ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

4thFloor, Singareni Bhavan, Red Hills, Hyderabad 500004

MONDAY, THE FIFTH DAY OF TWO THOUSAND AND TWENTY TWO

:Present:

Justice C.V. Nagarjuna Reddy, Chairman Sri P. Rajagopal Reddy, Member Sri Thakur Rama Singh, Member

> O.P.No.40 of 2022 & O.P.No.50 of 2022

Between:

Southern Power Distribution Company of Andhra Pradesh Limited,

.... Petitioner

Rep. by its Chairman & Managing Director,
Beside Srinivasa Kalyana Mandapam, Tiruchanoor Road,
Tirupathi – 517501.

AND

None Respondent

The Original Petitions have come up for final hearing on 02-11-2022 in the presence of Sri P. Shiva Rao, learned Standing Counsel for the Petitioner, and upon considering the material available on record and after hearing the submissions of the learned counsel, the Commission passes the following:

COMMON ORDER

- 1. APSPDCL (for short "the petitioner") filed these petitions, seeking Renewable Energy Certificates (RECs) for the Financial Year 2019-20 & FY 2020-21 under sections 61, 66, 86(1)(e) of the Electricity Act 2003 read with Regulation 1 of 2017 of APERC (Prescribing the obligation for the purchase of Renewable Power and its compliance by the purchase of Renewable Energy/Renewable Energy Certificates), as per the directions of this Commission in the Retail Supply Tariff Order dated 30.03.2022 for the FY 2022-23 to file an appropriate petition to get the Renewable Energy Certificates as per its eligibility complying with the Hon'ble APTEL's orders in this regard.
- 2. After the OPs were numbered, notices were published in the Commission's website, calling for objections from the general public. No objections have been received on the date fixed for hearing. We have heard the O.Ps in detail. As the issue involved is common in both the petitions and only financial years are different, the two petitions are being considered together. The short question for consideration is, whether the petitioner is entitled to be eligible for Renewable Energy Certificates for Financial Year 2019-20, and Financial Year 2020-21 under the RE Certificates Regulation of 2010 of the Central Commission (CERC) and its amendments from time to time, which is adopted by this Commission to the extent of criteria to be followed for recommending RECs, and in the light of the decision of the Honourable APTEL in A.No 99 of 2020 & O.P No 2 of 2020 that this Commission ought not to have recommended the petitioner RE Certificates (RECs) for the performance year FY 2018-19 in view of its non-compliance of the first proviso of clause 5(1A) of the CERC Regulations (hereinafter called "Regulation") i.e., the deficit in solar energy procurement for previous FY 2017-18 against the target specified by the Ministry of Power.
- 3. Clause 5(1A) of the Regulation contemplates inter alia for compliance of statutory requirements to obtain RECs by a distribution licensee as under:
 - "5 (1A) A Distribution licensee shall be eligible to apply for registration with the central agency for issuance of and dealing in certificates if it fulfils the following conditions:

(a) It has procured renewable energy, in the previous financial year at a tariff determined under Section 62 or adopted under section 63 of the Act, in excess of the renewable purchase obligation as may be specified by the appropriate Commission or in the National Action Plan on climate change or in the tariff policy whichever is higher.

Provided that the renewable purchase obligation as may be specified for a year by the appropriate Commission should not be lower than that for the previous financial year.

Provided further that any shortfall in procurement against the non-solar or solar power procurement obligation set by the appropriate commission in the previous three years, including the shortfall waived or carried forward by the said Commission shall be adjusted first and only the remaining additional procurement beyond the threshold renewable purchase obligation-being that specified by the Appropriate Commission or in the National Action Plan for climate change or in the tariff policy, whichever is higher shall be considered for issuance of RECs to the distribution licensees.

- (b) It has obtained a certification from the Appropriate Commission, towards procurement of renewable energy as provided in sub-clause (a) of this regulation."
- 4. The important findings and operative portion of orders Dt.20.08.2020 of Hon'ble APTEL in A.No 99 of 2020 & O.P No 2 of 2020 is as under:
 - 27. The definition of year' in both the Regulations means it is a Financial Year. Therefore, 'year' and 'financial year' in both the Regulations mean one and the same.
 - 28. In neither of the Regulations nowhere it says definition of Financial Year would be as provided in the Income Tax. Therefore, Financial Year in the common parlance would mean from 1st of April of a year ending with 31st of March of the next year. The complaint of the Appellant is that the APSPDCL had a shortfall in the consumption of renewable energy (solar) for FY 2017-18 as against prescription under the Regulations. However, State Commission and Central Agency totally ignored the letter dated 26.11.2019 of SLDC informing the State Commission that there is shortfall or deficit in the RPPO compliance by APSPDCL for the FY 2017-18. Therefore, according to them, the very issuance of recommendation of the State

Commission, which is the foundation for an action by the Central Agency is in total defiance of the procedure contemplated.

Reading of the Regulations of 2010 makes it clear that if an obligated entity seeks RECs for a relevant year/performance year i.e., FY 2018-19 in terms of Regulation 5(1A)(a), the distribution licensee must establish that it had procured renewable energy in the previous Financial Year i.e., FY 2017-18 in excess of its purchase obligation at a tariff determined under Section 62 or adopted under Section 63 of the Act. Apparently, the Tariff Policy of 2016 specified non-solar target at 9.50% and solar target at 4.75 %. This is not in dispute. The records clearly indicate that for the FY 2017-18, APSPDCL had achieved its RPO obligation of solar energy only to an extent of 4.07% as against tariff policy target of 4.75%. The shortfall in solar energy procurement is about 6,81,109 MWh in the FY 2017-18. Therefore, the first condition is, in the previous financial year to the performance year the purchase of RE Certificates must be in excess of RPO in terms of sub-Regulation (a) of Regulation 5(1 A). The first proviso to this sub-regulation says such RPO specified for the performance year cannot be lower than the RPO fixed for the previous year.

- 29. Second proviso to sub-regulation (a) of 5(1A) further imposes a duty on the recommending authority and so also Central Agency to take note of any shortfall in procurement of non-solar or solar procurement obligation in the three previous years to the performance year including any shortfall which was either waived or carried forward by the Commission in those three years. If such shortfall is noticed, such shortfall must be first adjusted and only the balance excess/additional procurement beyond the threshold RPO can be taken into consideration for issuance of RE Certificates. Therefore, it is clear that the obligated entity must not only comply with sub-regulation (a) but also the conditions provided in both provisos thereunder.
- 30. According to Respondents, the obligated entity can apply for RECs only after completion of the performance year i.e., FY 2018-19. According to them, they could apply any time after 31.03.2019 and not earlier. Therefore, according to them, since the application for RECs was made in 2019, previous Financial Year has to be taken as FY 2018-19. We fail to understand the logic or rationale behind said stand of the Respondent/Discom, State Commission and Central Agency. The understanding of the

Financial Year in terms of definition would mean the year of performance for which RECs are sought. Even if application is made subsequent to 31.03.2019, the relevant performance year cannot be different than the year in which the consumption of renewable energy has to be seen in terms of Regulation 5(1A)(a) of 2010 Regulations. In other words, even if the distribution licensee seeks RE Certificates subsequent to 31.03.2019, one has to assess or consider the compliance of renewable energy purchase obligation only for the year 2018-19. The reference to previous Financial Year in Sub-Regulation (a) would mean previous Financial Year to the performance year. In this case, performance year is Financial Year 2018-19 and one has to see whether Respondent/Discom has purchased RE Certificates in excess of RPO between 01.04.2017 to 31.03.2018. Therefore, the year of performance or financial year for which RECs sought for by the Discom cannot be anything but 2018-19. In terms of Regulation (a) of 5(1 A), previous Financial Year would mean FY 2017-18. We are of the opinion that on the controversy so far as interpretation of Regulation 5(1A) and the meaning of previous financial year, there is no possibility of having two different views.

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33. From the facts of the present case, it is seen that on account of Government Order dated 01.10.2019 there was change so far as entitlement of RECs for FY 2017-18. This change resulted in re-adjustment of solar energy. If there was no such variation, RECs for FY 2017-18 so far as solar, it was not deficit. But with there-adjustment on account of Government Order dated 01.10.2019 there was deficit of solar procurement.

operative portion

- i. We are of the opinion that the certificates already sold by APSPDCL which were obtained for the performance of the financial year 2018-19, need not be disturbed.
- ii. So far as balance disputed RECs issued and unsold for the financial year of 2018-19, the Central Agency shall initiate revocation proceedings and cancel/ revoke the registration accordingly in terms of Regulation of 2010.
- 5. The petitioner's main grounds/justifications in support of its plea, are as under:
 - The order dt. 20.08.2020 of Hon'ble APTEL has been made about the already sold Renewable Energy Certificates, and also as to the balance unsold

Renewable Energy Certificates for the FY 2018-19 by him but not about subsequent years. Thus, in respect of subsequent years, the said order of APTEL has no effect and therefore, the procedure in vogue needs to be followed for FY 2019-20 and FY 2020-21 years, without reference to the said order of APTEL.

- ii. The petition has regularly paid the annual accreditation fees for APSLDC and annual registration Fees for NLDC every year up to the financial Year 2022 -23. The same has been acknowledged by the said agencies. Therefore, its registration is live with the nodal agency NLDC under the REC certificates mechanism.
- iii. The annual status report on compliance of Renewable Power Purchase Obligation (RPPO) submitted to the Commission by the state agency i.e APSLDC by letters dated 04.02.2022 & 27.07.2022 for Financial Year 2019-20 & Financial Year 2020-21 respectively, fortifies the petitioner's compliance of statutory requirements to get RECs.
- iv. The petitioner filed civil appeal no 256-257 in the Hon'ble Supreme Court on the orders of the Hon'ble APTEL.
- 6. As there is no order of Hon'ble Supreme Court on the civil appeal of the petitioner as of now, we examined the petitioner's procurement of RE as certified by the nodal agency APSLDC with reference to the CERC regulations as interpreted by the Honourable APTEL in the above discussed order to determine the entitlement of the petitioner for RECs recommendation.

Criteria to be followed as per the Hon'ble APTEL's order:

- (i) If the distribution licensee seeks RECs for a relevant year/performance year, in terms of Clause 5(1A)(a), it must establish that It has procured renewable energy, in the previous financial year at a tariff determined under Section 62 or adopted under section 63 of the Act, in excess of the renewable purchase obligation as may be specified by the appropriate Commission or in the National Action Plan on climate change or in the tariff policy whichever is higher.
- (ii) The renewable purchase obligation specified for a relevant Year/performance year by the Andhra Pradesh Electricity Regulatory Commission shall not be not lower than that for the previous financial year

(iii) Any shortfall in procurement against the non-solar or solar power procurement obligation set by APERC in the previous three years, including the shortfall waived or carried forward shall be adjusted first and only the remaining additional procurement beyond the threshold renewable purchase obligation-being that specified by the APERC or in the National Action Plan for climate change or in the tariff policy, whichever is higher shall be considered for issuance of RECs to the distribution licensees

FY 2019-20:

- 7. As per the above criteria laid down by the Hon'ble APTEL for recommending RECs to APSPDCL for FY 2019-20, Relevant year/performance year is FY 2019-20 and previous year to relevant year is FY 2018-19, and previous three years to the relevant year are FY 2018-19, FY 2017-18 and FY 2016-17, and the applicant for RECs shall satisfy the following:
 - i. Procurement of RE by APSPDCL in FY 2018-19 shall be more than the target set by MoP since it is higher than the target set by the APERC.
 - ii. The renewable purchase obligation specified for FY 2019-20 by the Andhra Pradesh Electricity Regulatory Commission shall not be not lower than that for FY 2018-19.
 - iii. Any shortfall in procurement against the non-solar or solar power procurement obligation set by APERC in the previous three years FY 2018-19, FY 2017-18, and FY 2016-17 shall be adjusted first and only the remaining additional procurement beyond the RPO set by MoP since it is higher than the RPO target set by APERC which shall be considered for RECs for FY 2019-20.

In order to verify whether APSPDCL justified the above criteria, we examined the figures in the following tables:

RPO Targets specified by MoP and APERC:

Year	2019	9-20	2018	3-19	2017	7-18	2016-17		
	MoP	APERC	MoP	APERC	MoP	APERC	MoP	APERC	
Non Solar	10.25%	8%	10.25%	7%	9.5%	6%	8.75%	4.75%%	
Solar	7.25%	5%	6.75%	4%	4.75%	3%	2.75%	0.25%%	
Total	17.50%	13%	17.00%	11%	14.25%	9%	11.50%	5%	

RE procurement Details:

Sl.no	Details	Solar RE (MWH)	Non-Solar RE (MWH)
1	RE to be procured by APSPDCL as per the MoP target for FY 2019-20 (MoP target is higher than SERC target)	2598859 (35846334 X 7.25%)	3674249 (35846334 X 10.25%)
2	RE procured by APSPDCL in relevant year (FY 2019-20)	4580413	5566415
3	Excess of RE Energy procured for FY 2019-20 (2-1) to be considered for RECs	1981554	1892166
4	RE to be procured by APSPDCL as per the MoP target for FY 2018-19 (MoP target is higher than SERC target)	2437188 (36106483 X 6.75 %)	3700915 (36106483 X 10.25 %)
5	RE procured by APSPDCL during FY 2018-19	4398018	7736191
6	Excess of RE Energy procured during FY 2018-19 (5-4)	1960830	4035276
7	RE to be procured by APSPDCL as per this Commission target for FY 2017-18	974074 (32469148 X 3%)	1948149 (32469148 X 6%)
8	RE procured by APSPDCL during FY 2017-18	2003299	4208604
9	Excess of RE Energy procured during FY 2017-18 (8-7)	1029225	2260455
10	RE to be procured by APSPDCL as per this Commission target for FY 2016-17	80274 (32109453 X 0.25%)	1525199 (32109453 X 4.75%)
11	RE procured by APSPDCL during Financial Year FY 2016-17	893590	3230444
12	Excess of RE Energy procured during FY 2016-17 (11-10)	813316	1705245

^{*} Decimals are rounded off to the nearest digit.

As could be seen from the above tables, APSPDCL has procured RE in excess of the highest target among APERC and MoP in relevant year FY 2019-20 and previous year of relevant year FY 2018-19, and also there is no shortfall in RE procurement in three previous years of relevant year against the target RPO specified by this Commission,

and hence no adjustment is required for excess RE to be considered for RECs for FY 2019-20. The RPO target set by this Commission for the relevant year FY 2019-20 is not less than the previous year FY 2018-19.

FY 2020-21:

- 8. Similarly, for FY 2020-21, Relevant year/performance year is FY 2020-21 and previous year to relevant year is FY 2019-20, and previous three years to the relevant year are FY 2019-20, FY 2018-19 and FY 2017-18. The applicant shall satisfy the following:
 - iv. Procurement of RE by APSPDCL in FY 2019-20 shall be more than the target set by MoP since it is higher than the target set by the APERC.
 - v. The renewable purchase obligation specified for FY 2020-21 by the Andhra Pradesh Electricity Regulatory Commission shall not be not lower than that for FY 2019-20.
 - vi. Any shortfall in procurement against the non-solar or solar power procurement obligation set by APERC in the previous three years FY 2019-20, FY 2018-19, and FY 2017-18 shall be adjusted first and only the remaining additional procurement beyond the RPO set by MoP since it is higher than the RPO target set by APERC shall be considered for RECs for FY 2019-20. In order to verify whether APSPDCL justified the above criteria, we examined the figures in the following tables:

RPO Targets specified by MoP and APERC:

Year	2020)-21	2019	9-20	2018	3-19	2017-18		
	MoP	APERC	MoP	APERC	MoP	APERC	MoP	APERC	
Non Solar	10.25%	9%	10.25%	8%	10.25%	7%	9.5%	6%	
Solar	8.8%	6%	7.25%	5%	6.75%	4%	4.75%	3%	
Total	19.0%	15%	17.50%	13%	17.00%	11%	14.25%	9%	

RE procurement details:

Sl.no	Details	Solar RE (MWH)	Non-Solar RE (MWH)
1	RE to be procured by APSPDCL as per the MoP target for FY 2020-21 (MoP target is higher than SERC target)	1913829 (21872328 X 8.75%)	2241914 (21872328 X10.25%)
2	RE procured by APSPDCL in relevant year (FY 2020-21)	4198856	3067242
3	Excess of RE Energy procured for FY 2020-21 (2-1) to be considered for RECs	2285027	825328
4	RE to be procured by APSPDCL as per the MoP target for FY 2019-20 (MoP target is higher than SERC target)	2598859 (35846334 X 7.25%)	3674249 (35846334 x 10.25%)
5	RE procured by APSPDCL during FY 2019-20	4580413	5566415
6	Excess of RE Energy procured during FY 2019-20 (5-4)	1981554	1892166
7	RE to be procured by APSPDCL as per this Commission target for FY 2018-19	1444259 (3610648 <mark>3</mark> X 4%)	2527454 (36106483 X 7%)
8	RE procured by APSPDCL during FY 2018-19	4398018	7736191
9	Excess of RE Energy procured during FY 2018-19 (8-7)	2953759	5208737
10	RE to be procured by APSPDCL as per this Commission target for FY 2017-18	974074 (32469148 X 3%)	1948149 (32469148 X 6%)
11	RE procured by APSPDCL during Financial Year FY 2017-18	2003299	4208604
12	Excess of RE Energy procured during FY 2017-18 (11-10)	1029225	2260455

^{*} Decimals are rounded off to the nearest digit.

As could be seen from the above tables, APSPDCL has procured RE in excess of the highest target among APERC and MoP in relevant year FY 2020-21 and previous year of relevant year FY 2019-20. Also there is no shortfall in RE procurement in three previous years of relevant year against the target RPO specified by this Commission,

- and hence no adjustment is required for excess RE to be considered for RECs for FY 2020-21. The RPO target set by this Commission for the relevant year FY 2020-21 is not less than the previous year FY 2019-20.
- 9. As detailed above, we are satisfied that the petitioner has procured the RE in compliance with the observations of the Hon'ble APTEL and CERC regulations (supra), and thus the petitioner is entitled for the recommendation of RECs for FY 2019-20 and FY 2020-21. Further, as submitted by the petitioner, the revocation of the registration by NLDC is only for FY 2018-19, and hence the petitioner is not precluded from redemption of RECs in excess of RPO for the financial years FY 2019-20 and FY 2020-21. Therefore, we are inclined to issue a recommendation in favour of the petitioner for FY 2019-20 and FY 2020-21 in terms of the CERC regulations. Accordingly, the recommendation in the prescribed format is issued and enclosed with this order.
- 10. The income realised by the sale of RECs by the petitioner will be adjusted in its True-up for Retail Supply Business for the 4th control period as the true-up of Power Purchase Cost for Financial Year 2019-20 & 2020-21 has been completed or any ensuing true-up whichever is earlier.
- 11. Accordingly, the petitions are disposed of.

Sd/- Sd/- Sd/Thakur Rama Singh Justice C.V. Nagarjuna Reddy P. Rajagopal Reddy
Member Chairman Member



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

FORMAT - 3.1.1

Recommendation by Andhra Pradesh Electricity Regulatory Commission for issuance of RECs for Financial Year 2019-20 Name of Distribution Licensee: SOUTHERN POWER DISTRIBUTION COMPANY OF A.P. LIMITED TIRUPATI

It is hereby certified that:

Distribution Company has procured renewable energy, in the previous financial year, at a tariff determined under Section 62 or adopted under Section 63 of the Act, in excess of the renewable purchase obligation specified in the National Action Plan on Climate Change/Tariff Policy.

The renewable purchase obligation specified for a Financial Year 2019-20 by the Andhra Pradesh Electricity 2.

Regulatory Commission is not lower than that for the previous financial year.

Shortfall/Excess in procurement against the non-solar or solar power procurement obligation set by the Andhra Pradesh Electricity Regulatory Commission in the previous three years, has been carry forwarded and adjusted first 3. and only the additional procurement beyond the threshold renewable purchase obligation being specified in the National Action Plan on Climate Change / Tariff Policy, which is higher than that specified by the Andhra Pradesh Electricity Regulatory Commission has been considered for issuance of RECs to the distribution licensee.

The Distribution Licensee is eligible for Solar RECs and Non-Solar RECs as per the following details: 4.

S	4.	RPO as specified by SERC/NAPCC/T ariff Policy whichever is higher (in % of total energy Consumed) Please tick whichever is applicable (A)		Tota	A D E.	mption in MWh	RPO in MWh (C=B*A/100)						all st PO y in in in in in in in in in	Surplus in MW	h (F=D-C-E)
		Solar	Non-Sol ar	ol Sol	Non- Solar	Total	Solar	Non-Solar	Total	Solar	Non-Solar	Sol	No n- Sol ar	Solar	Non-Solar
	The Later		10.059			35846334.65	2598859.262	3674249.302	6273108.564	4580413.336	5566414.938			1981554,074	1892165.636
82	EV 2010.20	7 25%	10 /37					in at the DD	O set by SERC	in Previous	Three Years				
1	FY 2019-20	7.25%	10.237	1		Pr	ocurement ag	gainst the Kri				1	1		
				1 T		1	1444259.32	2527453.81	3971713.13	4398017.7	7736191.2			2953758.38	5208737.39
1 1 2	FY 2019-20 FY 2018-19 FY 2017-18	7.25% 4% 3%	7%			36106483 32469148		75-75-60				-		2953758.38 1029224.56	5208737.39 2260455.12

Issue Date:05.12.2022

Commission Secretary(i/c)



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

FORMAT - 3.1.1

Recommendation by Andhra Pradesh Electricity Regulatory Commission for issuance of RECs for Financial Year 2020-21

Name of Distribution Licensee: SOUTHERN POWER DISTRIBUTION COMPANY OF A.P. LIMITED TIRUPATI

It is hereby certified that:

- Distribution Company has procured renewable energy, in the previous financial year, at a tariff determined under Section 62 or adopted under Section 63 of the Act, in excess of the renewable purchase obligation specified in the National Action Plan on Climate Change/Tariff Policy.
- The renewable purchase obligation specified for a Financial Year 2020-21 by the Andhra Pradesh Electricity Regulatory Commission is not lower than that for the previous financial year.
- 3. Shortfall/Excess in procurement against the non-solar or solar power procurement obligation set by the Andhra Pradesh Electricity Regulatory Commission in the previous three years, has been carry forwarded and adjusted first and only the additional procurement beyond the threshold renewable purchase obligation being specified in the National Action Plan on Climate Change / Tariff Policy, which is higher than that specified by the Andhra Pradesh Electricity Regulatory Commission has been considered for issuance of RECs to the distribution licensee.
- 4. The Distribution Licensee is eligible for Solar RECs and Non-Solar RECs as per the following details:

S No	YEAR	speci SERC/N riff which higher total Cons Plea which	PO as iffed by NAPCC/Ta Policy hever is r (in % of energy sumed) sse tick hever is cable (A)			onsumption in IWh (B)	RPO in MWh (C=B*A/100)				ocured in the or in MWh (D)	Shortfall in procurement against the RPO set by SERC in previous three years including the shortfall waived or carried forward by SERC in MWh. If applicable then mention the year wise details by adding the separate row for each year (E)		Surplus in MWh (F=D-C-E)	
		Solar	Non-Sol ar	So lar	Non- Solar	Total	Solar	Non-Solar	Total	Solar	Non-Solar	Solar	Non- Solar	Solar	Non-Solar
1	FY <u>2020-21</u>	8.75%	10.25%			21872328.54	1913828.747	2241913.675	4155742.423	4198855.591	3067242,309			2285026.844	825328.6335
						P	rocurement aga	inst the RPO set	by SERC in Pro	evious Three Y	ears				
1	FY 2019-20	5%	8%			35846334.65	1792316,733	2867706.772	4660023.505	4580413.336	5566414.938			2788096.604	2698708,166
2	FY 2018-19	4%	7%			36106483	1444259.32	2527453.81	3971713.13	4398017.7	7736191.2			2953758.38	5208737,39
3	FY 2017-18	3%	6%			32469148	974074.44	1948148.88	2922223.32	2003299	4208604			1029224.56	2260455.12

Issue Date:05.12.2022

Commission Secretary(i/c)