

BERC (Renewable Purchase Obligation, its compliance and REC Framework Implementation) Regulations, 2025

The BERC notified draft on (Renewable Purchase Obligation, its compliance and REC Framework Implementation) Regulations, 2025 Issued on 8th Mar, 2025

Objective:

Draft is to consolidate and update the existing regulatory framework in line with the latest policy directives of Ministry of Power, government of India, these regulations aim to promote the adoption of Renewable Energy in Bihar by setting clear RPO targets, incorporating new categories like distributed RE and ensuring robust compliance mechanisms, the framework is designed to support Bihar's transition to a cleaner energy mix. Ensure accountability of obligated entities, and align with national renewable energy goals under the Energy Conservation act, 2001 and Electricity Act, 2003.

The document can be accessed [here](#)

CER Opinion-

1. **Clarification on Scope of Obligated Entities:** Draft clause no. 3 ***“Applicability of Renewable Purchase Obligation 3.1 These Regulations shall be applicable to all Obligated Entity such as:***
 - I) *Distribution licensee*
 - II) ***Any other person consuming electricity.***
 - (a) *generated from conventional Captive Generating Plant having capacity of 1MW and above for his own use.*
 - (b) *through cogeneration from sources other than renewable sources.*
 - (c) *By procurement from conventional electricity generation through Open Access and for third party sale.”*

The current wording of draft clause may lead to ambiguity regarding the scope of obligated entities. Specifically, the phrase **“Any other person consuming electricity”** may be replaced by **“Any of the following persons consuming electricity”** to clearly connect it with sub-clauses (a), (b), and (c). This revision will help avoid misinterpretation and ensure that the categories of obligated entities are explicitly defined and consistently understood.

2. **Ensuring Credible HPO Compliance from Free Hydropower Allocation:** Draft clause no. 4 (b) ***“Hydro Power Obligation (HPO) shall be met only by energy produced from Hydro Power Projects [including Pump Storage Projects (PSPs) and Small Hydro Projects (SHPs)], commissioned after the 31st March, 2024;***
Provided that, HPO obligation of the state/DISCOM may be met out of the free power being provided to the state of Bihar from the Hydro Power Projects commissioned after the 31st March, 2024.”

While considering HPO compliance based on the free power allocated to the state of Bihar from hydropower projects, it must be ensured that such free power has not already been sold or assigned, or banked through any other mechanism including the Green Day-Ahead Market (GDAM), RECs or similar instruments. As highlighted in the recent Regulatory Conclave on *Energy Transition and Framework for RPO* organized by CER, IIT Kanpur, suggested a mechanism for REC-based RPO compliance to ensure leakage proof accounting to help address this issue. Such a mechanism would be critical in preventing double counting or leakage, thereby strengthening the credibility and accuracy of RPO fulfilment.

- 3. State Specific CUF for RPO Compliance¹** : Draft Clause no. 4(c) *“Provided further that in case the designated consumer is unable to provide generation data against distributed renewable energy installations, the reported capacity shall be transformed into distributed renewable energy generation in terms of energy by a multiplier of 3.5 units per kilowatt per day (kWh/kW/day).”*

The fixed multiplier of 3.5 units/kW/day for estimating deemed generation, as per MoP guidelines², does not reflect Bihar’s actual solar resource variability. Using a uniform factor may lead to inflated RPO compliance, especially during low solar irradiance periods, and discourage reporting of actual generation data.

It is suggested to adopt a **monthly, CUF-based multiplier** benchmarked to Bihar’s solar conditions, with regional differentiation if needed. To promote data transparency, a **penalty multiplier (e.g., 0.9–0.8 of CUF)** can be applied for non-reporting beyond three months in five years. This will improve accuracy and accountability in RPO compliance.

- 4. Improving the Scope and Accessibility of RE Reporting by Licensees:** Draft clause no. 4.3 *“The Licensee or its successor entities shall submit half yearly progress report on the capacity addition, purchase of electricity from such projects and the energy generated from renewable sources in the State which is used by generator itself or sold to third party under Open Access to the Commission and also post them on their website.”*

The half-yearly progress report to be submitted by the Licensee or its successor entities should clearly comprise the following information:

- 1. Renewable Capacity Addition within the State:**

Categorized by project ownership, State Generating companies, private developers, captive generators, and merchant plants.

- 2. Procurement of Electricity from Renewable Projects:**

Details of electricity procured by distribution licensees from renewable energy projects

¹ Singh, A. (ed.). (2024), Opinion on “Tariff and Others Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Cogenerating Stations” (First Amendment) Regulations, 2024. In Power Chronicle (Vol. 07, Issue 01, pp. 16-17), Energy Analytics Lab (EAL), Indian Institute of Technology (IIT) Kanpur. https://eal.iitk.ac.in/assets/docs/power_chronicle_vol_7_issue_1.pdf

² https://powermin.gov.in/sites/default/files/Notification_Regarding_Renewable_Purchase_Obligation_RPO.pdf

within the state.

3. Energy Generated from Renewable Sources within the State:

Including generation data from all RE projects, categorized by ownership and mode of use—self-consumption (captive), third-party sale, or merchant sale under Open Access.

It is further suggested that this information should not only be submitted to the Commission but also be **published on the respective websites** of the distribution licensees. The data should be **easily accessible, archived, and available in the public domain** to ensure transparency and facilitate informed stakeholder engagement.

4. **Legal Consistency for RPO Targets and Penalty Enforcement:** Draft clause no. 7.2 *“Despite availability of renewable energy sources, if distribution licensee fails to fulfill the minimum quantum of purchase from renewable energy sources, it, without prejudice to the penalty to which it may be liable under section 142 of the Act, shall be liable to pay compensation as per clause 9 of these Regulations.”*

The draft Clause invokes the notification under the Energy Conservation Act, 2001, for setting RPO targets while referring to Section 142 of the Electricity Act, 2003, for the imposition of penalties in case of non-compliance. This cross-reference between two distinct legal instruments may create **legal ambiguities** and become a **potential ground for disputes**, as the targets and the penalties originate from **different legislative frameworks**.

It could be argued that penalties cannot be imposed under the Electricity Act, 2003 (Section 142) for the non-fulfilment of targets set under another (Energy Conservation Act, 2001 (Section 26 (3))) thereby weakening enforceability. To ensure legal robustness and avoid such conflicts, **both the obligation (target) and the penalty for non-compliance should be grounded in the same legal framework**.

5. **Data Archiving and Accessibility:** All the RPO compliance data, including that for the captive as well as open access consumers submitted through the RPO Web Portal should be archived and be publicly accessible in a machine-readable format. This would ensure transparency and effectiveness of the compliance framework.