

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 165/MP/2015

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri A.K Singhal, Member

Shri A.S Bakshi, Member

Dr. M.K. Iyer, Member

Date of Order : 28th of February, 2017

In the matter of

Petition under Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for renewable energy generation) Regulations, 2010 for issuance of certificate from the date of commissioning of the petitioner's solar power project and extend the benefit of vintage based multiplier as such project was accredited and commissioned prior to the notification of the REC (Third Amendment) Regulations, 2014.

And

In the matter of

Atapi Power Limited
A-66, 2nd Floor,
Guru Nanakpura, Delhi-110 092

....Petitioner

Vs

National Load Despatch Centre
B-9 Qutab Institutional Area,
Katwaria Sarai, New Delhi-110 016

....Respondent

Following were present:

Shri Paretosh, Advocate for the petitioner

Ms. Abilia Zailia, Advocate for the Respondent

ORDER

The petitioner, Atapi Power Limited, has filed the present petition seeking direction to National Load Despatch Centre to issue renewable energy certificate from the date of commissioning and extension of benefit of vintage based multiplier.

2. Gist of the submissions of the petitioner are as under:

(a) The petitioner has an installed capacity of 0.5 MW of solar power in the State of Madhya Pradesh and the said power is tied up for supply to Jodhpur Vidyut Vitran Nigam Limited at the pooled power purchase cost.

(b) The petitioner was accredited under the REC mechanism by the State Agency, Rajasthan Renewable Energy Corporation Ltd on 13.11.2014. After accreditation, on 8.12.2014, the petitioner applied for registration under the REC mechanism to the Central Agency i.e. National Load Despatch Centre. On the same day, NLDC informed the petitioner to provide the commissioning certificate. The plant of the petitioner was commissioned on 16.12.2014 after which it started injection of solar power into the grid. However, due to certain procedural delays on part of the Commissioning Committee in the State of Rajasthan for the issuance of the commissioning certificate, the petitioner could not provide commissioning certificate to NLDC in time. Therefore, the petitioner was issued RECs by NLDC only on 20.1.2015.

(c) As per Regulation 10 (1) of the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy

Certificate for Renewable Energy Generation) (Second Amendment) Regulations, 2013, after registration, the renewable energy generation plant is 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.

(d) As per Regulations 7 and 8 of the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) (Third Amendment) Regulations, 2015, ("the REC Regulations"), the benefits of vintage based multiplier shall be provided to the solar generating companies registered with Central Agency prior to 1.1.2015. However, the said benefit was not accorded to the projects duly commissioned on or after 1.1.2015. Since, the petitioner was registered for REC on 20.1.2015, it was not eligible to take advantage of the benefits of Vintage Based Multiplier. Non-grant of the REC and Vintage Based Multiplier to the petitioner from the date of commissioning would adversely affect the petitioner's financial position.

(e) The petitioner has requested to relax the Regulations 7 and 8 of the REC Regulations to get benefit of Vintage based multiplier.

3. Against the above background, the petitioner has made the following prayers:

(a) Allow the petition of the petitioner;

(b) Pass suitable orders of relaxing the regulations and holding the petitioner eligible to get REC from the date of commissioning of project; and

(c) Pass suitable orders of relaxing the regulations and holding the petitioner eligible to get benefit of Vintage Based Multiplier;

4. The petition was heard on 11.8.2015. Notice was issued to National Load Despatch Centre to file reply to the petition. NLDC was directed to submit the following information/clarification:

(a) Details regarding the date of receipt of commissioning certificate (issued by authorities of Government of Rajasthan) from the petitioner, date of issuance of REC and reasons for delay, if any.

(b) Explain whether commissioning of the project is a condition precedent for registration under REC Regulations

5. With regard to the date of receipt of the commissioning certificate (issued by authorities of Government of Rajasthan) from the petitioner, date of issuance of REC and reasons for delay, if any, NLDC vide its affidavit dated 28.8.2015 has submitted that the hard copy of the application for registration was received on 8.12.2014. However, the commissioning certificate was not attached with the application and there was a mismatch between the authorized signatory and the signature made on the application. Therefore, the Central Agency requested the petitioner to correct the mismatch and to submit the commissioning certificate. NLDC has also submitted that the petitioner had indicated the date of commissioning as 30.10.2014. However, as per the commissioning certificate, the project was commissioned on 16.12.2014 and received by the Central Agency on 8.1.2015. Therefore, the Central Agency sought clarification from the petitioner regarding the mismatch in the dates. The petitioner vide its letter dated 12.1.2015 clarified that erroneously, the date of commissioning was mentioned as 30.12.2014 and the actual date of commissioning of the project is 16.12.2014.

6. With regard to whether the commissioning of the project is a condition precedent for registration of the project under REC Regulations, NLDC has submitted that commissioning of the project is not a condition precedent for registration of the project under REC Regulations. However, if the project has already been commissioned, then RE generator has to submit the commissioning certificate issued by concerned authorities at the time of submission of the application for registration. If the project is under commissioning, then RE generator has to mention the commissioning schedule of the project in the application for registration of the project. NLDC has submitted that as per the REC Regulations and Procedures thereof, the petitioner is entitled for issuance of RECs from the date of commercial operation or from the date of registration of such plant, whichever is later. Therefore, RECs to the petitioner were issued from 21.1.2015 as per the Energy Injection Report issued by Rajasthan SLDC..

Analysis and Decision

7. We have considered the submissions of the petitioner and the respondent and perused documents on record. The main reason for non-issuance of RECs is the erroneous mention of the date of commissioning of the project on the commissioning certificate submitted by the petitioner along with its application. On 8.12.2014, the petitioner made an application to NLDC for REC registration. On the same day, NLDC informed the petitioner to provide copy of the commissioning certificate. On 8.1.2015, the petitioner submitted the commissioning certificate along with other documents. In the Application form/Acknowledgement details as submitted by the petitioner, the date of commissioning of the project was indicated as 30.10.2014 whereas in the copy of

the Commissioning Certificate enclosed, the date of commission was mentioned as 16.12.2014. Accordingly, NLDC sought clarification from the petitioner in this regard. The petitioner vide its letter dated 12.1.2015 clarified that by mistake, the date of commissioning of the project was indicated as 30.10.2014. However, the actual date of commissioning of the project was 16.12.2014. NLDC has submitted that since, it received the commissioning certificate along with other requisite documents on 8.1.2015, the petitioner was issued Certificate of Registration on 20.01.2015 within stipulated 15 days in terms of the provisions of the REC Regulations and Detailed Procedure thereof.

8. Regulation 10 of the REC Regulations provides as under:

“10. Validity and extinction of Certificates: (1) 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.”

9. Clause 2.2 of the Detailed Procedure provides as under:

“2.2 The Central Agency shall undertake the registration of any RE Generating Company as Eligible Entity for its RE generation project not earlier than three months prior to the proposed date of commissioning of such RE generation project..”

10. As per the above provisions, eligible entity is required to apply for registration to NLDC three months prior to the date of commissioning.

11. Detailed Procedure of REC Regulations provides as under:

“3. STEP-WISE DESCRIPTION OF THE PROCEDURE

3.1. STEP 1: *An application for availing registration shall be made by the RE Generating Company to the Central Agency, as defined under Clause 2(1) (b) of the CERC REC*

*Regulations. The applicant shall apply for Registration on the Web Based Application and shall also submit the same information in physical form with the Central agency. The application for registration shall contain the following information as submitted for Accreditation of the RE Generation project: (i) Owner details (ii) RE Generating Station details, (iii) certificate of accreditation by the State Agency, (iv) **Commissioning/ Synchronization Certificate or commissioning schedule, as applicable** (v) Declaration as per Section F, (vi) any other relevant information as per the enclosed format (**FORMAT- 2.1: Application for Registration of Eligible Entity**). The Application made for registration of RE Generating Company with the Central Agency as Eligible Entity shall be accompanied by a non-refundable registration processing fees as determined by the Central Electricity Regulatory Commission, by order, from time to time. In case, the Applicant has multiple RE generation projects then, separate Applications will have to be submitted by the Applicant for each RE generation project.*

STEP 2: *After receipt of application for registration, the Central Agency shall undertake preliminary scrutiny to ensure Application Form is complete in all respect along with necessary documents and applicable registration fees and charges. The Central Agency shall undertake preliminary scrutiny of the Application within 6 working days from date of receipt of such Application.*

STEP 4: *While considering any application for Registration, the Central Agency shall verify and ascertain availability of following information:*

- a. A Valid Certification of Accreditation by State Agency*
- b. **Commissioning Certificate/ Synchronization Certificate for existing projects** or Commissioning Schedule for new projects, whichever is applicable.*

Step-6: *The Central Agency shall issue the Renewable Energy Certificates to the Eligible Entity within fifteen (15) working days from the date of receipt of physical application form along with complete information necessary for processing of application for issuance of RECs.”*

12. As per the above provisions, after registration, RE project shall be eligible for issuance of REC from the date of commercial operation or from the date of registration by the Central Agency, whichever is later. After receipt of the application, the Central Agency is required to undertake preliminary security of the application and is required to verify and ascertain availability of commissioning certificate/synchronization certificate

for existing projects and commissioning schedule for new project. The Central Agency is also required to complete the process of registration within 15 days from the date of receipt of complete information from the applicant.

13. The petitioner had made an application to NLDC for REC registration on 08.12.2014. Perusal of the application submitted by the petitioner revealed that neither the commissioning certificate was enclosed with the application nor the application for grant of REC was signed by the authorized signatory. Therefore, NLDC in terms of Step 4 (b) of the Detailed Procedure requested the petitioner to submit the complete application. On 08.01.2015, the petitioner submitted the commissioning certificate along with requisite documents. Subsequently, the petitioner vide its letter dated 12.01.2015 clarified and confirmed that the date of commissioning of the project was 16.12.2014. After receipt of the complete application for REC Registration, NLDC processed the petitioner's application dated 12.01.2015 and issued Certificate of Registration to the petitioner on 20.1.2015 in terms of the Step 6 of the Detailed Procedure made under REC Regulations.

14 As per the provisions of the REC Regulations and Detailed Procedure, if the project has already been commissioned, then RE generator, at the time of submission of the application for registration, is required to submit the commissioning certificate issued by the concerned authorities. If the project is under commissioning, then RE generator is required to indicate the commissioning schedule of the project in its application for grant of registration of the project. In the present case, the project was commissioned on 16.12.2014. However, in the application for REC registration, the

commissioning date of the project was indicated as 30.10.2014. After receipt of complete application and verification of documents, NLDC issued Certificate of Registration to the petitioner on 20.1.2015 i.e within 15 days of receipt of complete application. In our view, NLDC acted in accordance with the provisions of the REC Regulations and Detailed Procedure while dealing with the petitioner`s application. Therefore, the petitioner`s prayer to relax the provisions of REC Regulations for grant RECs from the actual date of commissioning of the project is rejected.

15. As regards the prayer of the petitioner seeking benefits of vintage based multiplier, it needs to be examined in the light of the REC Regulations issued by the Commission, By way of third amendment to the REC Regulations issued on 30.12.2014, new clauses (7) and (8) were added under Regulation 7 of the Principal Regulations, as under:

“(7) The Commission shall determine through a separate order, the quantum of Certificate to be issued to the eligible entities being the solar generating companies registered under REC framework prior to 1st January 2015, for one Megawatt hour of electricity generated and injected into the grid or deemed to be injected (in case of self consumption by eligible CGP) into the grid as per the following formula:

Vintage Multiplier = Floor Price of Base Year / Current Year Floor Price

Where,

i . “Base year” means the year 2012-13 being the year in which the floor price was determined for solar REC for a period of five years”

(8) The vintage multiplier as specified in clause (7) of this regulation shall be provided to the solar generating companies registered under REC framework prior to 1st January 2015 and shall be applicable [for the existing and future valid solar RECs]¹ for the period from 1st January 2015 upto 31st March 2017, after which such projects shall be eligible for one REC for one megawatt hour of electricity generated.”

It is evident from the regulation that the **date of registration** should be prior to 1st January, 2015 to get the benefit of vintage multiplier.

16. We have already held in Para 14 of this order that though the project was commissioned on 16.12.2014, NLDC issued Certificate of Registration to the petitioner on 20.1.2015 only after receipt of complete application and verification of documents, Hence, the request of the petitioner for Vintage Multiplier cannot be acceded to in view of the fact that the projects have been registered after 1st January, 2015, and the REC Regulations provide that Vintage multiplier shall only be applicable to the Solar generating companies registered under REC framework prior to 1st January 2015. Accordingly, the prayer of the petitioner has not been allowed.

17. The petition is disposed of in terms of the above.

Sd/-
(Dr. M.K.Iyer)
Member

Sd/-
(A.S. Bakshi)
Member

Sd/-
(A.K. Singhal)
Member

Sd/-
(Gireesh B.Pradhan)
Chairperson

¹ Corrigendum issued on 27th January, 2015.