

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.167/MP/2013**

Subject : Petition under Section 66, 79 and other applicable provisions of the Electricity Act read with Regulations 14 of CERC's (Terms and Conditions for Recognitions and Issuance of Renewal Energy Certificate for renewal energy generation) Regulations, 2010 for directions and orders as considered appropriate to National Load Despatch Centre, on the issue of Renewable Energy Certificates to the Petitioner.

Date of hearing : 27.2.2014

Coram : Shri Gireesh B. Pradhan, Chairperson  
Shri M. Deena Dayalan, Member  
Shri A.K.Singhal, Member

Petitioner : M/s Urjankur Shree Datta Power Co. Ltd.

Respondent : National Load Despatch Centre (NLDC)

Parties present : Shri Sanjay Sen, Advocate of Petitioner  
Shri Anurag Sharma, USDPCL  
Shri Arjun Krishnan, Advocate, NLDC  
Shri Shailendra Verma, NLDC  
Shri P.M. Buradkar, MSLDC

**Record of Proceedings**

At the outset, learned senior counsel for the petitioner submitted as under:

(a) The petitioner has commissioned a 36 MW bagasse based cogeneration in the State of Maharashtra and is registered with NLDC under the REC mechanism and has been selling electricity generated to a trading licensee at mutually agreed rate and receiving RECs since April, 2012.

(b) On 10.4.2008, the petitioner entered into a Project Development Agreement (PDA) with the Host Sugar Factory under which the petitioner is entitled to sell surplus power through the grid after meeting the requirements of the Host Sugar Factory. Subsequently, on 10.2.2010, the petitioner entered into

a Power Purchase Agreement (PPA) with M/s Reliance Energy Trading Limited (RETL), an electricity trader for sale of power on merchant basis with a base tariff rate of ₹.4.98 per unit and the petitioner commenced export of power on firm basis to RETL in April 2012.

(c) Due to low realization of revenue from sale of power, the petitioner in consultation with RETL accepted an offer, in September, 2012, to sell such power to M/s Global Energy Private Limited (GEPL), a trading licensee, at a rate of ₹3.91 per unit for a period of 6 months ending 31.3.2013. The rate agreed under the PPA (₹3.91 per unit ) was not the preferential tariff and this satisfied the condition to be fulfilled for entitlement to RECs.

(d) The petitioner's power plant was shut down for annual maintenance till end 26.10.2012. For certain months, due to GEPL's inability to schedule the entire electricity generated to its HT consumers, the petitioner sold part of the electricity generated to a distribution licensee, namely Brihan Mumbai Electricity Supply and Transport (BEST) for fulfillment of the latter's Renewable Purchase Obligations (RPO).

(e) The petitioner tried to modify the Energy Injection Report (EIR) format to put on record the fact that it has voluntarily not claimed RECs for certain quantum of power sourced by GEPL to be further supplied to BEST. However, such modification in EIR was not entertained by MSEDCL who refused to certify such format of EIR. As per the EIR format provided by MSEDCL, there is a requirement that the total units generated have to be accounted for either as (i) units for which RECs are claimed or (ii) as units sold under preferential tariff. Therefore, in EIRs submitted for the months of November 2012 onwards, the petitioner was compelled to show the units for which RECs were not claimed in the preferential tariff 'box' of the EIR format owing to the rigidity of EIR format, though these units were not sold under the preferential tariff. This in turn was done to ensure that no RECs are claimed by the petitioner for the units/quantum of power sourced by GEPL for further sale to BEST.

(f) Upon submission of the November 2012 EIR and its scrutiny by SLDC, SLDC vide its letter dated 11.2.2013 raised certain queries and directed the petitioner to obtain a fresh accreditation and registration from MEDA and NLDC. In response, the petitioner clarified MEDA that the quantum of power sourced by GEPL was for sale in the market under Open Access. Subsequently, on 21.2.2013, SLDC issued a clarification to MEDA stating that the petitioner has not directly sold the renewable energy power as green power to BEST but has

sold the renewable energy power to GEPL, who in turn sold it as green power to BEST.

(g) NLDC by its letter dated 14.3.2013 directed MEDA to investigate the matter and submit a report and pending such investigation, kept the application of the petitioner for issuance of RECs on hold .

(h) MEDA investigated the matter and in its letter dated 28.3.2013 to NLDC recommended for issuance of RECs to the petitioner for the renewable energy generation other than generation sourced by GEPL for sale to BEST for which the petitioner has not been claiming RECs.

(i) NLDC has neither issued any show cause notice nor sought any further clarification nor raised any grounds for non-issuance of RECs to the petitioner. Therefore, NLDC has failed to discharge its responsibility under the REC Regulations as it has neither issued RECs nor rejected the application of the petitioner.

(j) In terms of Regulation 5 of the REC Regulation, 2010 if a RE generator sells electricity generated to a trading licensee at a mutually agreed price, it would be eligible under the REC mechanism. As per the REC Regulations, it appears that the petitioner has not violated REC Regulations.

2. Learned counsel for the respondent, NLDC submitted that the Commission, in order to avoid the double counting of the same benefit, amended the REC Regulations and incorporated a new Regulation 5(1)(d) in order to take care of such eventualities by amending the REC Regulations on 10.7.2013. While double benefit has not been claimed in the present case, the question arises as to whether such switching between preferential tariff and REC mechanism is permissible under the REC Regulations.

3. In response, learned senior counsel for the petitioner submitted that the one of the conditions for registration under REC route is that the applicant does not have PPA under preferential route. The petitioner does not have any such PPA. The transactions took place prior to the amendment of the REC Regulations. It cannot be made applicable retrospectively. The petitioner is a special purpose vehicle promoted by the Urjankur Trust (a Govt. of Maharashtra initiative) and IL&FS. Revenue from sale of RECs is very important for the survival of the project.

4. Learned counsel for the respondent further submitted that the intention of the REC Regulations before the amendment was also not allowing the RE generator to sell electricity component for the fulfillment of RPO.

5. Leaned counsels for the petitioner and the respondent requested for one week time to file written submissions.

6. The Commission directed the petitioner and respondents to file their written submissions by 13.3.2013 with copy to each other.

7. Subject to above, the Commission reserved order in the petition.

**By the order of the Commission  
Sd/-**

**(T. Rout)  
Chief (Law)**