

**BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION
BAYS No. 33-36, SECTOR-4, PANCHKULA- 134112, HARYANA**

**Case No. HERC/PETITION NO. – 24 of 2021
Date of Hearing : 06.10.2021
Date of Order : 11.10.2021**

IN THE MATTER OF:

Petitioner under Regulation 66 of the Haryana Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2017 for issuance of orders or directions towards netting of excess Wind Energy Consumption by the Petitioner at its Karnataka Cement Plant against its Non-Solar Renewable Purchase Obligation in the State of Haryana.

Petitioner

M/s. Shree Cement Limited (SCL)

Present on behalf of the Petitioner, through Video Conferencing

1. Shri Amarjeet Singh, Vice-President

Quorum

**Shri R.K. Pachnanda
Shri Naresh Sardana**

**Chairman
Member**

ORDER

1. The present petition has been filed by M/s. SCL seeking to allow the renewable energy consumption by the petitioner at its Karnataka Cement Plant to offset its RPO against conventional open access energy consumed at its cement grinding unit situated in the state of Haryana. The specific relief sought by the petitioner is as under:-
 - i) The Hon'ble Commission by exercising its power under regulation 66 of HERC (Terms and Conditions for Determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2017, issue orders or directions in line with Regulation 66 HERC RE Regulations that would allow excess renewable energy consumption by the petitioner at its Karnataka Cement Plant to offset its RPO against conventional open access energy consumed at its cement grinding unit situated in the state of Haryana.
 - ii) To pass any other order or direction which this Hon'ble Commission deems just and proper in the facts and circumstances.
2. The case was heard through video conferencing, in view of the Covid-19 pandemic, on 06.10.2021, as scheduled.

The Commission observed that similar prayer filed by the same petitioner (M/s. SCL) was rejected by the Commission earlier in its order dated 28.09.2020 (HERC/PRO-11 of 2020). The operative part of the ibid order of the Commission dated 28.09.2020, is reproduced hereunder:-

- “8.
The Commission finds some merit in the submission of State Nodal Agency HAREDA that verification of renewable energy consumption of the petitioner in Karnataka is not viable. It is added that energy generated from the RE CGP of the petitioner in Karnataka and self-consumption / retention thereto is not verifiable unless the CGP is registered with the Central Agency by 31st March 2016.
- The Commission has perused the regulation 66 of the HERC RE Regulations relied upon by the petitioner for seeking relief in the present case. It is observed that the ibid regulation provides for issue of Orders and procedural direction with regard to implementation of the HERC RE Regulations within the four corners of the Act and the RE Regulations framed thereunder. The relief sought herein is neither specifically covered under the Act nor the HERC RE Regulations as such.*
9. *In view of the above findings including CERC dispensation on the issue, the Commission is of the considered view that it is open for the petitioner herein, in case they are eligible, to sell RECs emanating from the RE CGP in Karnataka separately at the power exchanges approved by the CERC and the petitioner's company in Haryana can purchase the requisite RECs from the exchange for RPO compliance in accordance with the HERC RPO target in vogue. The Commission has also taken note of the fact as also agreed to by the Petitioner as well as HAREDA that no SERCs, so far, have allowed the dispensation as prayed for by the petitioner herein.*
10. *The Commission has carefully perused the Submissions of the Petitioner that under section 86(1)(e) of the Electricity Act, 2003 requirement of renewable consumption, to offset RPO against conventional consumption in the geographical limit of a particular Discom, is not restricted within geographical limits of that particular Discom for a single legal entity thereby implying that excess renewable consumption in other geographical areas falling in different Discoms would satisfy the total RPO of the legal entity owning multiple manufacturing assets. It is observed the Section (Supra) provides for promotion of RE generation by providing suitable measure of connectivity with the Grid and sale of electricity to any person and also a percentage of the total consumption of electricity in the area of a distribution licensee. The Commission, as previously mentioned has specified the requisite RPO percentage that can be fulfilled either by purchase of RE Power or RECs irrespective of the geographical area. Such statutory obligation / function of SERC is State specific. Hence, the interpretation to the said Section of the Act given by the petitioner is far fetched and un-acceptable unless such interpretation comes from a Court / Tribunal of competent jurisdiction.*

11. *The provisions of National Electricity Policy cited by the petitioner has been perused. The Commission observes that they mostly refer to feasibility potential, additional RE Generation and encouraging private sector participation in RE generation. It is reiterated that, based on RE Potential in Haryana, the RPO targets have been fixed in Haryana. Further, to encourage RE Generation and private sector participation thereto, the HERC RE Regulations as well as RE promotional policies of the State Government / HAREDA notified and amended from time to time as well as competitive bids for RE Power floated by the Discoms / HPPC provides for adequate opportunity for private sector participation and additional power generation from RE sources in Haryana.*
12. *In light of the above the Commission finds the prayer of the Petitioner devoid of merit. Accordingly, rejects the same.”*
3. The Commission further observes that the petitioner had also filed its comments on the Draft HERC RE Regulations, 2021, raising similar issue. However, the Commission in its order dated 27.04.2021, had considered the comments filed by the present petitioner and decided that **“no changes in the regulations, on this issue, are required.”**
4. In the circumstances stated above, the petitioner was directed to justify the circumstances which triggered the filing of the present petition, which is exactly similar to the petition already decided by the Commission, vide its order dated 28.09.2020 w.r.t. change of law, judgement of Hon’ble Supreme Court, Hon’ble APTEL etc.
5. Shri Amarjeet Singh, Vice-President, M/s. SCL quoted the order dated 09.04.2019 passed by the Hon’ble Odisha Electricity Regulatory Commission, in the matter of M/s OCL India Limited Vs Odisha Renewable Energy Development Agency (OREDA) (Case no. 58/2017), wherein excess solar consumption from captive solar power plant of the petitioner by its cement facility in the State of West Bengal, has been allowed to be used to offset RPO obligation by its cement manufacturing facility located in the state of Odisha.
On the basis of the above cited judgment, Shri Singh pleaded for the grant of similar relief from this Commission.
6. The Commission has examined the submissions of the petitioner and observes that the case cited by the petitioner of the Odisha Electricity Regulatory Commission is as per the regulations of that Commission. As per Section 86(1)(e) of the Electricity Act, 2003, the consumption of electricity has to be in the area of the distribution licensee and such statutory obligation is state specific. Further, the Commission has already decided the similar issue filed by the same petitioner vide its order dated 28.09.2020 and subsequent to that, there are no change of circumstances caused by change of law, judgement of the Hon’ble Supreme Court or the Hon’ble APTEL which may warrant the Commission to

reconsider its decision. Accordingly, nothing survives for consideration, as the present petition is hit by the applicability of 'doctrine of res-judicata'.

7. In terms of the above, the present petition is dismissed as infructuous.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 11.10.2021

Date: 11.10.2021
Place: Panchkula

(Naresh Sardana)
Member

(R.K. Pachnanda)
Chairman

HEERC