

**Case No. 42 of 2019**

**Case for Verification of compliance of Renewable Purchase Obligation targets by  
Gigaplex Estate Pvt. Ltd. for FY 2017-18**

**Coram**

**I.M. Bohari, Member  
Mukesh Khullar, Member**

**Parties**

1. Gigaplex Estate Pvt. Ltd (GEPL)
2. Maharashtra Energy Development Agency (MEDA)
3. Maharashtra State Load Despatch Centre (MSLDC)

**Appearance**

- |              |   |                        |
|--------------|---|------------------------|
| 1. For GEPL  | : | Shri. Vikram Yermalkar |
| 2. For MEDA  | : | Shri. Manoj Pise       |
| 3. For MSLDC | : | None                   |

**ORDER**

**Date: 2 April, 2019**

1. The MERC (Renewable Purchase Obligation, its Compliance and Implementation of Renewable Energy Certificate Framework) Regulations, 2016 ('RPO Regulations 2016') specify the Renewable Purchase Obligation (RPO) targets for Obligated Entities, including GEPL as a Deemed Distribution Licensee, for FY 2017-18. The RPO targets specified in Regulation 7.1 are as below:

Year	Quantum of purchase (in %) from Renewable Energy sources (in terms of energy equivalent in kWh)		
	Solar	Non-Solar (other RE)	Total
	(a)	(b)	(c)
2016-17	1.00%	10.00%	11.00%
2017-18	2.00%	10.50%	12.50%
2018-19	2.75%	11.00%	13.75%
2019-20	3.50%	11.50%	15.00%

*Provided that each Distribution Licensee shall meet 0.2% per year of its Non-solar (other RE) RPO target percentage for the period from FY 2016-17 to FY 2019-20 by way of purchase from Mini Hydro or Micro Hydro Power Projects;*

2. Regulation 12 of the RPO Regulations, 2016 empowers the Commission to deal with shortfalls in compliance of RPO targets by Obligated Entities as follows:

*“12. RPO Regulatory Charges*

*12.1 If the Obligated Entity fails to comply with the RPO target as provided in these Regulations during any year and fails to purchase the required quantum of RECs, the State 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, RPO Regulatory Charges and the Forbearance Price decided by the Central Commission; separately in respect of Solar and Non-Solar RPO:*

*Provided that RPO Regulatory Charges shall be equivalent to the highest applicable preferential tariff during the year for Solar or Non-Solar RE generating sources, as the case may be, or any other rate as may be stipulated by the State Commission:*

*Provided further that the fund so created shall be utilised, as may be directed by the State Commission.”*

3. Through its Order dated 1 July, 2010 in Case No. 21 of 2010, the Commission designated MEDA, Pune as the State Agency to undertake the functions envisaged under the Regulations.
4. As per Regulation 10.4 of the RPO Regulations, 2016, a Distribution Licensee is required to submit, at the end of each financial year, a detailed statement of energy procured from Renewable Energy (RE) sources, certified by its auditors.
5. Vide its Order dated 25 July, 2018 in Case No. 213 of 2017 regarding compliance of RPO targets by GEPL for FY 2016-17, the Commission had observed that GEPL had fulfilled its Solar and Non-Solar RPO for FY 2016-17, however there was shortfall of 0.002 MU in Mini/Micro Hydro RPO. FY 2016-17 was first year of operation of GEPL. The Commission has stated as follows:

*“16. The Commission in its Daily Order dated 16 March, 2017 in Case No. 35 of 2017 has allowed Distribution Licensees and Obligated Entities to purchase RECs in FY 2017-18 to the extent of any shortfall in RPO compliance as on date, and to consider such purchase towards compliance of their RPO targets upto FY 2016-17. The Commission notes that FY 2016-17 was the first year of GEPL’s operation as a Deemed Distribution Licensee and as per directions of the Commission, GEPL has purchased Solar and non-Solar RECs to fulfill its shortfall for FY 2016-17 during the REC session in the month of April 2017.*

*17. The Commission observed that GEPL in its submission dated 8 December, 2017 has stated that as regards its Mini/Micro Hydro RPO target, it is unable to identify a*

source of hydro power/Mini Hydro power for such a small quantum of power requirement to fulfill mini/micro hydro power RPO. The Commission notes that, while the RPO Regulations, 2016 (effective from FY 2016-17) provide for that target to be met by purchase of Non-Solar RECs depending on the circumstances of each case (since there are no RECs specifically for Mini/Micro Hydro power), the earlier RPO Regulations, 2010 had no such provision. However, in its Order dated 30 March, 2016 in Case No. 30 of 2016, the Commission had provided the following dispensation to Reliance Infrastructure Ltd. (Distribution) (RInfra-D) with regard to its shortfall upto FY 2015-16:

“7. Considering the circumstances cited by RInfra-D, the Commission considers it appropriate to address the consequent difficulty under the RPO Regulations, 2010 by allowing RInfra-D to compensate for the shortfall in meeting its Mini/Micro Hydro RPO targets for the period from FY 2010-11 to FY 2015-16 by purchase of Non –Solar RECs to that extent...”

As regards the other Distribution Licensees, the Order stated that:

“8. The Commission notes that, separately, hearings have been held recently regarding the verification of RPO compliance by Distribution Licensees, including RInfra-D, and those matters are awaiting final Orders by the Commission. While similar issues regarding the Mini/Micro Hydro targets have been raised in those proceedings by some Licensees, those Cases pertain to FY 2014-15 while RInfra-D has specifically approached the Commission for the period upto FY 2015-16 through this separate Petition. As regards the other Licensees, the Commission would provide a suitable dispensation as may be appropriate through its Orders in those Cases.”

The Commission has provided the same dispensation to some other Licensees subsequently. Considering the circumstances of the shortfall of GEPL, and in exercise of its powers to relax and to remove difficulties under Regulations 18 and 20 of the RPO Regulations, 2010, the Commission allows GEPL to meet the shortfall against its Mini/Micro Hydro target for FY 2016-17 by purchase of Non-Solar RECs in FY 2017-18 or in FY 2018-19 (to the extent that it has not already done so in FY 2016-17).

18. As regards the stand-alone and cumulative surplus against the Solar and Non-Solar RPO at the end of FY 2016-17 the Commission notes that the Central Electricity Regulatory Commission (CERC) REC Regulations (Third Amendment) dated 30 December, 2014 provides Distribution Licensees the option to obtain tradable RECs against the excess over the RPO target by applying to the Central Agency for issue of RECs provided certain conditions are met. In pursuance of its Order dated 11 January, 2016 in Case No 39 of 2015 and Order dated 16 June, 2017 in Case No 171 of 2016 the Secretariat of the Commission has issued certificates in the prescribed format to enable Reliance Infrastructure Ltd and Tata Power Company Limited- Distribution respectively to approach the Central Agency accordingly in respect of the their excess over Solar and Non-Solar RPO targets in respective years. GEPL may explore this option in the first instance.

- 19 GEPL in its submission dated 8 December, 2017 has requested the Commission to allow carrying forward Solar Obligation for FY 2017-18 to the next financial year.

*Also GEPL has filed a separate Petition seeking carry forward of Solar Obligation for FY 2017-18 to the next financial year i.e. FY 2018-19. However, since the Commission has initiated the present proceedings for RPO compliance verification for FY 2016-17 GEPL's request will be dealt with separately and the Commission would take a call at appropriate time*

6. In accordance with Regulation 9.5, MEDA, vide its letter dated 21 July, 2018 submitted the RPO settlement data for FY 2017-18 in respect of GEPL which is summarized below:

**TABLE 1: RPO Settlement Data for GEPL as furnished by MEDA**

<b>RPO settlement data for GEPL as furnished by MEDA</b>					
<b>Item</b>	<b>FY 2016-17</b>		<b>FY 2017-18</b>		<b>Cumulative RPO (Surplus)/ Short fall</b>
	<b>%</b>	<b>Mus</b>	<b>%</b>	<b>Mus</b>	<b>Mus</b>
<b>Gross Energy consumption</b>	100%	12.27	100%	21.01	
<b>Solar RPO</b>					
Target	1.00%	0.1227	2.00%	0.4202	0.5429
Achievement	0.71%	0.087	0.167%	0.035	0.1220
Shortfall /(Surplus)	0.291%	0.036	1.833%	0.385	0.4209
<b>Non-Solar RPO</b>					
Target	10.00%	1.227	10.50%	2.206	3.433
Achievement	7.09%	0.870	12.14%	2.550	3.420
Shortfall /(Surplus)	2.91%	0.357	-1.64%	-0.344	0.013
<b>Mini-Micro RPO(Within Non-Solar)</b>					
Target	0.20%	0.002	0.20%	0.004	0.007
Achievement	0.00%	0.00	0.00%	0.00	0.000
Shortfall /(Surplus)	0.20%	0.002	0.20%	0.004	0.007

According to MEDA, GEPL has shortfalls as against its standalone and cumulative Solar and Mini-Micro RPO target. However, it has fulfilled its stand alone Non-Solar RPO target.

7. The Commission asked GEPL to submit its response to the data furnished by MEDA. In its response dated 16 November, 2018, GEPL stated as follows:

7.1 MEDA has not considered the non-solar Renewable Energy Certificates (**RECs**) procured towards compliance of Mini/Micro Hydro RPO. GEPL has suggested corrections to that effect.

7.2 As regards the status of compliances as per the directives given by the Commission in previous Orders for the RPO compliance verifications, including for action taken prior to and during FY 2017-18, GEPL stated that:

To fulfil the RPO compliance targets for the FY 2016-17 to FY 2017-18, GEPL has procured equivalent amount of Non-Solar and Solar REC from the Power Exchange India Ltd. Details of such purchase are as follows:

Financial Year	Obligation Type	Obligation MU	REC Purchased MUs	Pending till March, 2017
FY 2016-17	Solar	0.1227	0.087	0.0357
	Non-Solar	1.227	0.87	0.357

#### Final REC Settlement of FY 2016-17

Financial Year	Obligation Type	Shortfall (MU)	Total Purchase in FY 2017-18 (MU)	Shortfall/ / (Surplus) after adjustment (MU)
FY 2016-17	Solar	0.0357	0.035	0.00
	Non-Solar	0.357	2.55	-2.19

#### REC Settlement for FY 2017-18

Financial Year	Obligation Type	Target (MU)	Met (MU)	Shortfall/ / (Surplus) after adjustment (MU)
FY 2017-18	Solar	0.4202	0.0	0.4195
	Non-Solar	2.20605	2.1886	0.02
	Non-Solar	0.0044	0.0044	0.00

7.3 GEPL is not in a position to bifurcate the Mini – Hydro compliance from Non – Solar compliance target as the fulfillment of purchase was done with REC purchase route offering Non – Solar certificate for renewable certificates of all the sources other than the Solar energy.

7.4 As regards the long term plan, GEPL stated that it will fulfil its RPO requirement through purchase of RECs from the exchange platform. In case of unavailability of the RECs, it will fulfil the same through purchase of renewable energy from the sellers at the rate approved by the Commission.

### Regulatory Process

- 8 Through a Public Notice dated 21 February, 2019 published in the Loksatta and Maharashtra Times (Marathi) and Times of India and Indian Express (English) daily newspapers, the Commission invited suggestions and objections considering the submissions of MEDA and GEPL. The Commission also impleaded MEDA and MSLDC as Parties. A Public Hearing was held on 16 March, 2019 in the Office of the Commission at World Trade Centre, Cuffe Parade, Mumbai.
- 9 The summary of RPO compliance of GEPL for FY 2017-18, based on details provided by MEDA and GEPL is at Annexure-1 of this Order. The list of persons who gave their comments in writing or made oral submissions during the Public Hearing is at Annexure-2 (A). The list of persons present at the Public Hearing is at Annexure-2(B). (These lists include persons/organizations concerned with the RPO compliance verification hearings held the same day in respect of the other Distribution Licensees also.)

- 10 At the Public Hearing, GEPL reiterated the points regarding its compliance of RPO targets made in its written submissions and further stated that cumulative RPO shortfall as on March, 2017 has been met in FY 2018-19 through purchase of RECs.
- 11 GEPL vide its letter dated 18 March, 2019 has submitted cumulative RPO settlement till FY 2017-18 as follows:

	FY 2016-17	FY 2017-18	Cumulative till March 2017
Solar			
Target	0.12	0.42	0.54
Met	0.087	0.035	0.12
Shortfall	0.04	0.39	0.42
Non-Solar			
Target	1.23	2.21	3.43
Met	0.87	2.55	3.42
Shortfall	0.36	-0.34	0.01
Min/Micro Hydro			
Target		0.019	
Met		0.019	
Shortfall		0.00	

#### **Suggestions/Objections received (including those presented orally at the Public Hearing)**

- 12 Dr. Ashok Pendse of Thane-Belapur Industries Association (TBIA) in his email dated 27 February 2019 has stated that:
- i) No serious effort has been made by Distribution Licensees for buying RECs from IEX.
  - ii) As per recent letter of Ministry of Power, Government of India, (MoP) dated 1.2.2019, Captive Power Plants, (CPP) have RPO of the year in which they were commissioned. Since most CPP have been commissioned prior to 2011, almost all CPP will not have RPO obligation. This needs to be established by MEDA. Further Dr. Pendse has prayed as under:
    - a) No crossover of RPO obligation should be allowed, and if allowed, suitable fine should be levied.
    - b) MEDA should check in the light of new order of MOP, the status of RPO compliance by CPPs.

#### **Commission's Analysis and Ruling**

- 13 The Commission notes that the GEPL's submission dated 18 March, 2019 has been reaffirmed by MEDA vide its letter dated 20 March, 2019. The status of achievement of

RPO targets by GEPL, as determined by the Commission considering the details provided by MEDA, MSLDC and GEPL, is as shown in Table 2 below:

**Table 2: RPO Settlement Details for GEPL as approved by Commission**

<b>RPO Settlement Data for GEPL ( Approved)</b>					
<b>Item</b>	<b>FY 2016-17</b>		<b>FY 2017-18</b>		<b>Cumulative RPO (Surplus)/ Short fall</b>
	<b>%</b>	<b>MUs</b>	<b>%</b>	<b>MUs</b>	<b>MUs</b>
<b>Gross Energy Consumption</b>	100%	12.27		21.01	12.27
<b>Solar RPO</b>					
Target	1.00%	0.1227	2.00%	0.4202	0.5429
Achievement	1.00%	0.1227 <sup>#</sup>	0.17%	0.0350	0.1577
Shortfall /(Surplus)	0.000%	0.000 <sup>##</sup>	1.83%	0.385	0.385 <sup>###</sup>
<b>Non-Solar RPO</b>					
Target	10.00%	1.227	10.50%	2.206	3.433
Achievement	26.28%	3.225*	12.14%	2.550	5.775
Shortfall /(Surplus)	-16.28%	-1.998**	-1.64%	-0.344	-2.342***
<b>Mini-Micro RPO(Within Non-Solar)</b>					
Target	0.20%	0.002	0.20%	0.004	0.007
Achievement	0.00%	0.00	0.2%	0.004	0.004
Shortfall /(Surplus)	0.20%	0.002	0.0%	0.000	0.003

*'-' or () indicates surplus*

- 14 The Commission notes that GEPL has
- i) Fallen short of its stand-alone Solar RPO target by 0.385 MUs in FY 2017-18, and has a cumulative shortfall of 0.385 MUs.
  - ii) Fulfilled its stand-alone non-Solar RPO target with a surplus of 0.344 MUs in FY 2017-18, and has a cumulative surplus of 2.342 MUs
  - iii) Fulfilled its stand-alone Mini-Micro RPO target in FY 2017-18, and has a cumulative shortfall of 0.003 MUs
- 15 Subsequent to the hearing held on 12 July, 2018 (for suo-moto RPO verification of FY 2016-17) GEPL had submitted its data vide its letter dated 20 July, 2018 regarding the Solar & non-Solar RECs purchased in the month of April,2017 and non-Solar RECs in the month of Novemembr,2017. The Commission in its Order dated 25 July, 2018 in Case No 213 of 2017 has recorded GEPL's submission and considered that quantum of RECs in FY 2016-17. It is observed that GEPL for RPO compliance for FY 2017-18 has considered that quantum of RECs purchased in FY 2017-18. Commission deems it appropriate to consider the quantum of Solar & non-Solar RECs purchased in FY 2017-18 as it is intended for fulfilling the respective RPO targets of FY 2017-18 while deducting it from FY 2016-17. Hence Table 2 shows an apparent standalone fulfillment 0.00 MUs (## marked in FY 2016-17, because the achievement for Solar was shown as 0.1227 MUs (# marked) instead of 0.087 MUs. Hence, the Solar fulfillment of 0.00 MUs is corrected as shortfall of 0.04 MUs. Due to these changes, the cumulative Solar shortfall of 0.385 MUs (### marked) becomes shortfall of 0.42 MUs till FY 2017-18. Similarly, Table-2 shows

an apparent standalone surplus of 1.998 MUs (\*\* asterisked marked in FY 2016-17, because non-Solar achievement was shown as 3.225 MUs (\* marked) instead of 0.87 MUs. Hence the non-Solar surplus of 1.998 MUs is corrected as shortfall of 0.357 MUs. Due to these changes, the cumulative non-Solar surplus of 2.342 MUs (\*\*\*) becomes shortfall of 0.013 MUs till FY 2017-18.

- 16 The Commission has already allowed GEPL to meet its Mini/Micro Hydro RPO obligations from purchase of non-Solar RECs. GEPL in its submission has indicated that it has not bifurcated Mini-Micro RPO compliance separately but has fulfilled it by purchasing of non-Solar RECs. The Commission notes that GEPL has fulfilled its standalone non-Solar RPO targets with a surplus of 0.344 MUs. The Commission deems it appropriate to consider the non-Solar RECs purchased by GEPL in FY 2017-18 for fulfilling its standalone Mini-Micro RPO Targets for FY 2017-18.
- 17 The Commission notes that GEPL has standalone and cumulative shortfall till FY 2017-18 of 0.385 MUs and 0.42 MUs respectively for Solar RPO Target. The Commission allows GEPL to fulfill its shortfall cumulatively by March, 2019.
11. The Commission further notes that during the proceedings of the present Case, GEPL had stated that it had already met the RPO shortfall of FY 2017-18 by purchase of RECs in FY 2018-19. The Commission will verify the same during the RPO verification proceedings of FY 2018-19.

*Other issues*

12. As regards suggestion of TBIA, that crossover of RPO should not be allowed, the Commission in its Order dated 2 January, 2013 in Case No 109 of 2012 has not accepted the interchangeability of Solar and non- Solar RPO targets. Similarly, in its Order dated 12 December, 2017 in Case No 108 of 2016, the Commission has not accepted the merging of Solar and non-Solar RPO targets. As regards the issue of RPO compliance of CPPs in the light of clarification issued by MoP vide letter dated 1 February, 2019, , the Commission notes that obligated entities have to comply with RPO as specified in the Regulations. The Commission will initiate the next proceedings for three years starting from FY 2014-15 to FY 2016-17 once the consolidated data of OA Consumers and CPP Users is received from MEDA. Any impact of MoP's clarification can be dealt with during proceedings of RPO compliance of OA consumers and CPP users or through amendment of Regulations as deemed appropriate at that time.
13. Hence, the following Order.

**ORDER**

**1) The Case No. 42 of 2019 stands concluded with following ruling:**

- a. Gigaplex Estate Pvt. Ltd. has standalone and cumulative shortfall for Solar RPO of 0.385 MUs and 0.42 MUs till FY 2017-18.**



- b. Gigaplex Estate Pvt. Ltd. has standalone surplus of 0.344 MUs but has cumulative shortfall for non-Solar RPO of 0.013 MUs till FY 2017-18.
- c. Gigaplex Estate Pvt. Ltd. has met its standalone but has cumulative shortfall for Mini/Micro Hydro RPO of 0.003 MUs till FY 2017-18.

2) Gigaplex Estate Pvt. Ltd. is directed as follow:

- a. Gigaplex Estate Pvt. Ltd. is allowed to meet its cumulative shortfall in RPO till FY 2017-18 in FY 2018-19. The Commission will review the same during RPO verification proceedings for FY 2018-19.

Sd/-  
(Mukesh Khullar)  
Member

Sd/-  
( I. M. Bohari )  
Member



Annexure – 1

Summary of RPO compliance by Gigaplex Estate Pvt. Ltd. for FY 2017-18, as submitted by MEDA and Gigaplex Estate Pvt. Ltd.

*(in MUs)*

<b>GEPL's RPO status for FY 2017-18</b>	<b>Gross Energy Consumption</b>	<b>Solar RPO Target (2%)</b>	<b>Solar RPO Achievement</b>	<b>Solar RPO Shortfall/ (surplus)</b>	<b>Non-Solar RPO Target (10.50 %)</b>	<b>Non-Solar RPO Achievement</b>	<b>Non-Solar RPO Shortfall/ (Surplus)</b>	<b>Mini/Micro Hydro target (0.2%) within Non-Solar RPO</b>	<b>Mini/Micro Hydro RPO Achievement</b>	<b>Mini/Micro Hydro Shortfall/ (Surplus)</b>
As per MEDA	21.01	0.420	0.035	0.385	2.206	2.55	(0.344)	0.004	0.00	0.004
As per GEPL	21.01	0.420	0.035	0.385	2.206	2.55	(0.344)	0.004	0.004	0.000

## Annexure -2

### **A] List of those who submitted written comments/suggestions or made oral submissions at the Public Hearing**

1. Dr. Ashok Pendse, Thane- Belapur Industries Association

### **B] List of persons at the Public Hearing:**

1. Ms. Kavita Gharat, MSEDCL
2. Shri. Harshal Patil, MSEDCL
3. Shri. N. P. Jagaldas, BEST
4. Shri. S.A.Jadhav, BEST
5. Shri. S.D. Bamane, BEST
6. Shri. Peyush Tondon TPC-D
7. Shri. R M Ranade, TPC-D
8. Shri. Ganesh Shriniwas, TPC-D
9. Shri Ghanshyam Thakkar, AEML
10. Shri. Kishor Patil AEML
11. Shri. Abaji Naralkar, AEML
12. Smt. Vinita Melvin Eternity Legal for Indian Railway
13. Shri. Mayur Wasnik, Indian Railway
14. Shri Kaushalesh Singh Indian Railway
15. Shri.Vikram Yermalkar, Mindspace Business Park Pvt. Ltd. & Gigaplex Estate P Ltd.
16. Shri. Nikhil Chauganjkar, Mindspace Business Park Pvt. Ltd. & Gigaplex Estate P Ltd
17. Shri. Manoj Pise, MEDA
18. Shri. Arif H.Shaikh, MEDA
19. Shri. Vijay V. Pawar, MEDA