regulation 42(2) of the PSERC (Terms and Conditions for Intra-State Open Access) Regulations, 2011 shall also remain relaxed.

In the event of failure to meet its said RPO shortfall by the due date specified above, the Petitioner shall be required to deposit, immediately, an amount, equivalent to the product of shortfall in RPO compliance and the maximum clearance price of the Certificates discovered in the Power Exchange during the said year, into a separate account created and maintained by the State Agency. In case of any delay, the Petitioner shall be liable for action, as per the provisions of extant Punjab State Electricity Regulatory Commission (Renewable Purchase Obligation and its compliance) Regulations, 2022 and the provisions of the Electricity Act 2003.

The petition is disposed of in the light of the above directions.

Sd/-

**(Paramjeet Singh)
Member**

Sd/-

**(Viswajeet Khanna)
Chairperson**

Chandigarh

Dated: 11.07.2023