

**Explanatory Memorandum for the “Draft Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) (First Amendment) Regulations, 2010”**

The Commission had notified the CERC (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 vide notification dated 14<sup>th</sup> January, 2010. As mentioned in the Statement of Reasons issued along with the regulations, the concept of renewable energy certificate seeks to address the mismatch between availability of renewable energy sources and the requirement of obligated entities to meet their renewable purchase obligations. The Commission had further clarified that the REC mechanism aims at promoting additional investment in the renewable energy projects and to provide an alternative mode to the RE generators for recovery of their costs. Keeping in view the main objective of promoting new investments in renewable energy generation, the generating capacity tied up in PPAs was excluded from the eligibility for participating in REC mechanism.

2. Regulation 5 of the CERC REC Regulations specifies eligibility criteria for an RE generator under REC framework. The said provision is reproduced below:

*“A generating company engaged in generation of electricity from renewable energy sources shall be eligible to apply for registration for issuance of and dealing in Certificates if it fulfills the following condition:*

- a. It has obtained accreditation from the State Agency;*
- b. It does not have any power purchase agreement for the capacity related to such generation to sell electricity at a preferential tariff determined by the Appropriate Commission; and*
- c. It sells the electricity generated either*
  - (i) to the distribution licensee of the area in which the eligible entity is located, at a price not exceeding the pooled cost of power purchase of such distribution licensee, or*
  - (ii) to any other licensee or to an open access consumer at a mutually agreed price, or through power exchange at market determined price.”*

3. Concerns have been raised from various quarters that the renewable generators having an existing PPA with a distribution utilities for sale of electricity at preferential (cost plus) tariff may attempt to breach the existing contracts with the sole objective of making profits through REC mechanism. It is being argued that such generators should not be allowed to breach the existing contracts as they have already benefited out of the preferential tariff mechanism.

4. In order to discourage breach of existing PPAs, it is proposed to amend the eligibility conditions by providing that such a generator would be ineligible for participating in REC mechanism in respect of the generating capacity tied up in long term PPA for three years or till the

expiry of the period of PPA whichever is earlier, if a competent authority finds that the termination of PPA was because of the default on the part of the generator.

5. Further, a question has arisen regarding the eligibility of captive generators based on renewable energy participating in REC mechanism. Electricity generated from a captive generating station based on renewable energy can be divided in two parts. The first part is surplus energy which is sold just like a sale by any other generating company. This component should obviously be eligible for participating in REC mechanism subject to the conditions as applicable to any other generating company. The second component is the captive consumption or self consumption. Such a self consumption of electricity generated from renewable energy should also be made eligible for REC mechanism because such self consumption actually replaces the demand from the grid power and the entity having such self consumption in effect incurs comparatively higher costs vis-à-vis the cost of the power obtained from grid.

However, the principle of exclusion from REC mechanism on the basis of having availed promotional/concessional benefit needs also to be made applicable in case of electricity generated by captive generators based on renewable energy. The cardinal principle remaining the same that a renewable energy generator cannot participate in REC mechanism if he has availed promotional benefits. Otherwise such entities can flood the REC market with low priced RECs placing the new investors at disadvantage which would run counter to the main objectives of the REC mechanism. Therefore, it is proposed to amend the regulation to provide that electricity generated including self consumption from captive generation based on renewable energy would also be eligible for participating in the REC mechanism subject to the condition that such a generating capacity has not availed promotional/concessional benefits from the distribution utility.

6. In view of the above it is proposed to amend the REC Regulation to address the above mentioned issues as under:

- a. A Captive Power Producer (CPP) based on renewable energy sources shall become eligible for the entire energy generated from such plant including self consumption provided such CPP has not availed or does not propose to avail any benefit in the form of concessional transmission or wheeling charges, banking facility benefit and waiver of electricity duty.
- b. If such a CPP forgoes on its own, the benefits of concessional transmission or wheeling charges, banking facility benefit and waiver of electricity duty, it shall become eligible for participating in the REC scheme only after a period of three years has elapsed from the date of forgoing such benefits.
- c. It is also proposed that abovementioned limitation for CPPs for participating in the REC scheme shall not apply if the benefits given to such CPPs in the form of concessional transmission or wheeling charges, banking facility benefit and waiver of electricity duty are withdrawn by the State Electricity Regulatory Commission and/or State Government.

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