

TAMIL NADU ELECTRICITY CONSUMERS' ASSOCIATION

Formerly (TamilNadu Electricity Consumers Association)

Regd. No. 181-8524/1998 – **CIN.No.** U37102TZ1998GAP008524

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CIRCULAR

To

ALL MEMBERS,

Sub: Renewal Power Obligation (RPO)

Dear Sir,

Members may aware that, according to TNERC Regulations 2010, consumers' who have opted for purchase/consumption of conventional Open Access power which have been sourced from IEX or other sources including group captive sources, such consumers are under obligation to comply with the 9% (8.95% non-solar RPO and 0.05% solar RPO) Renewable Purchase Obligation by buying RECs. If solar RECs are not available, it can be offset through non solar RECs. This position remains unaltered.

Few individual consumers have challenged the RPO before Madras High Court on the ground that they are forced to purchase power from other sources due to the failure of TANGECO to supply the contracted load which had enforced R & C measures. Hence consumers cannot be penalized to comply with RPO and consequential offset through RECs.

Though these petitions were admitted long ago in High Court, they have not yet been disposed off. However, there is no stay order issued.

The power available to State Regulatory Commissions to enforce the RPO Mechanism was challenged. However, in a Rajasthan matter, the Hon'ble Supreme Court has upheld the power to fix RPO by State Regulatory Commissions thru a detailed judgment delivered on 13.05.2015 and therefore, fixing of RPO is valid by law and has become final.

At this juncture, complying with the RPO norms was in challenge at Tamil Nadu on the reason that there was enforcement of R&C measures from 01.11.2008 to 04.06.2015. However, now the R&C measures are withdrawn and no power cut is enforced in the State. As such, enforcement of RPO mechanism may not face any hindrance as of now.

For a particular financial year, RECs issued during the financial year alone are eligible for offset and the RECs issued during the earlier years cannot be bought and offset. RPO needs to be complied with on purchase of all quantum of conventional power including group captive power. Only the nature of power needs to be taken consideration for RPO and not the ownership. Those who have bought power from Wind Group Captive Generators and Biomass Power Plants are not obligated for RPO. The price now available is at Rs.1500 per non-solar RECs and Rs.3500 for solar RECs.

Hence, those members obligated to comply with RPO by buying REC for 2015-16 are requested to decide suitably and make the compliance on or before 30.03.2016 (Last Wednesday) and accordingly, make the compliance made suitably. The calculation of REC should be as per the below formula.

[Total Number of Units purchased during the year 2015-16 through conventional sources including IEX] x 9% ÷ 1000 = Number of REC

The consequence in case if the member is default in complying with RPO norms according to the TNERC (RPO) Regulations 2010 is as follows:

"7. Consequence of default. -

(1) If the obligated entity does not fulfill the RPO as provided in these regulations during any year or does not purchase the certificates as the case may be, the Commission may direct the obligated entity to deposit into a separate fund, to be created and maintained by the State Agency, such amount as the Commission may determine on the basis of the shortfall in units of RPO at the forbearance price decided by the Central Commission. The penal charges will be equivalent to the forbearance price multiplied by shortfall in units of RPO:

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 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 fund:

Provided also that the distribution licensee shall be in breach of his licence condition if he fails to deposit the amount as 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 to purchase 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 bonafide difficulty in complying with the renewable purchase obligation owing to non-availability of certificates, the obligated entity can approach the Commission requesting permission to carry forward of compliance requirement to the next year

In case of default in complying with RPO norms, the defaulting consumer may have to pay to a fund the rate of Rs.3300 (being the forbearance price for Non-Solar RECs) and at the rate of Rs.5800 (being the forbearance price for Solar RECs), as fixed by the CERC through its Order dated 30.12.2014 in Petition No.SM/016/2014 (Suo Motu), the soft copy of the order is enclosed for your reference. An equivalent amount will also to be collected as penalty for the default. In short, instead of buying Non Solar REC at Rs.1500, defaulters are likely to be penalized for the default at Rs.6600 and instead of Rs.3500 for Solar RECs, such defaulters may have to pay Rs.11600.

This is for your information and necessary action if applicable to you.

With Warm Regards,

K. Ilango
Secretary