

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY  
(Appellate Jurisdiction)**

**APPEAL No. 85 of 2018**

**Dated: 29.01.2025**

**Present: Hon'ble Mr. Sandesh Kumar Sharma, Technical Member  
Hon'ble Mr. Virender Bhat, Judicial Member**

**IN THE MATTER OF:**

Indian Wind Power Association (IWPA)  
Through its Vice President  
513-514, 5<sup>th</sup> Floor, World Trade Centre,  
Barakhamba Road, New Delhi – 110001.

.....Appellant

Vs.

1. Rajasthan Electricity Regulatory Commission,  
Vidhyut Viniyamak Bhawan, Shahakar Marg,  
Near State Motor Garage, Jaipur,  
Through its Secretary.
2. Jaipur Vidyut Vitran Nigam Ltd.  
Through its Managing Director,  
Vidyut Bhawan, Janpath,  
Jaipur – 302 005.
3. Ajmer Vidyut Vitran Nigam Ltd.  
Through its Managing Director  
Vidyut Bhawan, Panchsheel Nagar,  
Makarwali Road, Ajmer – 305004.
4. Jodhpur Vidyut Vitran Nigam Ltd.  
Through its Managing Director,  
Near Power House, Industrial Area,  
Jodhpur – 342003.

5. Rajasthan Renewable Energy Corporation Ltd.  
Through its Chairman,  
E-166, Yudhisthir Marg,  
C-Scheme, Jaipur – 302005. ...Respondent(s)

Counsel for the Appellant(s) : Mr. Vishal Gupta  
Mr. Kumar Mihir

Counsel for the Respondent(s) : Mr. Raj Kumar Mehta for R-1  
  
Ms. Ranjitha Ramachandran  
Ms. Poorva Saigal  
Ms. Anushree Bardhan  
Mr. Shubham Arya  
Mr. Arvind Kumar Dubey for R-2,3&4

### **ORDER**

#### **PER HON'BLE MR. SANDESH KUMAR SHARMA, TECHNICAL MEMBER**

1. M/s. Indian Wind Power Association has filed the captioned appeal challenging the Order dated 14.11.2017 in Petition No. RERC- 867 /2016 passed by the Rajasthan Electricity Regulatory Commission whereby the State Commission has effectively waived the shortfall in the Renewable Purchase Obligation (RPO) of the distribution licensees of the State of Rajasthan *inter-alia* allowed the Distribution Licensees in the State to make up the shortfall in RPO in the Next five years.

2. During the hearing, the 2<sup>nd</sup> Respondent was directed to submit their compliance report in respect of the compliance of RPO. The relevant extract of the affidavit is reproduced as under:

**“ ADDITIONAL AFFIDAVIT ON BEHALF OF THE RAJASTHAN DISCOMS -  
RESPONDENT NO. 2, 3 AND 4 IN COMPLIANCE OF ORDER DATED 04.09.2024  
PASSED BY THIS HON’BLE TRIBUNAL**

I say that I Alok Kumar Pareek, Son of Late Sh. Shankar Lal Pareek aged 50 years, working as Executive Engineer (RA-I), in Rajasthan Urja Vikas and IT Services Limited, having its registered office at 132 KV GIS, Calgeri Road, Malviya Nagar, Jaipur, do hereby solemnly affirm and state as under:

1. I say that I am the Officer in Charge, of Respondent No. 2, 3 and 4 in the above matter and am duly authorized to make this affidavit.
2. I say that in terms of the Order dated 04.09.2024 passed by this Hon’ble Tribunal, the data in relation to the Renewable Purchase Obligations (**‘RPO’**) compliance is as under:-

YEAR	Total Energy(MU) excluding Hydel Energy from 2017-18	Total					
		Target		Achievement		Diff	Achievement Against target
		MU	%	MU	%	MU	%

<b>2010-11 (From Jan-March)</b>	13783.45	1171.59	8.50	393.43	2.85	778.16	<b>33.58</b>
<b>2011-12</b>	50076.74	3004.60	6.00	2583.67	5.16	420.93	<b>85.99</b>
<b>2012-13</b>	55311.48	3927.11	7.10	3487.67	6.31	439.45	<b>88.81</b>
<b>2013-14</b>	59092.86	4845.61	8.20	4259.74	7.21	585.88	<b>87.91</b>
<b>2014-15</b>	67423.22	6068.09	9.00	4524.82	6.71	1543.27	<b>74.56</b>
<b>2015-16</b>	69395.20	7078.31	10.20	5262.59	7.58	1815.72	<b>74.34</b>
<b>2016-17</b>	69221.16	7891.21	11.40	6227.59	9.00	1663.62	<b>78.91</b>
<b>2017-18</b>	67915.42	9677.95	14.25	7252.46	10.68	2425.49	<b>74.93</b>
<b>2018-19</b>	74422.91	9935.46	13.35	9217.92	12.39	717.54	<b>92.77</b>
<b>2019-20</b>	73497.98	11024.7	15	10928.71	14.87	95.99	<b>99.13</b>
<b>2020-21</b>	78762.46	13114	16.65	11021.76	13.99	2092.19	<b>84.05</b>
<b>2021-22</b>	84518.05	15618.9	18.48	13402.78	15.86	2216.16	<b>85.81</b>

3. I say that Rajasthan Electricity Regulatory Commission (the '**State Commission**') *vide* Order dated 14.11.2017 passed in Petition No. RERC/867/16 directed the Respondent No. 2, 3 and 4 ('**Rajasthan Discoms**') to make up the shortfall in the next five years by procuring renewable energy. The operative part of the Order dated 14.11.2017, *inter-alia*, read as under:

*"15. Considering the submissions of Discoms that they have made every effort to comply with RPO and have signed several PPAS under which requisite quantity of electricity could have been obtained for compliance of RPO. Commission overall find that there is compliance of RPO. Accordingly, Commission hold that there is no case made out to initiate action or impose penalty under Section 142 of the Act on the Discoms.*

*16. Commission has observed that even though adequate quantum of PPAS were signed by Discoms in the past, the generation in terms of energy was not to the expected level and consequently there is shortage in RPO in terms of energy. Therefore, Commission advise the Respondent Discoms to assess the energy requirement for compliance of RPO more realistically in advance and sign the PPA accordingly in future and comply with RPO Regulations without fail. So far as past shortfall is concerned, **Commission directs Discoms to make up the shortfall in the next five years by buying renewable energy which is now available in plenty through reverse bidding as being done now.**"*

[Emphasis Supplied]

4. I say that, in compliance to the Order dated 14.11.2017, the Rajasthan Discoms have under taken extensive efforts to meet the RPO shortfall. However, due to impact of global COVID-19 pandemic in FY 2020-21 and 2021-22, extensions in Scheduled Commercial Operation Date ('**SCOD**'s) by Ministry of New and Renewable Energy, supply chain shortages etc., some of the wind/solar projects got delayed leading to shortfall in the RPO. In this regard, the Rajasthan Discoms would crave leave to place on record the following salient aspects:

- i. The project wise capacity and SCOD scheduled by the Rajasthan Discoms vis-à-vis the actual delayed commissioning date of the wind projects is as under:-

<b>Sr. No.</b>	<b>Name of the Generating Company (Capacity)</b>	<b>Date of entering into the PSA</b>	<b>SCOD</b>	<b>Actual Commissioning Date</b>
1.	Adani Renewable Energy Holding Fifteen Limited (300)	PSA with SECI dated 26.08.2021	10.03.2023	Under cancellation.
2	Evergreen Power Mauritius Private Limited (150)			Jan-2025
3	JSW Future Energy Limited (150)			137.7 MW commissioned by 15-09-2024. 12.3 MW Out of 150 MW is expected to commission by 01-03-2025.
4	JSW Future Energy Limited (300)			15-09-2024

5	Ayana Renewable Power Six Private Limited(300)			20-02-2024
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- ii. The existing biomass power plants did not operate at 80% normative Plant Load Factor ('**PLF**'). Apart from the same, the three biomass projects with a cumulative capacity of 32.45 MW (227.40 MUs annually) have not been generating since 2018-19 on account of (no response has been received from generators in this respect.);
- iii. There was a delay in the setting up of 18 MW Waste to Energy plant by M/s. Jindal Urban Waste Management (Jaipur & Jodhpur) Ltd. since April 2019 due to the delay in signing of land lease agreement between power producer and respective Nagar Nigam. This capacity (126.144 MUs annually), which was originally scheduled to be commissioned in FY 2021, has now been postponed to July 2025; and
- iv. On 05.03.2019, the State Commission notified the "Rajasthan Electricity Regulatory Commission (Renewable Energy Certificate and Renewable Purchase Obligation Compliance Framework) (Third Amendment) Regulations, 2019 and capped the price of electricity component purchased under REC mechanism. Accordingly, the REC mechanism generators (total - 109 Nos solar and wind) approached the Hon'ble High Court of Rajasthan challenging the Third Amendment by way of Civil Writ Petition No 15139 of 2019 and Batch.. It was only on 31.05.2023 that the Hon'ble High Court issued an interim order permitting generators (who were so inclined) to withdraw their Petition and sign supplementary PPA with the Rajasthan Discoms for solar and wind energy. Pursuant thereto, the Rajasthan Discoms have signed Power Purchase

Agreements with 77 Solar generators and 16 Wind generators (against which 73 solar generators and 15 wind generators had furnished bills so far) but certain generators have not furnished their bills and the energy corresponding to these generators is approx. 23.87 MUs, which has yet to be accounted towards RPO compliance. In addition thereto, approx. 321.10 MW capacity of PPA are still under litigation before Hon'ble High Court and the energy generated from these generators has not been accounted from 01.04.2019 till date. A copy of the Interim order dated 31.05.2023 passed by the Hon'ble High Court is attached hereto and marked as **Annexure A**.

5. I say that had the events delineated at Para 4 above been adhered to, the Rajasthan Discoms would have met the RPO targets. The table illustrating the same is as under:

YEAR	Total Energy (MU) excluding Hydel Energy from 2017-18	Actual			In case capacity would have been commissioned as per envisaged planning.	
		Target	Achievement	Diff	Achievement	Diff
		MU	MU	MU	MU	MU
2020-21	78762.46	13114	11021.76	-2092.19	12180.25	-933.702
2021-22	84518.05	15618.9	13402.78	-2216.16	18075.94	2496.996



6. I say that the Rajasthan Discoms have undertaken extensive efforts for capacity addition of renewable power plants. A tabular statement of the capacity addition 2017 onwards is as under:-

YEAR WISE CAPACITY (in MW)				
F.Y.	Solar	Wind	Biomass	Total
Mar-17	1193.6	4121.16	101.95	5416.71
Mar-18	1661.6	4137.16	101.95	5900.71
Mar-19	2411.6	4139.16	101.95	6652.71
Mar-20	2178	3734.06	101.95	6014.01
Mar-21	2288	3734.06	101.95	6124.01
Mar-22	3057.5	3734.06	101.95	6893.51
Mar-23	3362	3730.31	109.95	7202.26
Mar-24	4010.5	4359.63	109.95	8480.08

7. I say that the above information may be taken on record and considered by this Hon'ble Tribunal."

3. From the above, it can be seen that the Rajasthan Discoms are achieving around 85% of the target and are making additional efforts to accomplish the goal in the coming years. The State Commission has also directed the Discoms to make up the shortfall in the coming years.

4. In the light of the above affidavit, the Appellant accepted the said submission made by the Respondents.

5. Accordingly, the Appeal stands disposed of in terms of the compliance report filed by the 2<sup>nd</sup> Respondent, however, the Discoms shall make up the shortfall as directed by the State Commission.

6. We make it clear that we have not passed any observation on the submission made. However, in the light of the provisions of the Electricity Act, 2003, and the relevant regulations of the State Commission, the Respondent Discoms are duty-bound to comply with the RPO obligations. Therefore, for future orders, they should adhere to the regulations specified.

7. The Appeal and IAs, if any, are disposed of in the above terms.

**PRONOUNCED IN THE OPEN COURT ON THIS 29<sup>th</sup> DAY OF JANUARY, 2025.**

**(Virender Bhat)**  
**Judicial Member**

**(Sandesh Kumar Sharma)**  
**Technical Member**

**REPORTABLE / ~~NON-REPORTABLE~~**

*pr/mkj*