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PUBLIC NOTICE

Sub: Previous publication for OERC (Renewable Purchase Obligation and its Compliance) Regulation, 2010

The Commission has framed the OERC (Renewable Purchase Obligation and its Compliance) Regulations, 2010 in accordance with Section 61, 66 and 86(1)(e) of the Electricity Act, 2003.

The Commission hereby publishes the proposed OERC (Renewable Purchase Obligation and its Compliance) Regulations, 2010 for information of the general public under Section 181(3) of the Electricity Act, 2003.

The proposed Regulations is available in the Commission's website: www.orierc.org. The copies of the proposed Regulations may also be obtained from the Commission's office by payment of Rs.10.00 in shape of Bank Draft drawn in favour of OERC or in cash to be deposited with the Accounts Officer, OERC.

Before finalisation of the said Regulation, the Commission invites opinion through this previous publication u/s 181(3) of the Electricity Act, 2003. Interested persons/institutions/associations may furnish their suggestions/opinions on the said amendment to the undersigned on or before 20.04.2010(by 5.00 P.M.). On receipt of the responses from different quarters, the Commission may, in appropriate cases, bring the modifications, if any, to the proposed Regulations and approve the same for publication in the official gazette.

By order of the Commission

(P.K.Swain)
Secretary

**ORISSA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN, UNIT-VIII,
BHUBANESWAR**

NOTIFICATION

Dated the 16th March, 2010

No.OERC-Engg-02/2010/3523 - In exercise of powers conferred under sections 61, 66, 86(1)(e) and 181 of the Electricity Act, 2003 and all other powers enabling it in this behalf, and after previous publication, the Orissa Electricity Regulatory Commission hereby makes the following Regulations for the Renewable Purchase Obligation and its compliance:

1. Short title and commencement

- (1) These Regulations may be called the OERC (Renewable Purchase Obligation and its Compliance) Regulations, 2010.
- (2) These Regulations shall come into force from the date of their publication in the Official Gazette.
- (3) These Regulations shall apply throughout the State of Orissa.

2. Definitions and Interpretation: 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 from time to time under the CERC (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 Orissa Electricity Regulatory Commission as referred in subsection (1) of section 82 of the Act;
- f) 'forbearance price' means the ceiling price as determined by the Central Commission in accordance with the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable energy Certificate for Renewable Energy Generation) Regulations, 2010, as amended from time to time, within which only the Certificate can be dealt in power exchange;
- g) 'MNRE' means the Ministry of New and Renewable Energy, Government of India;
- h) 'Obligated Entity' means the distribution licensees (on any entity procuring power on their behalf), consumer owning the captive power plants and open access

consumer in the State of Orissa, which is mandated to fulfill renewable purchase obligation under these Regulations;

- i) 'Power Exchange' means any exchange operating as power exchange for electricity in terms of the orders issued by the Central Commission;
- j) "Renewable energy sources" means renewable sources such as small hydro, 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 MNRE;
- k) 'Renewable Purchase Obligation (RPO)' means the requirement specified through these Regulations by the Commission under Clause (e) of sub-section (1) of section 86 of the Act or by way of orders from time to time for the obligated entity to purchase electricity from renewable energy sources;
- l) 'State Agency' means the agency in the State of Orissa to be designated by the Commission to act as the agency for accreditation and recommending the renewable energy projects for registration and to undertake functions under these regulations;
- m) 'Year' means a financial year.
- n) 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. **Renewable Purchase Obligation**

- (1) Every Obligated Entity shall purchase not less than 5 % of its total annual consumption of energy from renewable energy sources under the Renewable Purchase Obligation from 2011-12 onwards with 0.5 percentage increase every year thereafter till 2015-16 or review by the Commission earlier, if any.

Provided that 0.5 percentage point out of the renewable purchase obligation so specified in the year 2011-12 shall be procured from generation based on solar as renewable energy source and shall be increased at a rate of 0.25 percentage every year thereafter till 2015-16 or review by the Commission earlier, if any.

Provided further, such obligation to purchase renewable energy shall be inclusive of the purchases, if any, from all the renewable energy sources already being made by concerned obligated entity.

Provided also that the power purchases under the power purchase agreements for the purchase of renewable energy sources already entered into by the obligated entities and consented to by the Commission shall continue to be made till their present validity, even if the total purchases under such agreements exceed the percentage as specified hereinabove.

4. **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 Entities fulfilling the renewable purchase obligation by purchase of certificates, the obligation to purchase electricity from generation based on solar as renewable energy source can be fulfilled by purchase of solar certificates only, and the obligation to purchase electricity from generation based on renewable energy other than solar can be fulfilled by purchase of non-solar certificates.

- (2) Subject to such directions as the Commission may give from time to time, the Obligated Entities 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 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 clause (1) of this Regulation shall be deposited by the obligated entities to the State Agency in accordance with the detailed procedure issued by the Central Agency.

5. **State Agency**

- (1) The Commission shall designate an agency as 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 consistent with the procedures/rules laid by Central Agency for discharge of its functions under 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 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, to be recovered from the accredited entities and obligated entities.

- (5) If the Commission is satisfied that the State Agency is not able to discharge its functions satisfactorily, it may by general or special order, and by recording reasons in writing, designate any other agency to function as State Agency as it considers appropriate.

6. **Effect of default**

- (1) If the Obligated Entities does not fulfill 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 RPO 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, for purchase of the certificates:

Provided further that the Commission may empower an officer of the State Agency to operate the Fund and 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 also that the obligated entities shall be in breach of its licence condition if it fails to deposit the amount directed by the Commission within 15 days of the communication of such 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 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, the obligated entity can approach the Commission for carry forward of compliance requirement to the next year:

Provided further 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.

7. **Appointment of Compliance Auditors :**

The Commission may appoint from time to time Compliance Auditors to inquire into and report on compliance of these Regulations. The Auditor shall also certify the fund operated by State Agency and created under Regulation 6(1) of these Regulations. The Auditors could be an individual person or a firm having persons with qualification and experience in Finance or Accounts, Commerce and Engineering.

8. **Power to give directions :**

The Commission may from time to time issue such directions and orders as considered appropriate for the implementation of these Regulations and for the development of market in power for Renewable Energy Sources.

9. **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 on its own motion or on an application made before it by an interested person.

10. **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 being inconsistent with the provisions of the Act, Indian Electricity Grid Code, these Regulations, which appears to it to be necessary or expedient for the purpose of removing the difficulties.

11. **Power to Amend:**

The Commission may, at any time, add, vary, alter and modify the provisions of these Regulations through amendments.

(Secretary)