

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Record of Proceedings**

**Petition No. 10/RP/2012**

- Subject : Review of the order dated 27.3.2012 in Petition No. 35/2012 (suo-motu) regarding determination of generic levelised generation tariff under regulation 8 of the Central Electricity Regulatory Commission (Terms and Conditions for tariff determination from Renewable Energy sources) Regulations, 2012. (on admission)
- Date of hearing : 21.6.2012
- Coram : Dr. Pramod Deo, Chairperson  
Shri S. Jayaraman, Member  
Shri V.S. Verma, Member  
Shri M. Deena Dayalan, Member  
Shri A.S. Bakshi, Member (Ex-officio)
- Petitioner : Moser Baer Clean Energy Limited
- Parties present : Shri Pankaj Prakash, MBCEL  
Shri Ashish Nandan, MBCEL:

This petition has been filed by Moser Baer Clean Energy Limited (hereinafter referred to as 'the petitioner') seeking review of the order dated 27.3.2012 in Petition No. 35/2012 (suo-motu) regarding determination of generic levelised generation tariff under Regulation 8 of the Central Electricity Regulatory Commission (Terms and Conditions for Tariff Determination from Renewable Energy sources) Regulations, 2012 (hereinafter referred to as "the 2012 regulations").

2. At the outset, the Commission directed the representative of the petitioner to explain under which provisions the present review petition has been filed. In response, the representative of the petitioner submitted that the petition has been filed under Regulation 103 (1) of the CERC (Conduct of Business) Regulations, 1999 (hereinafter referred to as "the 1999 regulations") which empowers the Commission to review its orders for arithmetical or clerical mistakes.

3. In reply to the query of the Commission whether there is a clerical or arithmetical error, the representative of the petitioner submitted that in the present case, there is an error in the computation of discount rate. The discount rate computation by the Commission considers tax available as a shield to the generator. Regulation 10 (2) of

the 2012 regulations provides that for the purpose of levelised tariff computation, the discount factor equivalent to post tax Weighted Average Cost of Capital (WACC) shall be considered. As explained by the Commission in the SOR, the post-tax cost of capital is the weighted average of the various components of financing, such as loans and equity. The loan component of the WACC goes on reducing over the period of 10 years so as to make it zero after 12 years. Since it goes down, the weightage of loans goes down in the WACC. But, while computing the WACC, the Commission has only considered one rate. The petitioner submitted that it has to vary over the years as the loan goes down and equity remains as 30%. The weightage of equity goes up from 30% to 100%, whereas the weightage of loan goes down from 70% to 0%. There is an error in arithmetic calculation of the discount rate which needs to be corrected.

4. The Commission observed that the petitioner wants corrections in the regulations which cannot be done through a petition. The representative of the petitioner submitted that the petitioner is seeking corrections in the application of the regulations, and not correction of the regulations.

5. In response to Commission's query whether there is any error in application of the regulations, the representative of the petitioner submitted that only one WACC has been considered in the impugned order for all the 25 years, whereas there ought to be 25 different WACC for 25 years. As per the Regulations, the discount rate has to be WACC and WACC is different for each year.

6. The representative of the petitioner submitted that the 20% MAT has to be considered for the first 10 years and 32.445% has to be considered for balance useful life. While calculating the WACC, only 32.445% has been considered whereas 20% should have been considered for the first 10 years. He also submitted that the calculation of post tax WACC has come due to the tax shield. The tax shield, though available in the instant case, to the petitioner, it is passed on to the consumers and not kept with the petitioner. Hence this factor should not have been used and the tax rate should have been zero in this calculation.

7. Order in the petition was reserved.

By the order of the Commission,

Sd/-  
(T. Rout)  
Joint Chief (Law)