

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Coram: Shri V S Verma, Member
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Date: 10th of July 2013

Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) (Second Amendment) Regulations, 2013.

Statement of Reasons

1 Introduction

1.1 The Central Commission, as a consequence of its roles for market development under section 66 of the Electricity Act, 2003 has created a market framework renewable energy certificates and notified the CERC (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 (hereinafter Principal REC Regulations) vide notification dated 14th 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 aimed at promoting additional investment in the renewable energy projects and to provide an alternative mode to the RE generators for recovery of their costs.

1.2 Subsequently, the Commission made amendment in the Regulation 5 of Principal REC Regulations vide notification dated 29.09.2010 (hereinafter First Amendment Regulations). The principal objective of the Amendment Regulations was to provide clarity on applicability of the regulations to eligible entities and bring in certain essential checks and balances in the REC related process.



1.3 The Central Commission in its endeavor to strengthen the REC framework and address the some of the design issues and remove ambiguities which are affecting its implementation, initiated the exercise of amendment in REC Regulations and issued, vide public notice No.F.L-1/12/2010-CERC dated 02.04.2013, the draft of Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) (Second Amendment) Regulations, 2013 (hereinafter referred to as the draft Second Amendment REC Regulations) along with explanatory memorandum for inviting comments/ suggestions/ objections thereon. Last date of submission of comments / suggestions /objections was kept on date 25.04.2013. In response to the same, 68 stakeholders submitted their written comments /suggestions. A list of stakeholders who submitted comments is enclosed as **Annexure-I**.

1.4. Subsequently, public hearing was held on 21.05.2013 to hear views of all the stakeholders, if any. A list of stakeholders who expressed their views/suggestions/comments in person is enclosed as **Annexure-II**.

2 Consideration of the views of the stakeholders and analysis and findings of the commission on important issues

2.1 Following issues were proposed to be addressed through the present amendment:

- i. Renewable energy contracted through competitive bidding;
- ii. Procurement of electricity at Average Pooled Purchase Cost (APPC) rate as determined by appropriate Commission;
- iii. Seasonality issue on self consumption of a bagasse based co-generation project;
- iv. Proposal to remove Electricity Duty waiver benefit as one of the disqualification criteria for eligibility for issuance of certificate on self consumption of a Captive generating Plant (CGP) under REC scheme;
- v. Eligibility conditions for qualifying self consumption of a CGP and a non CGP, for issuance of Certificates;
- vi. Extension of time period for applying for issuance of Certificate;
- vii. Clarity on minimum capacity requirement for eligibility for Certificate;
- viii. Retention of Certificates for compliance of renewable purchase obligation by a captive generating plant;
- ix. Extension of shelf life of the Certificate;

- x. Clarity on whether Certificates should be issued to an eligible entity from date of commercial operation or from the date of registration.

2.2 Analysis of the views/comments/suggestions of the stakeholders and the Commission's decisions thereon are given in succeeding paragraphs.

3 Renewable energy contracted through competitive bidding

3.1 The Commission in its draft Second Amendment proposed to delete definition of "preferential tariff" & recognized procurement through competitive bidding. The said proposed amendments are as under:

"Amendment of Regulation 2 of Principal Regulations:

Sub-clause (k) of clause (1) of Regulation 2 of the Principal Regulations shall be deleted.

Amendment of Regulation 5 of Principal Regulations:

Sub-clause (b) of clause (1) of Regulation 5 of Principal Regulations shall be substituted as under:

"(b) it does not have any power purchase agreement for the capacity related to such generation to sell electricity at a tariff determined under section 62 or adopted under section 63 of the Act by the Appropriate Commission:"

3.2 Comments received:

3.2.1 Support the proposed amendment. (Samriddhi Energy Private Ltd., M&B Switchgears Ltd)

3.2.2 Proposed amendment needs be modified to disallow only those projects where the competitive bidding was done with the purpose of meeting the RPO of the licensee. In case of RE generator selling electricity component through competitive bidding under section 63 of the Act, it should be eligible under REC framework. (Atria Power Corporation Pvt. Ltd.)

3.2.3 Suggested to substitute sub-clause(k) of clause(1) of Regulation 2 of the principal Regulation as follows:

'Renewable Energy Tariff' means the tariff fixed by the appropriate Commission under section 62 or adopted under section 63 of the act for sale



of energy, from a generating station using renewable energy sources, to a distribution licensee where distribution licensee retains the rights to use such energy for the purpose of renewable purchase obligation.”

3.2.4 Also suggested to amend the sub clause (b) of clause (1) of Regulation 5 of principal Regulation as under:

“(b) it does not have any power purchase agreement for the capacity related to such generation to sell electricity at a renewable energy tariff as determined under section 62 or adopted under section 63 of the act determined by the Appropriate Commission.”

3.2.5 It is suggested to allow all the existing RE projects who are selling electricity to the distribution licensee under long term PPA to avail RECs at price not exceeding APPC. (Solar Semiconductor, Samriddhi Energy Private Ltd, Empergy)

3.2.6 Agree with the proposal of the Commission provided that the developer is quoting for the ‘electricity component’ and ‘REC component’ together. If any distribution utility prefer to procure only the ‘electricity component’ under section-63 of the Act under competitive bidding route, in such cases the bidders may be allowed to quote the tariff for the electricity component only and such RE generator may be made eligible for REC benefit also. It is requested to make necessary modifications to incorporate above suggestion. (Kerala State Electricity Board)

3.2.7 The definition of term “Preferential Tariff” may be substituted with “Renewable energy Tariff” so as to promote RE technologies to compete with other sources in the long term. This would progressively increase the share of renewable energy sources in the energy mix. (Orient Green Power Company Limited)

3.2.8 It is suggested to defer the inclusion of purchase of renewable power through competitive bidding till a clear policy is defined by the Central Government as the concept to competitive bidding for renewable sector is on hold as per the stay order given by Supreme court and Delhi high court and besides no guidelines for competitive bidding for renewable sector are in place. (Mytrah Energy (India) limited)

3.2.9 The Commission’s proposal is only appropriate if the bid is called renewable power and only RE generators are allowed to participate. Therefore, the Commission should differentiate between the competitive bidding for normal and RE power and modify the amendment. (Pushpinder Singh)

3.2.10 The proposed amendment also goes against the spirit laid out in National Electricity

Policy and the National Tariff Policy which envisages competitive bidding not only a particular RE segment but also across the other RE generation segments.(RE Connect Energy)

3.2.11 It is requested to revise the proposed amendment and provide REC eligibility for the project that sells power under competitive bidding route, where the bidding document has no mention regarding the fulfillment of RPO by the distribution utility. (Tata Power Trading Company Limited.)

3.2.12 It is suggested to amend as under:

“it does not have any PPA for the capacity related to such generation to sell electricity at a tariff determined under section 62 or adopted through competitive bidding among the same type of renewable energy generator under section 63 of the Act by the Appropriate Commission ”. (U.P.Sugar Mills Cogen Association)

3.2.13 No competitive bidding guidelines have been specified by the Central government for renewable energy. (Wish Wind)

3.3 **Analysis and Decision:**

The Commission considered various suggestions received which sought to differentiate between the competitive bidding for electricity component and competitive bidding for renewable energy for meeting the renewable purchase obligation by an obligated entity.

The Commission is of the view that the electricity component which is proposed to be sold at a rate determined under Section 62 or adopted under Section 63 of the Act should not be for the purpose of meeting renewable purchase obligation by the obligated entity as this would result in double redemption of the RECs. Accordingly, the Commission has agreed to the proposed amendment in the modified form as under:

“(b) it does not have any power purchase agreement for the capacity related to such generation to sell electricity, with the obligated entity for the purpose of meeting its renewable purchase obligation, at a tariff determined under section 62 or adopted under section 63 of the Act by the Appropriate Commission.”

The Commission has also made consequential change in Regulation 9 (2) (c) (i) by replacing the words “preferential tariff” by the words “tariff, for sell of electricity to an obligated entity for the purpose of meeting its renewable purchase obligation, determined under section 62 or adopted under section 63 of the Act by the Appropriate

Commission.”

3.4 The following provision has been included in the final Regulations.

6. Amendment to Regulation 9 of the Principal Regulations

“(1) In sub-clause (c) of clause (2) of Regulation 9 of Principal Regulations, the words "preferential tariff" shall be substituted with the words "tariff, for sale of electricity including the environmental attributes, determined under section 62 or adopted under section 63 of the Act by the Appropriate Commission”.

4 Procurement of electricity at Average Pooled Purchase Cost (APPC) rate as determined by appropriate Commission

4.1 The Commission in the draft second amendment to REC Regulations proposed that the selling of electricity component by the renewable energy generator to the local distribution licensee should be at the pooled cost of power purchase of such distribution licensee as determined by the Appropriate Commission instead of at price not exceeding pooled cost of power purchase. The said proposed amendment is as under:

In sub-clause (c) of clause (1) of Regulation 5 of Principal Regulations, the words "at price not exceeding the pooled cost of the power purchase of such distribution licensee" shall be substituted with the words "at the pooled cost of power purchase of such distribution licensee as determined by the Appropriate Commission”.

4.2 Comments received:

4.2.1 The change in the clause from not exceeding the APPC to power at APPC would allow faster processing of the PPA and would lessen the time for negotiation as in the earlier cases discoms used to allow negotiation on APPC. (Power exchange India Limited)

4.2.2 Support the Commission’s proposal to mandate purchase of electricity by a distribution licensee at APPC instead of at a price not exceeding APPC. Central Commission should direct the State Commissions to follow the formula to be applied for arriving at the APPC, so that a uniformity is established.(P Bhaskar)

4.2.3 Generally observation that determination of “pooled cost of the power purchase of previous financial year by the concerned distribution licensee takes considerable time and as a consequence the PPA by distribution licensee with RE generator is signed on past available “pooled cost of power purchase” tariff. It is suggested that with the proposal of at pooled cost of power purchase, the tariff below pooled cost of power purchase shall also be eligible for REC benefit. (Enrich Energy Pvt. Ltd)



- 4.2.4 It may please be clarified whether the PPAs executed at price lower than APPC would become ineligible under REC Mechanism ? (POSOCO)
- 4.2.5 If the RE generator wants to sell the electricity to the distribution licensee in which it belongs at a mutually agreed price usually above the APPC under open access, then will it be eligible for REC? (Mytrah Energy (India) Limited)
- 4.2.6 There should be annual revision of APPC for all the RE generators selling electricity at pooled cost of power purchase to a state distribution licensee. (M & B Switchgears Ltd)
- 4.2.7 In certain states, like Gujarat and Maharashtra, the APPC cost is determined by discoms. Since REC is a nationalized mechanism, the method for APPC cost should be clearly defined and that would only be possible if State Commission does it. Hence the Central Commission should take up this matter with the Forum of Regulators. (Avanti Solar Energy Pvt. Limited)
- 4.2.8 Certain states have proposed to sign a PPA with the RE developed at a fixed APPC cost for 20 years that would be the APPC cost in that financial year. This is not conducive as the APPC cost would be fixed and the REC component would keep on declining and fade away one day. (Avanti Solar Energy Pvt. limited)
- 4.2.9 Since REC mechanism is a national mechanism, the approach to determine APPC shall be made clear to all the stakeholders and that can only happen when the state Commission declares APPC for the state distribution licensees on an annual basis. (REConnect Energy)
- 4.2.10 Procurement of electricity component at fixed tariff for say 20 years is not conducive for an RE generator where the revenue from RECs will gradually decline and eventually vanish when market sees the grid parity. (REConnect Energy, Orange Powergen)
- 4.2.11 It is suggested that CERC should come out with annual APPC for various states which should be applicable if respective SERC does not come out with APPC Order. Further, in case of delay by SERC in specifying APPC for any year or in furnishing relevant data to CERC, CERC should specify the APPC for ensuing year based upon normative escalation to APPC of previous year for such states. or it is suggested that CERC should specify pan- India APPC which would be common for all states. (WIPPA)
- 4.2.12 The definition of APPC is not uniform across states and many states are not notifying the APPC tariff in transparent and timely manner. (General Carbon)
- 4.2.13 Suggested that CERC should direct State Commissions to follow the formula to be

- applied for arriving at the APPC, so that a uniformity is established. (P. Bhaskar)
- 4.2.14 Although all the SERCs allow projects selling electricity at APPC to generate RECs as well, but there exists certain deviations in practice, when compared to the provisions of the CERC REC Regulations. The Commission should take up the matter of the need for a single nation-wide approach for establishing APPC prices. (Orange Powergen)
- 4.2.15 There should be a fixed price long term contract (without escalation) since the Commission has assumed a fixed price while determination of the REC price bands in its methodology.(PRAYAS)
- 4.2.16 The Commission should make it mandatory for the SERCs to notify their APPC annually since a number of States have not yet notified their APPCs.(PRAYAS)
- 4.2.17 In some states the PPA is signed below the APPC cost. If the APPC cost remains fixed and the REC prices decrease, the project would be no longer viable. However, it is observed that state do not consider short term power purchase and generation from liquid fuel based plant while calculating the APPC cost. Hence it is suggested that APPC cost calculated by CERC for each state should be used. It is also suggested the amendment to clarify that the APPC rates applicable should vary as per the APPC cost for previous year. It is requested that this amended clause should be applicable retrospective from the date of the 1st principal Regulation and hence address the concerns of the RE generators who have signed a PPA with a fixed APPC cost. (Orient Green Power Company Limited)
- 4.2.18 APPC is already defined in Regulation and therefore not required to be separately determined by state Commission, since power surplus DISCOMS are selling power to other DISCOMS from the marginal generating stations. The cost of marginal generation stations deployed in selling of such surplus power is to be eliminated while working out APPC. The DISCOMS deficit in power will purchase power at APPC while the one surplus in power, shall be free for not purchasing this power or be allowed to purchase RE electric power at below APPC.
- 4.2.19 It is also suggested to add a proviso stating that the RE generators should also forgo the concessional benefits for selling electricity component to third party as in third party sale in any case Generator would get arms length price for electricity component. (Gujarat Urja Vikas Nigam Limited)
- 4.2.20 The Commission should reconsider the revision of electricity component at APPC. Currently the Solar preferential tariff determined by the Commission is higher than the solar REC floor price might lead to water fall profits to the RE developers. Hence the

Commission needs to keep the clause at cost not exceeding the APPC or the Commission might revise the floor price such that the total cost of REC floor and APPC does not exceed the preferential tariff. (Gujarat Urja Vikas Nigam Limited)

- 4.2.21 The Commission should look into the methodology by different SERC while determining their APPC. The Commission should consider annual revision of APPC cost. (IL&FS Renewable Energy Limited and Mytrah Energy (India) Limited)
- 4.2.22 The methodology needs to be defined by Commission and it is to be made applicable on retrospective effect for all the PPA signed earlier. (Mytrah Energy (India) Limited)
- 4.2.23 Support the proposed amendment. Some of the distribution licensees don't buy power at APPC and also do not allow open access by charging cross subsidy surcharge and unreasonably high open access charges. Hence the RE developers has no option but to sell power at preferential tariff. (Pushpinder Singh)
- 4.2.24 The Commission has substituted the words "at price not exceeding the APPC cost" with the words "at the pooled cost of power purchase" of such distribution licensee determined by the state Commission. However, it may be possible that the power purchase cost may be less than the pooled cost determined by the State Commission i.e. tariff determined by competitive bidding. The Commission should replace it with "at and below the pooled cost of power purchase". (Ecopolis)
- 4.2.25 In the proposed words "at the pooled cost of power purchase", the words "for the respective year" to be incorporated. (Wish Wind)

4.3 **Analysis and Decision:**

Some of the stakeholders have suggested to clarify as to whether the PPAs executed at price lower than APPC would become ineligible under REC Mechanism. It is felt that the tariff for electricity component lower or higher than APPC may lead to avoidable loss or profit to RE generator. The Commission would like to clarify that the intention is not to debar the projects that have executed PPA at tariff lower than APPC. This amendment will apply prospectively and as such will not affect the already executed PPAs at lower than APPC.

Regarding suggestion received that the PPA of electricity component should be a fixed price long term contract (without escalation) since the Commission has assumed a fixed price while determining the REC price bands in its methodology, it is clarified that the price band is subject to periodic revision; hence fixed APPC or long term

contract without escalation might impact viability of RE projects. In any case proposed amendment provides that the APPC would be as determined by the Appropriate Commission.

The Commission decided to retain the proposed amendment in the final Regulations.

5 Seasonality issue on self consumption of a bagasse based co-generation project

5.1 In order to address the issues related to quantum of self consumption of a bagasse based cogeneration plant with co-located load of sugar mill, where the capacity available for PPA based sales to the utility as per tariffs determined by the State Commission varies from season to season and year to year, depending on the nature of the self consumption requirements of such co-gen units. The Commission in its draft second amendment to REC Regulations proposed under Regulation 5 (1)(b) as under:

"Provided that in case of bagasse based co-generation plants, the connected load capacity as assessed/sanctioned by the concerned distribution licensee, shall be considered as the capacity for captive consumption for the purpose of issue of certificates, irrespective of the capacity of such plants covered under the power purchase agreement."

5.2 Comments received:

5.2.1 Suggestion to insert the second proviso as :

"Provided further, that the Sugar Co-generation plants shall declare the season and off-season periods to the state agency before commencement of season each year. For the purpose of RECs eligibility, such sugar co-generation plants shall be treated separately for the season and off-season periods with respect to the condition of compliance with fossil fuel usage limitation" (NSL Sugar)

5.2.2 As the connected and sanctioned load is defined differently, the Registered capacity may be kept as the assessed/connected/ sanctioned load whichever is higher. Issuance should be independent of the capacity and depend on the actual numbers in energy injection report. (General Carbon)

5.2.3 The issue of seasonal variation for power under PPA shall be considered for bagasse based cogeneration. There needs to be strict monitoring of the actual generation by the respective agency here. This calls for specific set of rules clearly delineating the modus operandi of monitoring the generation and the consumption from the captive generation. (Power Exchange India Limited)

5.2.4 This is a welcome move as it will take away the seasonal variation of quantum of power sold under PPA in case of bagasse based cogeneration. It is suggested to include

a provision so as to specify that the quantum of REC is claimed on the basis of measured unit as approved by the Distribution/transmission licensee in whose area the plant is built, irrespective of the quantum of power signed under PPA. (Independent Power Producers Association of India)

5.2.5 Bagasse based co-generation plants already accredited/registered by nodal agencies should not be again required to file a new application due to this clarification. (General Carbon)

5.2.6 It is suggested to amend the proviso as under:

Provided that in case of any bio-fuel and/or biogas or any other renewable energy based co-generation plants as approved by MNRE, the connected load capacity as assessed/sanctioned by the concerned distribution licensee, shall be considered as the capacity for captive consumption for the purpose of issue of certificates, irrespective of the capacity of such plants covered under the power purchase agreement.(Empergy)

5.2.7 Co-generation by any fuel should be exempted from RPO. (Century Pulp and Paper)

5.2.8 It is suggested to consider allowing RECs benefit to sugar Co-generation plants for the energy generated during the sugar crushing season, irrespective of compliance with fossil fuel usage condition, as these plants are required to supply power during off-season also, due to power shortage condition prevailing in many states. Suggested clause as under:

“Provided further that the sugar cogeneration plants shall be eligible for RECs in the respect of the energy generated during the crushing season irrespective of compliance with the fossil fuel usage condition, subject to compliance with other eligibility conditions”. (NSL Power)

5.2.9 There are many sugar mills like M/S LH Sugar, Pilibhit etc who just declared their emergency load and not the total captive load in their PPA. Therefore, capacity declared under REC is not same as capacity declared in PPA and may create contradictions. Also the REC is issued on the basis of energy recorded in KWh terms and not on capacity i.e. MW basis. Suggested amendment:

“Provided that in case of bagasse based co-generation plants, the connected load capacity as declared by co-generator as assessed/sanctioned by the concerned distribution licensee, shall be considered as the capacity for captive consumption for the purpose of issue of certificates, irrespective of the capacity of such plants covered under the power purchase agreement”.
(U. P. Sugar Mills Cogen Association, GangaKhed Sugar & Energy Ltd)

5.2.10 Just like bagasse based cogen, there are other cogeneration plant which use renewable energy like biomass, husk power, biogas, poultry feed recognized by MNRE that also

face seasonal variation depending on the availability of raw material and the capacity utilization is also a function of seasonal variation of the finished product. Hence, in order to promote cogeneration through other sources, the amendment must also include the other renewable sources identified by MNRE for cogeneration. (Pushpinder singh)

5.2.11 It is suggested to amend the second proviso as under :

"Provided that in case of bagasse non-fossil fuel based co-generation plants , the connected load maximum simultaneous contract demand capacity (at .9 Power Factor) as assessed/sanctioned by the concerned distribution licensee ,shall be considered as the capacity for captive consumption for the purpose of issue of certificates, irrespective of the capacity of such plants covered under the power purchase agreement." (Punjab Energy Development Agency, Nahar Industrial Enterprises Ltd.)

5.2.12 It is submitted that the Hon'ble Commission may kindly consider the following modified amendment :

"Provided that in case of bagasse based co-generation plants, the load declared by Co-generator shall be considered as the capacity for captive consumption for the purpose of issue of certificates, irrespective of the capacity of such plants covered under the power purchase agreement.

Provided further that the sugar co-generation plants shall declare the season and off-season periods to the state agency before commencement of crushing operations every year. For the REC eligibility purposes, such sugars co-generation plants shall be treated for season and off-season periods separately with respect to the condition of compliance with fossil fuel usage limitation". (Indian Sugar Mill Association)

5.2.13 The proposed amendment may be so worded as to cover all cogen plants based on NRSE fuel (Rice Straw, Rice Husk, Wheat Straw, Cane Trash, Sunflower Trash etc.) and not restricted to bagasse based projects only. (Purab Urja Pvt. Ltd.)

5.3 Analysis and Decision:

One of the stakeholders has suggested that that the Sugar Co-generation plants should be allowed to declare the season and off-season periods to the state agency before commencement of season each year. One stakeholder has suggested that the registered capacity may be kept as the assessed/connected/ sanctioned load whichever is higher. The Commission is of the view that the above suggestion does not appear to be practicable. This will also lead to complexities and problems in monitoring.

Some of the stakeholders have suggested that there are similar other industries which put up Cogeneration Plants based on RE fuels like Biomass, Biogas, Poultry feed etc. The

operation of these industries and their Cogeneration plants also varies from season to season and year to year, which need to be recognized.

The Commission considered the above suggestion received and in order to encourage renewable energy based co-generation units (other than bagasse based co-generation plant), it is decided to modify the proposed amendment as under:

“Provided that in case of renewable energy sources based cogeneration plants, the connected load capacity as assessed / sanctioned by the concerned distribution licensee, shall be considered as the capacity for captive consumption for the purpose of issue of certificates, irrespective of the capacity of such plants covered under the Power Purchase Agreement”.

6 Proposal to remove Electricity Duty waiver benefit as one of the disqualification criteria for eligibility for issuance of certificate on self consumption of a Captive generating Plant (CGP) under REC scheme

6.1 The Commission in its draft second amendment Regulations proposed to remove Electricity Duty waiver benefit as one of the disqualification criteria for eligibility for issuance of certificate on self consumption of a Captive generating Plant (CGP) under REC scheme

6.2 Comments received

6.2.1 Proposed amendment is supported by Samriddhi Energy Private Ltd, Empergy, Inox Renewable Limited, Cogeneration Association of India, Solar Semiconductor, Empergy , Vitthal Corporation limited

6.2.2 Waiver of electricity duty should be implemented from the retrospectively from September 2010. (Tata Motors)

6.2.3 It is requested to clarify that the aforesaid condition of eligibility of only those CGP who have not availed waiver if electricity duty ought not to have applied at any time and hence, all CGPs irrespective of their electricity duty at any time and were eligible for REC mechanism. (Serum Institute of India limited)

6.2.4 The amendment to remove the waiver of electricity duty as a part of the eligibility criteria for CGP to get REC is a welcome move. (Orient Green Power Company limited, Pushpinder Singh)

6.2.5 The benefit of ED availed should no longer be criteria for eligibility for getting registration/accreditation under REC mechanism. (Trident Group)

6.2.6 Support the amendment on waiver of electricity duty given to CGP. However, in

extension to waiver of electricity duty and promotional charges, certain States provide incentive in the form of exemption from tax like VAT, stamp duty and registration charges in their State policy. These incentives are also being offered to third party sale. Hence it is requested to include the third party sale in the amendment also. (Mytrah Energy (India) Limited)

6.3 Analysis and Decision:

Proposed amendment is supported by all the stakeholders. The Commission has decided to retain the same.

7 Eligibility conditions for qualifying self consumption of a CGP and a non CGP, for issuance of Certificates

7.1 Commission in its draft second amendment Regulations proposed to be substitute provisos under sub-clause (c) of clause (1) of Regulation 5 as under:

“Provided further that a Captive Generating Plant (CGP) based on renewable energy sources shall be eligible for the entire energy generated from such plant for self consumption for participating in the REC scheme subject to the condition that such CGP has not availed or does not propose to avail any benefit in the form of concessional/promotional transmission or wheeling charges and/or banking facility benefit:

Provided also that any renewable energy generating plant not fulfilling the conditions of CGP as prescribed in the Electricity Rules, 2005 and availing the concessional benefits in the form of transmission or wheeling charges and/or the banking facility benefit shall be required to forego such benefits for the purpose of availing renewable energy certificate for self consumption of energy generated.”

7.2 Comments received:

7.2.1 Commission should clarify that this provision applies to self consumption of renewable power only and third part based contracts are not subjected to above provision.

7.2.2 Transmission /wheeling losses and charges should be removed for power evacuated from all solar power projects and all such solar power projects availing these benefits should be considered eligible for REC issuance. (WAAREE)

7.2.3 A new Proviso may please be added as follows to encourage solar generation.

“ Provided also that any solar generator which avails the concessions



available for captive use or for 3rd party sale, under the policy of state Governments, shall be entitled for RECs subject to compliance with other eligibility conditions. (NSL Power)

- 7.2.4 5(1)(c) should also include captive use (Century Pulp And Paper)
- 7.2.5 The third proviso may please be totally deleted or the period may be reduced to 3 month to take care of transition to REC regime. (NSL Power)
- 7.2.6 In case after the competitive bidding under section 63, if due to any reason like payment default by procurer, non-acceptance of excess energy by procurer generated by RE generator, or due to any other reason if such PPA is terminated or interim termination takes place then such energy generated during that period should be counted under REC mechanism and the plant is eligible for REC benefit on immediate basis after such an event. (L&T)
- 7.2.7 The connected load (of industrial consumer) and capacity of a captive generating plant meant for self-consumption do not have a correlation. Hence substituting the former for the later may not be justified. Further in self-consumption there can be variations in the connected/sanctioned load in case an industrial consumer opts for temporary load reduction during off-season .(Dr. Anoop Singh)
- 7.2.8 There is a need for further clarification on Applicability of Cross-subsidy and other benefits applicable to CGPs and applicability of 3 year cooling period. (Samriddhi Energy Private Ltd , Empergy)
- 7.2.9 Why should not a similar consideration (with appropriate and correct justification) be given to other biomass/RE based captive generating plants? (Dr. Anoop Singh)
- 7.2.10 This may need to clarify further by appending “adverse” to “order or ruling” in case the original intention was to suggest to such type of orders or rulings. It should also account for a case “if the contract is terminated by the utility” as per conditions laid down in the agreement between the utility and the captive generating plant.(Dr. Anoop Singh)
- 7.2.11 If the CGP is/was selling electricity at preferential tariff to the utility, a lock in period should stay. What if a CGP is enjoying benefits of concessional transmission/wheeling charges or banking facility but is not selling power under preferential tariff (may be selling this through open access to other consumers or through a PX)? Should lock in period apply in such cases?(Dr. Anoop Singh)
- 7.2.12 Language can be simplified so that one can map the sentences and would realize that all four combinations are covered.(Dr. Anoop Singh)

- 7.2.13 It is suggested that at all the places in the Regulation where the phrase “CGP or any other renewable energy generator” is used, it may be replaced with the phrase “CGP or any other RE generator using energy for self-consumption” may also be defined appropriately. (Ultra Tech Cement Ltd., Empergy)
- 7.2.14 Applicability of Cross Subsidy and other benefits applicable to CGPs: Kindly clarify whether payment of cross subsidy will become yet another eligibility/scrutiny criterion for such non-captive self-consumption projects? (REConnect Energy)
- 7.2.15 Criteria applicable to RE CGPs and non-CGP Regenerators using electricity for self-consumption shall not be made applicable to RE generators selling electricity purely under open access regime as they are subject significant number of market risks like non-availability of buyers, transmission congestion, low market prices, payment defaults from buyers/traders etc. (REConnect Energy)
- 7.2.16 In the above Regulation the words related with the benefits availed or proposed to be availed by the Captive Generating Plant (CGP) based on renewable energy sources may please be elaborated as under –

The CGP has not availed or does not propose to avail any benefit in the form of concessional/promotional transmission or wheeling charges, banking facility benefit, waiver of electricity duty, exemption in entry tax / VAT on equipments, Industry Status and any other benefit under Incentive Policies of the State for promotion of renewable energy generation. (MPPTCL, Jabalpur)

- 7.2.17 In the above Regulation, the eligibility criteria for RE Generating Plants selling power to third party under long term open access may also be included. (MPPTCL, Jabalpur)
- 7.2.18 The Commission should provide clarity that the projects already accredited and registered need to again go through the process of accreditation and registration. (Sakhar Karkhana Ltd)
- 7.2.19 The proposed amendment should also consider the renewable energy generators selling electricity to the open access consumer to provide equal footing with the CGP. (Astonfield)
- 7.2.20 A number of states like Andhra Pradesh and Madhya Pradesh have come out with state solar policy to promote renewable energy through solar. The policy includes lower promotional/wheeling and transmission charges, thereby preventing the Renewable energy from participating in REC. It is requested to consider the same for eligibility. (Astonfield)
- 7.2.21 It is requested that the projects where bidding was done before the 14th January 2010

should be eligible for REC benefits, if the bidder satisfies the criteria for issuance of certificate. (Ecopolis)

7.2.22 Conditions of forgoing the benefits of concessional like transmission/wheeling charges and losses etc. should also be made applicable on non CGP and third party transaction.

(Madhya Gujarat Vij Company Limited)

7.2.23 Any exemption not on the basis of being a solar power producer but on the basis of a SSI unit should be allowed. (Manidhari Gums & Chemicals)

7.2.24 In one case, the Commission has differentiated RE CPP and other RE generators stating that RE CPPs are forgoing concessional benefit because they are getting exemption from Cross-subsidy surcharge. But the Commission has not clarified as to which concession other RE generators will lose. (Gujarat Urja Vikas Nigam limited)

7.3 **Analysis and Decision:**

Some of the stakeholders have requested to clarify that the provision applies to self consumption of renewable power only and third party based contracts are not subjected to above provision. The Commission feels that the Regulations are quite clear and apply to CGP only.

Some of the stakeholders have suggested that the transmission /wheeling losses and charges should be removed for power evacuated from all solar power projects and all such solar power projects availing these benefits should be considered eligible for REC issuance. The Commission clarifies that any captive RE generator cannot be given both benefits, in the form of concessional wheeling/transmission charges and banking facility as well as REC.

It is suggested that at all the places in the Regulation where the phrase “CGP or any other renewable energy generator” is used, it may be replaced with the phrase “CGP or any other RE generator using energy for self-consumption” may also be defined appropriately. The Commission would like to clarify that the proposed amendment already takes care of the distinction between CGP and other RE generator.

Some of the stakeholders requested to clarify as to whether payment of cross subsidy surcharge becomes yet another eligibility/scrutiny criterion for such non-captive self-consumption projects. The Commission would like to clarify that the Regulation talks

about two specific benefits and not about other benefits that may vary from state to state, and on case to case basis.

The Commission has decided to retain the proposed amendment in the final Regulations.

8 Extension of time period for applying for issuance of Certificate

8.1 In the draft second amendment to REC Regulations, the Commission proposed to extend the time period for applying for issuance of Certificate from three months period to six months. The Commission also proposed to amend the existing Regulation which specifies that the application for issuance of REC may be made fortnightly on 1st and 15th of the month through web based portal. Accordingly, the Commission proposed to substitute Clause (1) of Regulation 7 of the Principal Regulations as under:

" (1) the eligible entity shall apply to the Central Agency for certificates within six months from the corresponding generation from eligible renewable energy projects:

Provided that the application for issuance of certificates may be made on 10th, 20th and last day of the month."

8.2 Comments received:

8.2.1 Allow the filing of online applications on any day and then such applications can be taken up in batches for processing. Effective date of submission can be considered as next notified day. (General Carbon)

8.2.2 Application period of three months (instead of proposed six month) with allowing web based portal on 10th ,20th & last day (instead of earlier 1st and 15th day) of the month may be appropriate amendment. (Bajaj FinServ)

8.2.3 It is suggested to substitute the clause as under:

"The eligible entity shall apply to the Central Agency for certificates within six months from the corresponding generation from eligible renewable energy projects:

Provided that the application for issuance of certificates may be made on 1st, 10th, 20th and the last day of the month". (Empergy)

8.2.4 Cogeneration Association of India endorses the Commission proposal.

8.2.5 It is suggested to substitute the clause as under:



Provided that the application for issuance of certificates may be made on online REC web application on 10th, 20th and last day of the month. After applying online for issuance of RECs, the concerned RE Generator shall ensure that physical application for issuance of RECs reaches to Central Agency by 15th day of the next month.(POSOCO)

- 8.2.6 The SLDC's normally send confirmation to NLDC at the end of two to two and half months from the date of injection of Power and the issuance is done just before expiring the timeline of 3 months. Thus If Commission increases the timeline to 6 months, SLDC's will wait further 3 months for confirmation of Energy injection report, thus the whole procedure for issuance of REC's further gets delayed. It is requested to give direction to SLDC to issue energy injection report to NLDC immediately on intimation of Energy Accounting, if the Commission decides to extended the timeline to 6 month. (P. Bhaskar)
- 8.2.7 Cutoff date for consideration should be based on 'applications received on or before that day' rather than applications made on a specific day. This would be much simple procedurally. (Dr. Anoop Singh)
- 8.2.8 This amendment should also include a provision that SLDC and other Agency/Agencies need to take timely action failing which the data as submitted by eligible entity shall be deemed to be accepted for issuance of REC.(UP Sugar Mills Cogen Association)
- 8.2.9 Support the Commission's initiative to increase the issuance timeline to six months from three months. (REConnect Energy)
- 8.2.10 Issue relating to lapse of RECs due to non-submission of complete application to the central agency: allow such generating companies to re-claim the lapsed RECs in the past as long as such generating companies are able to prove to the Central Agency that the delay caused in application submission was due to various procedural delays beyond their control. (REConnect Energy)
- 8.2.11 REC trading plays a major role in meeting the revenue, hence it is paramount that the REC for electricity generated in a month should be traded in the same month to meet the revenue. The generator gets it monthly generation statement from the distribution licensee on the last day of the month. Most of the issuance of application takes place on the 1st itself. Hence, it is suggested to include 1st day of the month in the amendment also. (Orient Green power company limited)
- 8.2.12 Support the proposed amendment. (Pushpinder singh)
- 8.2.13 It is suggested to allow online application for issuance of REC from the 1st to 20th of

every month. Besides, REC mechanism requires multiple submissions of the same the documents with the SLDC and then the NLDC. Hence, instead of duplication, the process should be streamlined by working online and relying upon state nodal agencies. (Renewable energy)

8.2.14 Support the proposed amendment due to large time required to coordinate with various bodies. It is suggested to extend timeframe for issuance of application throughout the month or as high as possible. (Sakhar karkhana Ltd)

8.2.15 More flexibility should be given for applying online for issuance of REC by increasing the number of days from 2 to 3 or 4 days. It is suggested that the proposed amendment should also include a provision that the SLDC and other agencies need to take timely action failing which the data as submitted by the eligible entity shall be deemed to be correct and shall be accepted for issuance of certificate. (Indian Sugar Mills Association)

8.3 **Analysis and Decision:**

Some of the stakeholders have suggested that the application for issuance of certificates may be made on 1st, 10th, 20th and the last day of the month. Some of the stakeholders have suggested allowing the filing of online applications on any day and then can be taken up in batches for processing.

The Commission is of the view that since the proposed amendment allows 6 months time for application for issuance to RECs as against the earlier provision for 3 months, fixed dates for submission of web based application provide enough time to the generator to apply. It will also provide ease of processing applications received.

POSOCO has suggested that physical application for issuance of RECs should reach to Central Agency by 15th day of the next month. The Commission is of the view that it already forms part of procedure approved by the Commission.

We are of the view that effort should be made by the Central Agency to dispense with the requirement of physical application for issuance of RECs and to introduce web-based information of same by State Agency and SLDC. This will save on the use of papers and efforts on the part of NLDC to carry out physical verification of documents.

The Commission decided to modify the proposed amendment as under:

"(1) the eligible entity shall apply to the Central Agency for certificates within six months from the corresponding generation from eligible renewable energy project:

Provided that the application for issuance of certificates may be made on 10th , 20th and last day of the month."

9 Sell electricity to an obligated entity for compliance of its Renewable Purchase obligation (RPO)

9.1 Under the scheme of the REC mechanism, if a renewable energy generator selling electricity generated from the plant to an obligated entity for its compliance of the renewable purchase obligation by such entity would not be qualified for issuance of Certificates. In order to clarify the same in the Regulation, in the draft second amendment to REC Regulations, a new sub-clause was proposed to be added under clause (1) of Regulation 5 of the Principal Regulations as under:

"(d) It does not sell electricity generated from the plant to an obligated entity for compliance of the renewable purchase obligation by such entity."

9.2 Comments received:

9.2.1 It is suggested to modify the amendment as under:

(d) The obligated Entities shall not be entitled to account the energy purchased from RE generators for the purpose of RPO , if the RE generators intends to claim, or claimed RECs on such energy" (NSL Power)

9.2.2 In case the power is sold through trader the RE Generator should ensure through suitable agreement that such power is not sold by the trader to any obligated entity for the purpose of RPO Compliance. (POSOCO)

9.2.3 RERC has suggested to add at the end of the Sub-clause (6) of the Regulation 7 of the principal Regulation as under:

"Provided that a RE Generator would not be eligible for REC in respect of sale of such renewable energy, which includes environmental attribute, as distinct from electricity component, to a distribution licensee or trader or an obligated entity"

9.3 Analysis and Decision:

Considering the suggestion received from RERC, the Commission has decided to modify the proposed amendment as under:

“(d) it does not sell electricity generated from the plant, either directly or through trader, to an obligated entity for compliance of the renewable purchase obligation by such entity.”

10 Retention of Certificates for compliance of renewable purchase obligation by a CGP

10.1 The mandatory requirement of procuring RECs through power exchanges only by a CGP for fulfillment of its renewable purchase obligation is adding cost burden on the project developer. Such CGP need to first sell the Certificates and then again procure the same from the power exchange. The Commission therefore in the draft second amendment REC Regulation proposed that a CGP generating electricity from renewable energy sources can retain RECs required for fulfillment of his own RPO subject to verification and certification from State Agency. The proposed *amendment of Regulation 8 of the Principal Regulations is as under:*

Clause 3 of Regulation 8 of the Principal Regulations shall be substituted as under:-

8(3) A captive generating plant shall be permitted to retain the certificates for offsetting its renewable purchase obligation as a consumer subject to certification and verification by the concerned State Agency:

Provided that the captive generating plant shall inform the Central Agency regarding the details of the certificates retained by it for meeting its renewable purchase obligations

10.2 Comments received

10.2.1 Support the proposed amendment to retain the certificate for the compliance of RPO by the CGPs (Samriddhi Energy Private Ltd, Cogeneration Association of India, Orient Green -power Company Limited and Mytrah Energy (India) Limited)

10.2.2 Can the entity which owns the CGP use the generated RECs in order to meet its RPO targets across its operations in different states? (Orange Powergen)

- 10.2.3 In case of Group Captive projects, can the RECs thus generated by the Group Captive Projects, be similarly used by the Group Captive Consumers (User Shareholders) to meet their RPO targets as well? (Orange Powergen)
- 10.2.4 It is proposed that the redemption of RECs by a CGP should be through Power Exchanges only wherein a separate product can be considered for such transactions for which the Commission may notify a minimal/ nil charges for such transactions through Power Exchanges. (POSOCO)
- 10.2.5 The generation and consumption by a CGP may be at different locations. Therefore, it may be kindly clarified that the applicability of eligibility conditions for REC and/or Retention of RECs for compliance of RPO by a CGP based on Renewable energy includes different location of generation/consumption also. (Moser Baer Engineering and Constructions Limited)
- 10.2.6 If a CGP located in one state and its consumption location is in other state, may be permitted to retain certificates for offsetting RPO at enterprise level as a consumer subject to certification and verification by state agencies. (UP Sugar Mills Cogen Association)
- 10.2.7 The legal entity operating CGP should be permitted to retain the certificates for offsetting their RPO for their other units located across India where RPO compliance is to met. (Empergy, Avanti Solar Energy Pvt. Limited And BEE Wind Power Private Limited)
- 10.2.8 It is suggested to accommodate proviso 8(2) as follows:
“Provided that the legal entity operating such captive generating plant shall be permitted to retain the certificates for offsetting their renewable purchase obligation for their other units located across India where RPO compliance is to be met.” (Ultra Tech Cement Ltd)
- 10.2.9 Commission should clarify that under the group captive, member can retain REC or transfer REC to the consumers for meeting its RPO. (Wecompli India Pvt. limited)
- 10.2.10 If a company is generating renewable energy and is an obligated entity in a state, it is selling energy at APPC and earning REC. In this case the company is generating its own REC but have to buy/sell through exchange to fulfill its REC. This is not justified as the company will have to bear additional expenses or even may not be able to sell its REC. It is requested to amend the clause or add another clause to Regulation 8. (Power and Energy Consultants)
- 10.2.11 Support the move from the Commission. As per the proposed amendment; the same operating entity can keep the REC generated by the respective CGP to fulfill its

RPO. It is requested to extend the same dispensation to the entire entrepreneurship group setting up the plant. (Dalmia Bharat Limited)

10.2.12 It is suggested to include two more situations through this new proposed amendment:

- i. The company setting up the captive plant may have other fully owned subsidiary companies as obligated entities in the same state or in any other state. Such companies/obligated entities fully owned by the company owning the CGP may also be allowed to set off the RECs purchased for the captive usage in CGP. (Nahar Industrial Enterprises Ltd., Purab Urja Pvt. Ltd.)
- ii. Similar will be situation for non-captive i.e. other captive and co-gen plants not falling in the definition of CGP. If any such other generating plant gets RECs for self consumption, it may also be allowed to set off the RECs for the self consumption of generation from conventional fuel and obligation of other fully owned group companies.(Nahar Industrial Enterprises Ltd., Purab Urja Pvt. Ltd.)

10.2.13 It is suggested to the group companies wherein one entity is a RE generation and other entities has requirement of RECs, such entities should be allowed to sell and buy REC directly. (Tata Power Trading Company limited)

10.3 **Analysis and Decision**

Suggestions have been received from the stakeholders that the entity which owns the CGP should be allowed to use the generated RECs in order to meet its RPO targets across its operations in different States. The Commission has accepted the suggestion that an RE generator can retain REC to meet its renewable purchase obligation for its RPO on consumption units located in different States.

Some of the stakeholders have suggested to allow similar dispensation for fulfillment of renewable purchase obligation of group companies. Due to tracking and monitoring related issue for the time being the Commission has decided not to extend the same dispensation for group companies at this stage.

Regarding suggestion received that the same dispensation should also be given to the renewable energy generators having renewable purchase obligation, the Commission has decided to modify the proposed amendment by replacing the term “captive generating plant” by “renewable energy generator” and extend the scope

to non CGP too for its self consumption.

The proposed amendment has been modified as under:

“(3) A renewable energy generator including captive generating plant shall be permitted to retain the certificates for offsetting its renewable purchase obligation as a consumer subject to certification and verification by the concerned State Agency:

Provided that the renewable energy generator including captive generating plant shall inform the Central Agency regarding the details of the certificates retained by it for meeting its renewable purchase obligations.

Provided further that renewable energy generator shall not be permitted to retain the certificates for offsetting renewable purchase obligation of its group companies as a consumer.”

11 Clarity regarding the date from which the Certificates to be issued to an eligible entity after Registration

11.1 The Commission in its draft second amendment REC Regulations sought to clarify that after registration, the renewable energy generation plant will be eligible for issuance of Certificates from the date of commercial operation or from the date of registration of such plant by the Central Agency whichever is later. The proposed **amendment to Regulation 10 of the Principal Regulations as under:**

“(1) Clause (1) of the Regulation 10 of the Principal Regulations shall be substituted as under:

After registration, the renewable energy generation plant shall be eligible for issuance of Certificates under these Regulations from the date of commercial operation or from the date of registration of such plant by the Central Agency whichever is later:”

11.2 Comments received:

11.2.1 The first para of clause (1) may please be modified as under –

“(1) After registration the renewable energy generation plant shall be eligible for issuance of Certificates under these Regulations from the next day of the date of commercial operation or from the date of registration of such plant by the Central Agency whichever is later.” (MPPTCL, Jabalpur)

11.2.2 After commissioning if any delay happens due to Central/ State agency for more than 3 months, the project commissioning date has to be considered for the issuance of the certificate and not the registration approval date. **(L&T)**

11.2.3 Certificates should be issued from the date of commercial operations, as delay in registration due to various regulatory hurdles could lead to a huge loss of revenue and

could adversely affect the project IRR. The motive of cost recovery through REC mechanism could be defeated. **(Atlanta Energy Consultants)**

11.2.4 The disallowance of REC from the date the project starts feeding electricity into the grid to the date of registration is contrary to the scheme. With the current operational setup, it defies the purpose of getting accreditation within 6 months of commissioning. Hence the Commission must allow the issuance of certificate from the date the project starts feeding electricity into the grid. **(II&FS Renewable Energy limited and Mytrah Energy (India) Limited)**

11.2.5 Proposed amendment could lead to loss of revenue for the RE generators. There had been cases where the projects have been commissioned before the accreditation and the registration. As, per the new amendment, this could lead to loss of revenue till the projects get registered in case it has been commissioned. Hence, it is suggested to make the following changes to the above Regulation.

*“After registration, the renewable energy project shall be eligible for issuance of certificate under these regulations from the date of commercial operation or from the date of application of such plants whichever is later by the central agency.”***(Renewable Energy)**

11.2.6 All the new RE generators should be allowed to claim RECs from the date of commissioning rather than the next day of registration with central agency. **(Inox Renewable Limited)**

11.2.7 It is requested to allow issuance of RECs from the date of commissioning or date of application of accreditation whichever is later; though registration may be specified as a requisite for making application of such issuance.

11.2.8 It is suggested to consider allowing all the new RE generators to claim RECs from the date of commissioning rather than the next day of registration with Central Agency. **(Empergy)**

11.2.9 Many time project developers are losing out REC due to various delay at the accreditation level and on documental issues. CERC may kindly consider the registration date for the project from the date of commissioning in case the registration happens within three month of commissioning and allow issuance of REC for the same period **(Wecompli India Private Limited)**

11.2.10 The proposed amendment would result in case wherein the green component in tariff is lost for the generation from the date of commissioning to the date of registration, though the generator has generated and supplied electricity after signing a PPA with

the distribution company under REC scheme and without taking any benefits as available to a RE generator. The proposed amendment should apply for future cases. The proposed amendment contrary to the very objective of promotion of RE. Accordingly, it is proposed that Clause (1) of the Regulation 10 of the Principal Regulations be amended as under:

“ After registration, the renewable energy generation plant shall be eligible for issuance of certificates under these Regulations from the date of commercial operation of such plant and from the date when the electricity is supplied in compliance with the conditions provided in Regulation 5(1)(b)or(c)”

OR

“After registration, the renewable energy generation plant shall be eligible for issuance of certificates under these Regulations from the date of commercial operation or from the date of application of such plant by the Central Agency, whichever is later.”(Green Infra Wind Power Projects Ltd.)

- 11.2.11 RECs may be issued to an eligible entity from the date of commercial operation or from the date of registration whichever is earlier because many RE generators have incurred significant loss of revenue due to the operational issues/hurdles/delay involved in getting the project accredited/registered. (REConnect Energy)
- 11.2.12 It is proposed to grant the REC registration to the project from the date of application of the accreditation to the nodal agency, if the project achieves registration successfully.(TATA Power)
- 11.2.13 CERC may kindly consider the registration date for the project from the date of commissioning. (Wish Wind)
- 11.2.14 After registration, the renewable energy generation plant should be made eligible for issuance of Certificates under these Regulations from the date of commercial operation or from 00:00 hrs of the next day of registration of such plant by the Central Agency whichever is later. “(POSOCO)

11.3 **Analysis and Decision:**

Suggestions have been received that the certificates should be issued to an eligible entity from the date of commercial operation or from the date of application for registration. The Commission in its Order dated 7.05.2013 (Petition No. 211/MP/2012) has already clarified along with the rationale that the as per scheme of the REC Regulations an eligible entity shall be eligible for issue of RECs from the date of its registration with the Central Agency.

Regarding suggestions received from POSOCO that the renewable energy generation plant shall be eligible for issuance of Certificates under these Regulations from the date of commercial operation or from 00:00 hrs of the next day of registration of such plant by the Central Agency whichever is later. The Commission feels that this can be incorporated in the detailed procedure for issuance of certificates.

The Commission has decided to retain the proposed amendment in the final Regulations.

12 Shelf life of Certificates

12.1 The Commission in its draft second amendment to Regulations proposed to extend the validity of Certificate from Three hundred and sixty five days to Seven hundred and thirty days. Proposed amendment to the Regulation 10 of the Principal Regulations is as under:

Clause (1) of the Regulation 10 of the Principal Regulations shall be substituted as under:

.....

Provided that the Certificate issued under these Regulations shall remain valid for seven hundred and thirty days from the date of issuance:

Provided that the Certificate issued to an eligible entity for the electricity generated at a time when such entity fulfilled the eligibility criteria for accreditation, shall remain valid for the said period of seven hundred and thirty days, even if accreditation of such entity is revoked at a later date.

12.2 Comments received:

12.2.1 Increasing the shelf life is akin to doubling the problem for next year. Extension provided here should not relieve the obliged entities from fulfilling their obligations. (Atria Power Corporation Pvt. Ltd.)

12.2.2 Till the time the RPO is not enforced on all obligated entities, including state discoms, the life of RECs should remain extended. It should not end in 730 days, till the time there is no enforcement of the RPO. (WAAREE)

12.2.3 Cogeneration Association of India endorses the Commission's proposal.

12.2.4 Shelf life of REC certificate should be increased by another 365 days with the attribute of trading value equal to 50% of original one.(L&T)

12.2.5 While this change may buy some time for the developers to sell their certificates in the

short run, this supply side procedural correction is not a sustainable solution to what is effectively a demand side problem. (PRAYAS)

12.2.6 Extension of validity of certificate is a welcome but incomplete step. If certificates are now valid for 730 days for all, it does not make sense to limit banking facility only to CGPs. A clarification would help ensure that (through extension of validity of RECs) banking is now available to all RE generators. (Dr. Anoop Singh)

12.2.7 As per the above proposed clause, the certificate issued shall remain valid for a period of 730 days even if the accreditation of the entity is provoked at a later date. However, there are situations where an RE generator, ineligible for REC mechanism has been availing the same through providing false information or by hiding certain facts. In such cases, if the appropriate Commission decides the matter against the CGP, the certificate already issued shall be made invalid from the date of issue.

Till a mechanism is in place to get the obligated entity to buy REC to fulfill their RPO, the cap on the validity of REC should be removed. (IL&FS Renewable Energy Limited)

12.2.8 This amendment would provide a temporary relief and is not a robust solution to the lack of REC buyers in the REC market. (Power Exchange India Limited)

12.3 Analysis and Decision:

The Commission in its Order dated 11.02.2013 (Suo Motu Petition No. 266/SM/2012) in the matter of Validity of the Renewable Energy Certificates beyond the period specified in Regulations 10 (1) of the CERC REC Regulations-2010, has given detailed justification for extension of life from 365 days to 730 days. Therefore, the Commission has decided to retain the proposed amendment in the final Regulations.

Regarding suggestion that if an RE generator got registration through providing false information or by hiding certain facts and if an appropriate Commission decides the matter against the same, the Certificates already issued but not redeemed should be made invalid from the date of issue, the Commission decided to add new provisos at the end of the proposed amendment to that extent.

“Provided that the Certificate issued under these Regulations shall remain valid for seven hundred and thirty days from the date of issuance:

Provided that the Certificate issued to an eligible entity for the electricity

generated at a time when such entity fulfilled the eligibility criteria for accreditation, shall remain valid for the said period of seven hundred and thirty days, even if accreditation of such entity is revoked at a later date:

Provided that where an eligible entity has obtained accreditation and registration on the basis of false information or by suppressing material information and the accreditation of such entity is revoked at a later date, the Certificates already issued to such entity but not redeemed shall stand revoked from the date of issue of such Certificates and in respect of Certificates already redeemed, such entity shall deposit the amount realized from sale of such Certificates along with the interest with the Central Agency at the rate of two (2) percent in excess of the applicable State Bank of India Base rate per annum."

13 Minimum capacity eligibility criteria for REC registration

13.1 The Commission in the draft second amendment REC Regulations clarified that the grid connected RE generation project without cap on the minimum capacity will be eligible for registration for RECs.

13.2 Comments received:

13.2.1 One likely scenario from this change is the proliferation of kW scale RE plants (especially from rooftop or ground mounted solar PV) directed mainly towards self-consumption through Captive or Open Access route. This situation would result in windfall profits for the developer since the avoided cost of energy (consumer energy charges) is in the range of Rs. 7-9/kWh and with additional RECs will lead to windfall gain for such investments. Therefore investments for self- consumption or sale to third party should not be allowed to qualify for the REC mechanism. (PRAYAS)

13.2.2 There shall not be any minimum capacity criteria for participating into REC. (REConnect Energy)

13.3 Analysis and Decision:

The suggestions have been received wherein concern has been raised that the eligibility of small kW scale rooftop solar PV for the REC mechanism might result in windfall profits for the developers. This Commission feels that this apprehension may not necessarily be true especially in the face of huge power shortage and increasing procurement cost of power for Discoms. Also, with time, the price bands for REC could be adjusted suitably reflecting current cost of generation from solar PV projects.

14 Miscellaneous Submissions:

15 Banking facility Definition



- 15.1 For an RE generator availing REC benefit and participates in the short term power procurement tender of the host state, settlement of power should be on a day or half day basis rather than 15 minutes time block (L&T)
- 15.2 Proposal to change the definition as under
- *'For the purpose of Regulation ,the expression banking facility benefit shall mean only such banking facility whereby the CGP or any other renewable energy generator using energy for the purpose of self consumption gets the benefit of utilizing the banked energy in time slots(s) where the corresponding energy tariff as determined by the corresponding Commission is higher compared to the time slot(s) during which the energy was generated and thus banked (Solar Semiconductor, Empergy))*
- 15.3 It is suggested to delete the words "and/or banking facility" in the second proviso.(NSL Power)
- 15.4 Banking facility for solar power should be provided for upto a period of one year from generation of power, across the country.(WAAREE)
- 15.5 The banking facility is a crucial requirement for projects based on infirm technologies, in order to service genuine electricity demand, It is requested to consider allowing use of banking facility between different TOD slots, upon payment of the differential in the applicable energy tariff between these slots.(Orange Power Gen)
- 15.6 Day time solar generation and using it during night time should not be considered as Banking Facility under captive power consumption by a Captive generating plant. (Rajasthan Patrika)
- 15.7 It is requested to specify the banking facility which can be availed by RE generator availing REC benefit. Banking facility may be consumption on same day basis excluding peak hours. (L&T)
- 15.8 Regulation should clearly specify non-preferential banking condition which will make the projects eligible for RECs. (Atria Power Corporation Pvt . Ltd.)
- 15.9 If a generator is paying the difference of energy tariff between the two time slots to the distribution licensee, such arrangement shall not be treated as a promotional banking. (Empergy)
- 15.10 The current definition of Promotional Banking is limited and will have an adverse impact on the solar market development where if the adjustment of banked energy generated during the day and adjusted against the night time is treated as promotional banking. Suggested following definition for the consideration of the Commission:

For the purpose of this Regulation, the expression "banking facility benefit" shall mean only such banking facility whereby the CGP or any other RE gen

using energy for self-consumption gets the benefit of utilizing the banked energy in time slot(s) where the corresponding energy tariff as determined by the appropriate Commission is higher compared to the time slot(s) during which the energy was generated and thus banked. Further if such generator is paying the difference of energy tariff between the two time slots to the distribution licensee, such arrangement shall not be treated as a promotional banking.” (Ultra Tech Cement Ltd.)

- 15.11 The current definition of promotional banking appears to have been designed keeping into consideration primarily wind and small hydro generation. Adjustment of energy from banked energy generated during the day to peak hours should also not be treated as a promotional banking if the generator is willing to compensate distribution licensee for the energy differential charges between day time hours and the peak time hours. This will help captive consumers to become as energy independent as possible reducing the dependency on the supply from the distribution licensee. (REConnect Energy)
- 15.12 Banking facility provided under State Solar Policy to improve viability and encourage investments in Renewable projects since the cost of power from renewable especially solar is more than prevailing conventional electricity. These Concessions definitely do not result in windfall profits for developers but help improve viability of the sector. Moreover banking becomes a necessity for this sector to ensure that the full benefit of the power generated from the Renewable energy generating plants is fully available to the receiving consumer and is not curtailed by any schedule or unscheduled power cut especially at the end consumer facility. (Solar First)
- 15.13 Solar energy generated and injected during day time should not be treated as banked and should not be adjusted against say night hours, as the generation has happened during day where the demand for energy is generally high and the consumption is happening during night where demand for energy is low. Further, adjustment of energy from banked energy generated during the day to peak hours should also not be treated as a promotional banking if the generator is willing to compensate distribution licensee for the energy differential charges between day time hours and the peak time hours.(M & B Switchgears Ltd)
- 15.14 It is submitted that the other two disqualification criteria (i.e. benefit in the form of concessional/promotional transmission or wheeling charges and/or banking facility benefit) should be either removed or it should be as per interpretation by appropriate SERC. (WIPPA)

16 Eligibility for self consumption of CGP and sale of power to an open access consumer

- 16.1 Captive generation plants and plants setup for open access transactions should not be allowed in the REC mechanism at all. The present methodology for determining the REC price band (floor and forbearance) assumes the sale price of grey power to be at APPC (in the range of Rs. 2- 3/kWh). In stark contrast the avoided cost of power for captive and open access consumers could be as high as Rs. 5-8/kWh (i.e. 2-3 times higher than the assumed APPC). Hence allowing certificates for CGP and OA based on the above methodology will create excessive windfall profits for such transactions.(PRAYAS)
- 16.2 Old Projects should not be allowed considering the excess tariff impact for the consumer and as it goes against the objective of bringing in new investments via the mechanism. (PRAYAS)
- 16.3 RECs should be allowed to old projects. (Tata Motors)
- 16.4 Fundamental objective behind REC was to promote new RE capacities and if existing cogen are allowed to claim REC, it would not meet the desired objective but would also result. Further, it is pertinent to mention that bagasse based cogen plant are economically viable without REC and in this view REC should not be allowed for self-consumption through bagasse based cogeneration. (Orient Green power company limited)
- 16.5 As per Regulation 5(1)(c) of the CERC draft amendment, third party sale to licensee is allowed under REC mechanism. However, the same is not applicable as per KERC Regulation. Hence, the eligibility criteria are contradictory as per CERC and KERC Regulations. It is requested to clarify the same and give necessary directions.(R.B. Seth Shreemam Narsingas)
- 16.6 It is requested to clarify its position that a project may be registered on the basis of undertaking with respect to future use of power for captive purpose. The project should be able to claim issuance only if it actually uses power for self consumption. (R.B. Seth Shreemam Narsingas)
- 16.7 It is requested to clarify that whether a CGP eligible for registration and issuance of Certificates on self consumption quantum of electricity generated if it is less than 51% on annual consumption. (R.B. Seth Shreemam Narsingas)
- 16.8 Though already in power purchase agreement, if any renewable energy portion is getting added into existing conventional thermal based generation unit, the generation company

is eligible to apply for issuance of and dealing in certificates only for portion of electricity generated from renewable energy source. (L&T)

- 16.9 The proposed sub-clause in the present form may create problems for RE generators. They should be free to sell energy to any entity specified in sub-clause 5(1)(c) to get RECs, but those entities should not claim compliance of RPPO. It is for the agency which is in charge of checking RPPO compliance, to ensure that such double accounting is not allowed. The proposed draft sub-clause may be modified as follows:

'(d) The obligated Entities shall not be entitled to account the energy purchased from RE generators for the purpose of RPPO, if the RE generators intends to claim, or claimed RECs on such energy". (NSL Power)

- 16.10 Regarding , CGP, the KERC submitted that such plants are set up by industrial and other large consumers including bagasse based sugar factories to meet their own need of electricity and sale of surplus power generated in their units. Self consumption by such units being replacement of the consumption of power from distribution utilities at retail tariff applicable to them and cost of generation is usually lower than utility's retail tariff applicable to them. It is therefore not justified that such units get the additional benefit of the value of RECs for the power consumed by them out of their own generation. It is further submitted that the proposed amendments relating to CGP if notified, will make it more difficult for Forum of Regulators (FOR) to take-up such a review in the near future. (KERC)
- 16.11 Regarding , eligibility of RE generators selling power to third parties by open access at mutually decided rate, the KERC submitted that in State like Karnataka, it is found that RE generators are able to sell power to consumers at prices comparable to higher slabs of applicable retail tariffs fixed by the SERC. Even after deducting the open access charges and the cross subsidy charge, the generators are able to realize prices higher than the PPA rates available to similar generators. (KERC).

17 Three year cooling period

- 17.1 3 years cooling period should not be applied on CGP if it forgoes benefits of promotional transmission or wheeling or banking charges. (Orient Green power limited)
- 17.2 Kindly clarify whether 3 year cooling period be applicable in case of RE generators using electricity of self-consumption foregoes the wheeling and banking charges. Will be 3 years cooling period also be applied if RE generator gives up all the benefits not eligible to CGP? (Avanti solar energy pvt. limited)
- 17.3 Suggested to allow the benefits of concessional wheeling and transmission charges /

banking facility to solar power developers who wish to participate in REC market. Non-eligible period of three years after forgoing the benefits by the solar captive plant is on a higher side. It is suggested to decrease the non-eligible period for such projects from three (3) years to one (1) year. (solar First)

17.4 The third proviso may please be totally deleted or the period may be reduced to 3 month to take care of transition to REC regime. (NSL Power)

17.5 Three years lock in period to be replaced by 1 year as 3 year period is quite a long duration. (Ultra Tech Cement Ltd)

17.6 One of the existing generators sells entire power to the discoms and after some years, it sells the entire power to the third party but does not avail promotional/ transmission charges. It is requested to clarify that whether the generator will be eligible for REC under open access straight away or will it have wait for 3 years for availing the benefit. (Mytrah Energy (India) limited)

17.7 It is suggested that the 3 year cooling period should not be made applicable in case an RE generator using electricity for self-consumption purpose forgoes benefits of promotional wheeling and banking facilities. (REConnect Energy)

17.8 As per the draft regulations, the CGP cannot avail the benefits of REC mechanism if it avails any benefits in the form of concessional/promotional transmission or wheeling charges. KSEB has developed transmission facilities for evacuating power from a CGP's generator terminal upto the nearest substation free of cost. Hence KSEB requested to make suitable modifications in clause 3 may be made to include the benefit availed by CGP in the form of transmission infrastructure:

“provided by the utilities at free of cost as a form of promotional transmission charges for facilitating the development of CGP. (Kerala state Electricity Board)

17.9 It is necessary to make clear that the waiting period is not applicable in cases where a CGP forgoes on its own the benefits of concessional Transmission/Wheeling charges. (NSL Sugars)

18 Eligibility for off-grid RE projects

18.1 Off-grid projects should be considered as deemed to be connected generators. (Century Pulp And Paper)

- 18.2 RE generator with 100% captive use should be deemed to be connected to the state network. (Century Pulp and Paper)
- 18.3 It is proposed to create a separate category of project under the REC framework which cannot be connected to the grid. There are places which are very rich in Renewable energy sources but are deprived from the grid or where the grid connectivity is extremely expensive. As a result the project cost gets escalated to an extent that the project becomes unviable for grid connection. It is therefore requested to grant REC for Off-grid projects. (Atlanta Energy Consultants)
- 18.4 Off grid or on grid behind the meter rooftop / standalone solar power projects have tremendous potential in urban as well as in rural areas. It is requested that such off- grid rooftop and decentralised solar projects to be made eligible to participate in REC market. (Solar First)
- 18.5 Requirement of condition of Grid connectivity for eligibility under REC mechanism should be withdrawn for the CGP using 100% of self generation and are not ready to inject in the grid. (SSA International ltd., Sainsons Paper Industries Ltd, Saini Power Transactor)
- 18.6 A suitable Regulation or set of rules may be formulated by CERC to promote Captive Power plants which are physically not connected to the grid and the RECs may be issued on the basis of the quantum of generated power. (L&T)
- 18.7 How to meet the grid connectivity eligibility when the project don't intend to inject the power and want to get the grid connectivity for meeting REC eligibility only.(Yashwant Energy Pvt. Ltd.)
- 18.8 Need clarity on definition of Grid Connectivity. Confusion persists as to what shall be considered as grid connected CPP. (Ultra Tech Cement Ltd)
- 18.9 REC mechanism could just act as a catalyst where off-grid project developers could offset their higher costs against the revenue generated from REC sales and hence could afford to provide cheaper electricity to the section of the society who need cheaper electricity the most. Non-inclusion of off grid projects also discourages small solar power producers. (Ultra Tech Cement Ltd)
- 18.10 It is requested to include off-grid power plants for eligibility for issuance of certificates. (Tata Power Trading Company Limited)
- 18.11 Would RPO be applied to all the CPPs whether they are grid connected or not? (REConnect Energy)
- 18.12 RECs for Off Grid Projects: Considering the future evolution of solar market in India,

non-inclusion of off-grid projects in the REC main stream discourages small solar plants set up by various companies in multiple numbers as part of meeting their RPO. (REConnect Energy)

19 Denomination of Certificate

19.1 Suggested an amendment as under :

Each certificate issued shall be represent 1Mwh of electricity generated from renewable energy source and injected into the grid ignoring drawal of grid energy or deemed to be injected in to the grid in case of self consumption by eligible captive power producer excluding auxiliary consumption. (Bajaj FinServ)

20 Energy Injection Certificate: Role of SLDC

20.1 It is suggested that the guidelines for submission for energy injection report by the SLDC should be prepared by the CERC. (Wish Wind)

20.2 POSOCO suggested to incorporate as under:

“SLDCs shall certify energy injection report on monthly basis and communicate to Central Agency with a copy to the concerned RE Generator. SLDC shall ensure that energy injection report is certified in all respect and the same is communicated to Central Agency without any conditional remarks within 15 days of the application made by the RE Generator. SLDC report with conditional remark shall not be treated as certified SLDC report.” (POSOCO)

“SLDCs shall establish protocol/ procedure regarding timelines for obtaining meter readings along with the relevant documents with concerned entities in order to certify the energy injection report and its subsequent communication to Central Agency in time bound manner.” (POSOCO)

21 Trading Platform

21.1 REC trading should be allowed on every Wednesday of the week instead of last Wednesday of every month. (General Carbon)

21.2 The Commission should increase the number of trading days to augment the clearing of volumes and also look at the possibility of REC redemption by bilateral trade. (Sakhar Karkhana Ltd.)

21.3 Intermediaries, which typically play a role of market makers and help in facilitating transactions for smaller players using these instruments. Moreover, lenders or bankers

cannot acquire RECs for further trade. This creates problem for both developer and banker to raise funds/lend money for REC based RE projects without adequate security of assignable rights. The Commission should allow multiple trading of RECs. Since all trades shall take place only through electronic form, it is possible to mandate to register every trade transaction with the registry/Central Agency. Presently, RE generators are not able to assign or securitize RECs to raise funds for new projects which is leading to limited support from lenders/availability of debt funds for RE projects willing to participate in REC mechanism and causing slow growth of RE. Lack of bilateral trade agreement, which is hindering the ability of RE generator to enter into long term REC sale agreement. Thus, the Commission may consider allowing bilateral REC trade and assignment of RECs. (Solar First)

- 21.4 Sale and purchase of REC between parties through bilateral trade should be allowed. (Independent Power Producers Association of India)
- 21.5 Allow bi-lateral trading and re-trading in RECs (WIPPA, InWEA)
- 21.6 RE generators should be allowed to mortgage RECs to banks which will help them to get funding for new projects. (Inox Renewable Limited)
- 21.7 Bilateral contracting of REC should be operationalized in addition to exchange based trade. This will help in renewable power investor to contract RECs on a mutually agreed price to the obligated entities. (General Carbon)
- 21.8 With CERC proposal that captive RE projects can retain their RECs generated and meet their own RPO targets, it is proposed that generators should also be allowed to have bilateral sale arrangement with obligated entities at a floor price in order to support the poor demand of RECs in the market.(TATA Power)
- 21.9 It is suggested to consider the option of REC trade in Over the Counter (OTC) platform. It will increase the bankability of project as the generators will be able to assign/securitize RECs in favor of lenders which will help in achieving financial closure. It will also help RE generator to securitize their revenue through sale of RECs and obligated entity to tie up with RE generator for fulfillment of RPO compliance in long term. (Tata Power Trading Company Limited)

22 REC to Discoms procuring RE power beyond RPO

- 22.1 The distribution licensees who buy renewable energy over and above their RPO obligation should also be made eligible for REC. This will help not only reduce the financial risk of the project developer but also insulate the end consumer of DISCOMS

from additional financial burden. (Gujarat Urja Vikas Nigam Limited)

22.2 The Trading of RECs by the obligated entities, procured in excess of RPO may also be allowed, as envisaged in the National Action Plan on Climate Change. (Moser Baer Engineering and Constructions Limited)

22.3 NAPCC envisages that the REC may be traded by the obligated Entities and by allowing bilateral trading of REC and allowing trading of REC by the Distribution Licensees will boost the REC market. The bilateral trading can also be extended to generators and obligated entities to enable and facilitate financial closure of such project. (Moser Baer Engineering and Constructions Limited)

22.4 **Floor Price of solar REC**

22.4.1 Issue a commitment that the minimum value of REC post 2017 will be at least 75% of the current floor price for solar RECs. (WAAREE)

22.4.2 Honorable Commission is requested to specify long term projection of floor prices, typically for time horizon of 10-15 years, so as to facilitate lending for projects under REC route.(WIPPA)

22.4.3 It is proposed that CERC should extend the time period of control period from 5 to 10 years, which is the loan payback period for most of the projects.(TATA Power)

23 **Solar RECs, significant mismatch between certificate prices and PV costs**

23.1 The present notified solar certificate price range is Rs 9.3-13.4/kWh for the period of 2012-2017. At the same time, solar PV prices have come down drastically in the last few years and the latest price bids for large scale solar PV projects are roughly Rs. 6.5/kWh (electricity + green attribute). The latest CERC solar PV tariffs are also set at Rs 7.87-8.75/kWh (with and without accelerated depreciation benefit). By 2017, the price will certainly be much below Rs 6/kWh. While one could not have anticipated such drastic reductions at the time of deciding REC prices they should be immediately revised downwards or this will result in unnecessary tariff impact on consumers for no additional value and not be sustainable for the solar sector in the long run. The projects coming in later years (with lower costs) may get much higher profits if the market clearing price for solar RECs is dictated by the older projects. Similarly the present solar RECs cover both CSP and PV and there is an increasing price differential between the two. (PRAYAS)

24 Longer term visibility of Floor and forbearance price

- 24.1 It is requested to determine the floor and the forbearance price for a period of 10-15 years to facilitate easier availability of loan for solar projects. (IL&FS Renewable energy limited)
- 24.2 The REC price band has been announced for 5 years upto 2017 beyond which there is no clarity on the evolution of the price band. In all likelihood this will be revised downwards as has been done once, but the magnitude of the decline is not known. Some clarity in this regard is essential for investment certainty in this mechanism. (PRAYAS)
- 24.3 It is requested to define a price range for non solar and solar REC beyond 2017 for a period of 5 years. The Commission should also include an exit clause in the REC Regulations, enabling the REC generator to exit from the REC mode and switch any time during the project and switch to selling electricity through the tariff determined under Section 62 and 63 of the Electricity Act 2003, by the appropriate Commission in the same year of commissioning of the RE project. (Atlanta Energy Consultant)
- 24.4 The non-solar RECs are being traded at floor price only. Therefore the Commission should increase the floor price.

25 Methodological issues with the REC mechanism

- 25.1 An appropriate methodology for calculating the REC price band should involve SERC notified FiTs and APPCs as against the present methodology.
- 25.2 A more realistic metric for determining the REC price band is to find the difference between renewable energy FiTs and the price of new capacity addition in say thermal power plants. This will give a more accurate picture of what the real incremental cost of renewables is today. (PRAYAS)
- 25.3 It is suggested that while deciding the floor & forbearance price based on the effect of decrease of capital cost and other factors, the interest of existing projects revenue stream will also be taken into consideration (L&T)

26 Vintage based multiplier: Price stability/Differentiation of certificates

- 26.1 As the floor and forbearance price change with the emergence of cheaper technologies, REC doesn't offer a viable alternative for the investor. The regulations should recognize

that investments in plants already made cannot take advantage of the cheaper prices/better technologies. Thus, requirement would be to apply a multiplier to the REC certificate should the floor price be reduced. (Atria Power Corporation Pvt. Ltd.)

26.2 Capital cost for solar projects is rapidly reducing and it will drive down the prices of solar based RECs beyond the current pricing control period of March 2017. In this emerging scenario, the solar RECs for projects setup in initial years in anyway would not be in a position to compete with energy certificates of the projects which would get commissioned after few years on account of significant cost differential.

26.3 APPC is likely to increase in future due to increasing cost of fossil fuels and that will again decrease the floor and forbearance price of RECs. For the projects installed earlier, it will be a disadvantage. Following two possible solutions suggested for feasibility of a solar REC based project:

- Option 1: Vintage Based RECs: The value of certificate for per MWh of energy may reflect the cost differential of different years. This would imply that the project set up in initial years would be entitled to higher number of certificates for same value of energy than the project coming later and this valuation would have to be carried out every year based on the viable tariff required for each year.
- Option 2: The alternate solution could be to provide the APPC which is escalated each year by a definite multiplier ensuring enough revenue for enabling feasibility of comparatively old solar projects all throughout their life. In this case the revenue from solar REC will decrease due to decrease in floor and forbearance price of solar RECs on account of decreasing solar energy cost but that is compensated by the increase in APPC component and total revenue of the developer remains the same (Solar First)

27 National Level RPO

27.1 It is also requested that the Honorable Commission may impress upon States for uniform RPO at national level to create a demand for REC. (Gujarat Urja Vikas Nigam Limited)

28 Effective RPO compliance

28.1 In order to revive the REC market, there is a need for strict actions against the defaulting Distribution entities. (Power and Energy Consultants ,TATA Power)

- 28.2 Unless this fundamental issue of RPO enforcement is sorted out, the effective functioning of the REC mechanism cannot be expected. (PRAYAS)
- 28.3 It is hereby suggested to decrease the compliance period to six months period or three months period from existing period of one year (L&T)
- 28.4 It is suggested that compliance period may be kept on the basis of each quarter. (Purab Urja Pvt. Ltd.)
- 28.5 It is requested that the Commission in consultation with MNRE and the Forum of Regulator should set up a renewable regulatory fund (RRF) for buying all the unsold inventory of REC's. The Commission should also consider implementing direct RPO for the industrial and the commercial consumer independent of the distribution entity. (IL&FS Renewable Energy Limited)
- 28.6 Some of SERCs are not allowing RECs purchase cost of Distribution Licensees on quarterly basis. (Wish Wind)
- 28.7 It is suggested to define the RPO in million units on quarterly basis and monitoring of the same by the State agencies and regular hearing by SERC on RPO obligation. (Power Exchange India Limited)
- 28.8 The CERC through the FOR should try and build consensus amongst SERCs to take strict action towards effective RPO compliance. Effective RPO compliance to create a market for renewable power is the bed rock of the whole RE sector including the REC mechanism. Unless this fundamental issue is sorted out, the effective functioning of the REC mechanism cannot be expected. (PRAYAS)

29 Compliance of RPO by obligated entities on quarterly basis

- 29.1 At present REC issues to eligible entities are valid for two years from the date of issue whereas obligated entities have to comply with their Renewable purchase obligation on financial year basis. Thus, obligated entities wait till Dec-Jan and purchase RECs in the last 2-3 month of financial year. However, the validity of REC is from the date of issue and there is no linkage between expiry date of REC and compliance of RPO obligation. It is suggested that compliance period may be kept on the basis of each quarter. (Punjab Energy Development Agency, Nahar Industrial Enterprises Ltd.)
- 29.2 Non-compliance of RPO is mainly due to non-availability of data with respect to the obligated entities in the state and their respective compliance status.(IEX)
- 29.3 Provisions to ensure demand side compliance in similar details are lacking. This issue has been dealt in the explanatory memorandum in which it is stated that the final

implementation falls within the ambit of state commissions in terms of ensuring compliance of RPOs by the obligated entities.(IEX)

- 29.4 The state agencies may be given role of at least to collect data of all the obligated entities and their RPO compliance status and to regularly post the updated information on the website of the state agency under REC regulations. This way the state agencies would enable the State Commissions to take appropriate action on non-compliance of RPO. This would renew confidence of the investors in the REC mechanism. (IEX)

30 Retrospective Applicability of this amendment Regulations

- 30.1 The applicability of this Notification should be made with retrospective effect from 1.10.2010. Otherwise, all the pending accreditation and registration can be cleared by SNAs/SLDCs/NLDC. This will avoid duplication of work and process for the sugar factories. as well as SNAs/SLDCs/NLDC (Cogeneration Association of India)

31 Buyers of last Resort

- 31.1 Kindly specify few provisions for safeguarding the interest of the RE generators in case of non-sale of RECs. One such suggestion could be that in such cases, the RE generator can sell their RECs to host state distribution companies by default at a particular price fixed by CERC in the Regulation which may be lesser than floor price. (L&T)

32 Increasing ambit of obligated entities: RPO applicability on Auxiliary Power consumption of a generating station

- 32.1 It is requested to consider increasing the ambit of obligated entities- the auxiliary consumption of conventional power plants should be brought under the ambit of obligated entities. This could help in significantly augmenting the REC demand. (WIPPA)
- 32.2 Whether the solar power plant can be established to meet the auxiliary requirement of biomass power plant? (Indian Biomass Power Association)

33 Governance aspects and further transparency

- 33.1 One notices that obligated entities including utilities in resources rich states (ex: Mah, Guj etc) where in most of the REC projects are located are also the buyers of these certificates. While this may be alright as long as it is done to overcome any shortfall in

planned renewable energy purchase (through FiTs or competitive bidding) due to the year to year resource variation and base demand changes, it should not become a substitute for long term renewable energy self generation/purchase planning through FiTs/competitive bidding. (PRAYAS)

34 Potential conflict of interest situation

34.1 If a company on its own or through its sister concerns could be in the distribution and generation sector in the same state. It may be possible that the generator puts in projects in the REC route and sells the certificates on the national exchanges while the distribution company also purchases certificates from the exchange to fulfill its RPO. This may turn out to be a costlier option for the consumers as compared against the possibility of having a FiT or competitively discovered price long term agreement between them (generator and utility). (PRAYAS)

35 Market monitoring report on REC

35.1 CERC should come out with a yearly market monitoring report on REC which should have all the following data and an M&V mechanism to ensure that the stated objectives are being met.

- a. State and technology wise REC data (Certificates generated / sold)
- b. Obligated entity wise purchase of certificates.
- c. Voluntary purchase of RECs.
- d. REC projects set up for CGP and OA sale and not for sale to utility. (PRAYAS)

36 REC: Not a driver for the RE sector investments

36.1 The rising APPC and the falling prices of renewables mean that grid parity is not that far away. This would in theory entail a zero price for REC certificates. So while new projects with higher APPC contracts may not need any REC benefit, older projects will still need this income stream to remain viable. REC is not an additional incentive mechanism and it should not be seen as a driver for the RE sector investments, the mainstay of which should be based on FiTs (in the short term) and thereafter in a competitive bidding framework. (PRAYAS)

37 Clarity on Cogeneration power status of offsetting RPO

37.1 APTEL judgment clearly states that cogen power plants will not have RPO and cogen power can be purchased to offset RPO. However it is not clear whether it can be used to offset non solar RPO and solar RPO both or any one of them. Further power generated from the waste heat recovery of cement plants shall be treated as renewable energy. (Ultra Tech Cement Ltd)

38 Clarity on REC adjustment in case RPO of a year gets postponed

38.1 If RPO for any state is postponed for the current year then validity for RECs purchased in previous year for that particular state should be extended such that RECs purchased can be adjusted for subsequent years rather than one year and one should not be penalized for purchasing REC in good spirit of compliance. (Ultra Tech Cement Ltd)

39 Uniformity in case of REC Purchase to subsequent year

39.1 Different states are having different extended period for purchase of REC in subsequent financial year, it should be uniformed to allow them to fulfill their liabilities in subsequent year may be 6 months from the end of the F.Y. (Ultra Tech Cement Ltd)

40 Joint Meter readings of REC related meters

40.1 SLDC may be directed to accept the meter readings and EIR as submitted by Distribution Licensee thus avoiding involvement of two agencies for same data.(UP Sugar Mills Co-gen Association)

41 Mode of submission of documents to the central agency

41.1 The mode of submission of documents pertaining to registration and issuance mandating RE generating companies to submit documents only through India Post. Since the reliability of the delivery becomes an issue, It is requested to permit submission of the documents related with registration and issuance by hand delivery along with India Post. (REConnect Energy)

42 Amendment of REC Procedures

42.1 It is in line with the proposed amendment, it is necessary to direct NLDC to amend the procedures so that the Regulation and implemented from the date of the notification. (Independent Power Producers Association of India)

43 Ambiguity Hybrid power plant

- 43.1 It is suggested that pro-rata based calculation of renewable energy generated in proportion to the steam generated from RE fuel should be allowed and accordingly, Certificates to be issued. (Atlanta energy Consultants)
- 43.2 Solar thermal projects can generate dispatchable power by installing a bio mass fired boiler. Commission to recognize this and allow for solar REC for solar portion and non solar REC for Biomass portion. It is suggested that an amendment is required in the Regulation as the electricity from hybrid sources is indistinguishable whereas the certificates are differentiated as solar and non solar. (Atria Power Corporation Pvt. Ltd.)
- 43.3 The Power generated by RE fuel should be measured in proportion to the steam generated by RE fuel (Century Pulp and Paper)

44 Metering/Interconnection point and Auxiliary Consumption

- 44.1 It is suggested that metering system may be installed on the interconnection point and generating buses only. Auxiliary consumption may be accounted for on normative basis as per generic tariff parameters for the technology. This will simplify the process and data downloading and processing will become easy. (Punjab Energy Development Agency, Nahar Industrial Enterprises Ltd., Purab Urja Pvt. Ltd.)
- 44.2 It is suggested to provide single metering equipment on generators main incomers and deduct auxiliary consumption on normative basis as per RE generic tariff Regulation (Trident Group)
- 44.3 It is suggested to include a provision for setting up an ABT meters at the feeders of the plants by a distribution entity in their area for better energy accounting system. (Independent Power Producers Association of India)

45 Tax liability of POSOCO:

- 45.1 It is suggested to incorporate following amendment in the Regulation 11 of the CERC REC Regulations:

“Any tax liability/ statutory dues on account of fees and charges collected and maintained in a separate account by Central Agency shall be paid by Central Agency/ NLDC.” (POSOCO)

46 Inconsistency between Central and State Regulation: Eligibility Conditions

- 46.1 KERC does not allow third party sale contracts and also doesn't require CGPs to forgo the promotional/concessional benefits for eligibility under REC mechanism. It is requested to clarify how consistency can be maintained State and Central REC Regulations. (General Carbon)
- 46.2 KERC has taken significant deviation from the Central REC Regulation. Here , the state nodal agency (SLDC-Karnataka) are processing the applications as per the KERC regulations. (Samriddhi Energy Private Ltd ,empergy)
- 46.3 Only coordinated efforts between the State Commissions and the Central Commission would result into a healthy market development. (REConnect Energy)
- 46.4 It is requested to give clarification on the cases where the states policies are contradicting with the CERC principal REC Regulations. (Tata Power Trading Company Limited)
- 46.5 It is suggested to incorporate following amendment in the Regulation 14 of the CERC REC Regulations:
- *“In case of any inconsistency in Regulations/ guidelines issued by SERC(s) in the matter of REC Mechanism, CERC Regulations/ guidelines shall prevail over SERC(s) Regulations/ guidelines in all the matter related to Registration, issuance of RECs and redemption of RECs.” (POSOCO)*

47 Appeal before the Commission

- 47.1 It is suggested to incorporate following amendment in the Regulation 14 of the CERC REC Regulations:
- “Any RE Generator aggrieved by the decisions of Central Agency regarding Registration of Project or issuance of RECs under this Regulation may appeal before the Commission within forty five days of such decision being communicated, and the Commission may pass order, as deemed appropriate on such appeal.” (POSOCO)*

47.2 The above suggestions received from the stakeholders are outside the scope of the present exercise to amend the REC Regulations. Hence these suggestions have not been considered by the Commission at this stage:

(M Deena Dayalan)
Member

(V S Verma)
Member

Annexure-I

Following stakeholders who submitted their written comments on draft Second Amendment Regulations:

Sr. No.	Name of stakeholder submitted written comments
1.	Century Pulp and Paper
2.	NSL Power
3.	Power System Operations Cooperation of India Ltd.
4.	L&T
5.	Inox Power Ltd.
6.	WIPPA
7.	Moser Baer Engineering and Constructions Ltd.
8.	Torrent Power
9.	Solar First
10.	Atlanta Energy consultants
11.	Kerala state Electricity Board
12.	Wecomplia India Private Ltd.
13.	Orient Green Power Company Ltd.
14.	Power and Energy Consultant
15.	Independent Power Producers Association Of India
16.	Gujarat Urja Vikas Nigam Ltd.
17.	Chandigarh Distillers and Bottlers Ltd.
18.	Power Exchange India Ltd.
19.	IL&FS Renewable Energy Ltd.
20.	Mytrah Energy (India) Ltd.
21.	Avanti Solar Energy India Ltd.
22.	Sakhar Karkhana Ltd.
23.	Atria Power Corporation Pvt. Ltd.
24.	Samridhi Energy Pvt. Ltd.
25.	Solar Semiconductor
26.	Empergy
27.	M&B Switchgears Ltd.
28.	SSA International Ltd.
29.	Sainsons Paper Industries Ltd

Sr. No.	Name of stakeholder submitted written comments
30.	SAINI Power Transactor
31.	General Carbon
32.	WAREE
33.	P.Bhasker
34.	Orange PowerGen
35.	Prayas
36.	Dr Anoop Singh
37.	Ultra Tech Cement Ltd
38.	REConnect Energy
39.	MPPTCL, Jabalpur
40.	AstonField
41.	Serum Institute of India Limited
42.	Avanti Solar Energy Pvt. Ltd.
43.	Enrich Energy Pvt. Ltd
44.	U.P.Sugar Mills Cogen Association
45.	Bajaj FinServ
46.	GangaKhed Sugar & Energy Ltd
47.	Renewable Energy
48.	BEE Wind Power Private Ltd.
49.	Vitthal Corporation Ltd.
50.	R.B. Seth Shreemam Narsingas
51.	Yashwant Energy Pvt. Ltd.
52.	Manidhari Gums and Chemicals
53.	InWEA
54.	Dalmia Bharat Ltd.
55.	Cogeneration Association Of India Limited
56.	IEX
57.	Green Infra wind Power projects Ltd.
58.	TATA Power
59.	NSL Sugars
60.	Trident Group
61.	Rajasthan Patrika

Sr. No.	Name of stakeholder submitted written comments
62.	Nahar Industrial Enterprises Ltd.
63.	Punjab Energy Development Agency
64.	Ecopolis
65.	Indian Sugar Mills Association
66.	Karnataka Electricity Regulatory Commission
67.	Tata Power Trading Company Ltd.
68.	Purab Urja Pvt. Ltd.

Annexure-II

Following stakeholders made presentation/oral submission before the Commission during public hearing held on dated 21.05.2013:

Sr. No.	Name of stakeholders made presentation/oral submission
1.	Serum Institute of India Limited
2.	Chandigarh Distillers and Bottleres Ltd., Pushpinder Singh
3.	PRAYAS
4.	Enrich Energy Pvt. Ltd
5.	Power System Operation Corporation Limited
6.	Gujarat Urja Vikas Nigam Limited
7.	Madhya Gujarat Vij Company Limited
8.	Dalmia Bharat Limited
9.	Wish Wind Infrastructure Limited
10.	Tata Motors Limited
11.	Atlanta Energy
12.	Tata Power Trading Company Limited