

## Gazette Notification on Renewable Consumption Obligation (RCO) notified on 20<sup>th</sup> Oct 2023, 2025

The MoP notified draft amendment on (Gazette Notification on Renewable Consumption Obligation (RCO) notified on 20<sup>th</sup> Oct 2023), 2025 Issued on 8<sup>th</sup> Mar, 2025

### Objective:

The draft amendment to the Gazette Notification on Renewable Consumption Obligation (RCO), dated October 20, 2023, introduces several key changes aimed at strengthening compliance and promoting renewable energy integration. It specifies the minimum share of electrical energy consumption from non-fossil sources for designated consumers, including electricity distribution licensees, open access consumers, and captive users. The amendment allows for shortfalls in wind or hydro renewable energy consumption to be offset by surplus from other renewable sources, and surplus from distributed renewable energy can also be used to meet obligations related to wind, hydro, or other renewables. Open access and captive users are required to meet the total renewable energy obligation from any renewable source. For captive users, consumption obligations include self-consumption, excluding auxiliary consumption, with specific provisions for electricity generated from waste heat recovery. The amendment outlines multiple methods to fulfill RCO, including consuming non-fossil electricity, purchasing Renewable Energy Certificates (RECs), or paying a buyout price, with funds from the buyout mechanism supporting non-fossil fuel capacity development. Penalties for non-compliance, including shortfalls or submission of incorrect information, are outlined, with provisions for adjudication under the Energy Conservation Act, 2001. The Bureau of Energy Efficiency (BEE) is tasked with monitoring compliance, issuing periodic reports, and providing implementation guidelines. Additionally, compliance for multiple designated consumers under common control may be considered at the Holding Company level. Overall, the amendment aims to enhance the regulatory framework for renewable consumption obligations and support the integration of renewable energy into the national energy mix.

The draft document can be accessed [here](#):

### CER Opinion-

- 1. Payment of the buyout price specified by Central Electricity Regulatory Commission (CERC):** Draft Clause 6 Proviso no. iii. *“Payment of the buyout price specified by Central Electricity Regulatory Commission (CERC).”*

*“Provided that the sums received through the buyout mechanism shall be credited to the Central Energy Conservation Fund under a separate head. These sums shall be utilized to support the development of specified non-fossil fuel capacities, with the objective of increasing the share of non-fossil fuel energy in the overall energy mix. The Central*

*Government shall specify the mechanism for utilizing these sums to support the development of such non-fossil fuel capacities.”*

**Buyout mechanism, suggested initially by Singh (2010)<sup>1</sup> as well as in multiple submissions to CERC<sup>2</sup> and MoP<sup>3</sup>, is a compliance mechanism for the RPO obligation.** This incentivises the obligated entities to ensure compliance by either buying renewable power or the REC certificates. Buyout price also acts as a ceiling price for the REC certificates.

**However, the compliance mechanism for renewable consumption obligation, as set out in section 26 of the amended Energy Conservation Act 2001, does not provide for a buyout mechanism which effectively sets the penalty at the buyout price.** The notification route may not stand the test of legal scrutiny. The Energy Conservation Act, 2001 should thus be amended to incorporate the same.

Furthermore, the draft clause refers to ‘notification’ of the buyout price, which should be **estimated based on a methodological approach which is discussed with the stakeholders. Such methodology should also be published beforehand.**

It also needs to be clarified if such fund could be utilized for nuclear energy, a non-fossil fuel technology. The Energy Conservation Act 2001, in all its operative parts, refers to non-fossil fuel, whereas the MoP notification dated 20<sup>th</sup> Oct., 2023 limits the meaning of ‘non-fossil fuel’ to ‘renewable energy’. To ensure clarity, the term ‘fossil fuel’ may be replaced with renewable energy.

- 2. Jurisdictional Clarity and Coordination Among Designated Entities:** Draft Clause no. 6. (B). *“In case of a non-compliance of this notification including but not limited to shortfall in meeting Renewable Energy consumption obligations, non-submission of required information, or submission of incorrect information, the Bureau, the State Designated*

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<sup>1</sup> Singh, A. 2010. “Economics, Regulation and Implementation Strategy for Renewable Energy Certificate in India” in India infrastructure Report 2010, Oxford Univ. Press.  
[https://paper.ssm.com/sol3/papers.cfm?abstract\\_id=3440253](https://paper.ssm.com/sol3/papers.cfm?abstract_id=3440253)

<sup>2</sup> Singh, A. 2010 “Setting a Floor price and Forbearance Price for Renewable Energy Certificate (RECs)” Submitted to Central Electricity Regulatory Commission, April 2010  
<https://www.iitk.ac.in/ime/anoops/policypapers/Anoop%20Singh%20-%20CERC%20-%20Comments%20on%20Floor%20and%20Forbearance%20Price%20for%20RECs%20-%202010.pdf>

<sup>3</sup> Singh, A. 2021 Comment on MoP “Redesigning the Renewable Energy Certificate (REC) Mechanism” Discussion Paper] Regulatory Insights, Volume 4, Issue 1 Centre for Energy Regulation (CER), IIT Kanpur.  
[https://cer.iitk.ac.in/newsletters/regulatory\\_insights/Volume04\\_Issue01.pdf](https://cer.iitk.ac.in/newsletters/regulatory_insights/Volume04_Issue01.pdf)

Agency, or any other person designated by the State Government, may file an application before the Adjudicating Officer, for imposing penalty, under the provisions of Section 26 and 27 of the Act.”

There should be a single entity empowered to file an application before the Adjudicating Officer for non-compliance of RE consumption obligation, non-submission of information or submission of incorrect information. **Multiplicity of entities, as identified in the draft, would not only create multiplicity of filings but also weaken a legal case due to lack of coordination among the entities identified in the draft clause.**

Such ambiguity could hinder the timely and effective enforcement of compliance obligation. **A single entity should be empowered to collect information and report data for RE Consumption Obligation, the same entity should also be empowered for collecting compliance data and follow the process for non-compliance.** Bureau of Energy Efficiency (BEE) may coordinate this effort by finalizing the format and method for data collection, and the associated timelines. This will help streamline the process, ensure accountability, and strengthen the overall compliance framework.

A lack of coordination among the three entities the State Designated Agency, the Bureau, and any other person designated by the State Government may lead to procedural complexities. **This may result in multiple applications being filed before the Adjudicating Officer for the same instance of non-compliance or, conversely, no application being filed at all,** as each entity may assume that the other party would do the needful. It is strongly recommended that a **single entity** be identified and designated for compliance monitoring and for filing applications before the Adjudicating Officer.

The framework should also address a situation where an **Adjudicating Officer has not been appointed** by the designated agency. This could delay enforcement and weaken the compliance framework. The clause should include a provision for alternate enforcement mechanisms or mandate the timely appointment of Adjudicating Officers by the States to ensure effective compliance and enforcement thereof.

- 3. Aggregate Compliance for Entities Under a Holding Company:** Draft Clause no. 6 (C). *“Compliance for multiple designated consumers under common control, as defined in the Companies Act, 2013, may be considered on an aggregate basis at the Holding Company level.”*

The draft clause allowing aggregate compliance at the holding company level seems to assume that such entities may operate within a single state. However, in practice, entities

under a holding company may be located across multiple states, falling under different regulatory jurisdictions. This could lead to complications in monitoring and enforcement, especially if compliance shortfalls in one state are to be offset by the surplus in another state. The available information may only be handy with the state level agency in the respective state. How would be state agencies coordinate for seamless exchange of compliance data? **How would one ensure that over compliance by one of the sister concerns located in one state used to offset shortfall for another sister concern located in another state, is extinguished from the accounts of the former and is not double counted?** This provides another justification for a centralized monitoring and compliance entity. REC based RPO/RCO compliance would ensure that there is no double counting as this would apply universal accounting for the RE procurement from various sources.

Since neither the Electricity Act, 2003 nor does the Energy Conservation Act, 2001 provide for such cross-entity fungibility, the clause leaves some legal and procedural ambiguities. **Changes in holding patterns of related or subsidiary entities mid-year, and varying monthly consumption pattern and RPO compliance thereof would further complicate the matter.** To avoid regulatory loopholes and ensure accountability, **compliance should be assessed individually for each designated entity or, at most in a consolidated manner for the related entities located in a single state.**

**A clear and objective definition of related entities** would be crucial to avoid legal disputes. Definition of captive power generation unit and ownership and consumption thereof is a case to point.

- 4. Compliance Monitoring and Data Reporting:** Draft Clause no. 7. *“The Bureau shall monitor compliance of this notification and submit periodic report(s) to the Central Government. For this compliance monitoring, all the designated consumers, designated agencies and other persons shall furnish the required information, in such form and manner and within such period, as may be specified by the Bureau.”*

**A central repository should be empowered to collect and monitor compliance data. This repository must cover all designated consumers and ensure data is furnished in a format, manner and timeline specified by the Bureau.**

It should also clarify whether the information is to be sought from the respective adjudicating officers, and how such coordination will take place. **There should also be a clear provision for timely disclosure of the collected information through a publicly accessible web portal to ensure transparency and accountability.**



- 5. Importance of Stakeholder Input to Draft Guidelines:** Draft Clause no. 7 (A). *“The Bureau shall issue detailed guidelines for the implementation of this notification.*

**The detailed guidelines including data format to be published by the Bureau should be placed for public consultation and incorporate inputs to address potential challenges in its implementation.** The draft guidelines and data formats for stakeholder consultation. Seeking inputs from designated consumers, regulators, and other stakeholders will help address practical concerns and ensure effective implementation of the guidelines.