

**ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
UNIT-VIII, BHUBANESWAR - 751 012

Case No. 21/2013

| | | |
|-------------------|-------|-------------|
| M/s NALCO | | Petitioner |
| Vrs. | | |
| OREDA and another | | Respondents |

In the matter of: **An Application u/S. 86 (1) (e) of the Electricity Act, 2003 read with Chapter-2 Regulation, 8, 9 of the OERC (Conduct of Business) Regulations, 2004 for exemption/waiver of the renewable purchase obligation for FY 2011-12 and 2012-13.**

For the petitioner: Shri M.K.Rajguru, Advocate.

For the respondents: Shri P K Pradhan, Director (Commerce), GRIDCO
 Shri A.K.Choudhury, Dy.Director (Project), OREDA

Order

Date of hearing:-12.11.2013

Date of order:21.11.2013

Shri M.K.Rajguru, Advocate appearing on behalf of the petitioner NALCO submitted that NALCO being a public sector organization is a highly law abiding entity and is ready to fulfill OERC (RCPO) Regulations, 2010. He submitted that the power consumption of NALCO from its Co-generation sources is 5.59% and 5.5% of the total consumption of NALCO against the total requirement of 5% and 5.5% for the FY 2011-12 & 2012-13 respectively as per OERC (RCPO and its Compliance) Regulations, 2010. As such NALCO has already complied its Co-generation obligations as fixed by OERC (RCPO and its Compliance) Regulations, 2010. But they have failed to comply with the solar and non-solar purchase obligation under the said Regulation. Therefore, they have prayed for exemption of solar and non-solar purchase obligation in view of judgment dated 30.01.2013 in Appeal No. 54/2012 (M/s Emami Vrs. OERC & Others) &

judgment dated 31.01.2013 in Appeal No.59 of 2012 (M/s.Vedanta Aluminium Ltd. Vrs. OERC & Others).

2. In this context we are of the view that the order of the Hon'ble APTEL applies to the petitioners in those cases only. However, the Commission have gone an appeal to the Hon'ble Apex Court against those judgments in Civil Appeal Nos. 5466 & 5467 of 2013 (OERC Vrs. GRIDCO & Others & OERC Vrs. M/s. Vedant Alluminium Ltd. & Others). Further more, Hon'ble ATE vide its judgment dated 30.01.2013 and 31 01.2013 has set aside the Commission's suo-motu clarifying order dated 13.02.2012 passed in Proceeding Case No. 111 of 2011 which are applicable to only such 'obligated entity' who do not have any co-generation facilities allowing them to meet the total RPO from solar and non-solar obligation. M/s. NALCO do not come under such obligated entity. Therefore, NALCO is to abide by the existing Regulation of the Commission.
3. Accordingly we direct NALCO to purchase REC to fulfill its Solar Purchase Obligation (RPO) if solar power is not available to them for fulfilling the obligation under the Regulation. The petitioner is not allowed to carry forward the surplus non-solar REC purchased by them in view of our Clause 7 (2) of the RCPO Regulation which clearly states that in case of genuine difficulty in complying with the RPO because of non-availability of certificates, the obligated entity can approach the Commission for carry forward of compliance requirement to the next year. Therefore, compliance requirement can be carried forward in case of non-availability of REC but not in case of surplus purchase of the same.
4. With the above observation the case disposed of.

Sd/-

S. P. Swain
(Member)

Sd/-

B. K. Misra
(Member)