

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 2/MP/2017

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri A.K. Singhal, Member

Shri A.S. Bakshi, Member

Dr. M.K.Iyer, Member

Date of Order : 2nd of August, 2017

In the matter of

Petition under Regulation 15 of the Central Electricity Regulatory Commission (Terms and conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation)) Regulations, 2010.

And

In the matter of

Tata Power Company Limited
Bombay House, 24 Homi Mody Street,
Fort, Mumbai-400 001

...Petitioner

Vs

Indian Energy Exchange
First Floor, Malkani Chambers,
Off Nehru Road, Vile Parle (East),
Mumbai-400 099

Power Exchange of India Limited
5th Floor, Tower 3, Equinox Business Park,
Peninsula Techno Park,, Off BKC,
L.B.S Marg, Kurla (W) Mumbai

Tata Power Renewable Energy Limited
Corporation Centre, A Block , 34,
Sant Tukaram Road,
Carnac Bunder, Mumbai

.....Respondents

Following were present:

Shri Amit Kapoor, Advocate for the Petitioner
Shir Anand K.Ganesan, Advocate, IEX,
Ms. Swapna Seshadri, Advocate, IEX
Ms. Indrani Chatterjee, IEX

ORDER

Tata Power Renewable Energy Limited is a wholly owned subsidiary of the Tata Power Company Limited which operates the following three wind power plants:

- (i) Supa, Maharashtra (17 MW),
- (ii) Niveda, Maharashtra (21 MW), and
- (iii) Poolavadi, Tamil Nadu (49.5 MW)

The above three power plants achieved commercial operations on 30.12.2000, 29.3.2000 and 12.4.2011.

2. The Petitioner, Tata Power Company Limited, has filed the present petition under Regulation 15 of the Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 (hereinafter referred to as REC Regulations) seeking relaxation of Regulation 8 of the REC Regulations to the extent that a parent company can retain RECs granted to one of its subsidiary, owing renewable energy generating plants, for offsetting the Renewable Purchase obligations (RPOs) of the parent company.

3. As per Regulation 8 of the REC Regulations, RECs are to be dealt with only through the Power Exchange. However, eligible renewable energy generators including

eligible captive generating plants are permitted to retain the RECs for offsetting their RPOs as a consumer. The Petitioner has submitted that Regulation 8 of REC Regulations imposes an implied restriction on retention of RECs by parent companies and mandates procurement of RECs through Power Exchanges. The Petitioner has submitted that dealing of RECs in a regulated manner has not yielded desired results and has led to a large number of unredeemed RECs on the Power Exchanges. Therefore, a relaxation in this regard allowing parent companies to retain RECs of their subsidiaries (renewable energy generators) to offset their RPOs would help in market development as provided in Section 66 of the Electricity Act, 2003.

4. The Petitioner has submitted that allowing retention of RECs for offsetting RPOs within a parent company and its subsidiary would encourage more number of companies to set up renewable energy generators under the REC frame work as it would give them an assurance of REC offtake as also meeting their RPOs obligations. This assurance of REC offtake would not only increase the bankability of the projects, but would eventually add significant renewable generation capacity in the country contributing significantly to the massive targets set for renewable generation in the country by the Government of India which may lead to an improved REC inventory situation in the country.

5. The Petitioner has submitted that at present the REC mechanism has been unable to achieve the objective with which the Commission had notified the REC Regulations. Allowing offsetting of RECs between parent company and subsidiary

company would help in bolstering the REC market and promote generation of electricity through renewable sources, in keeping with the intent and object of the Electricity Act and the National Electricity Policy. The Petitioner has requested to evolve a mechanism for addressing the issue of large number of unredeemed RECs in the Power Exchanges existing at present.

6. The Petitioner has proposed that retention of RECs (of subsidiary) may only be allowed by a parent company and not all group companies. Such transactions may be limited to cases where the parent company holds majority control (more than 50% of paid up share capital) either directly or indirectly in the subsidiary company. The Petitioner has requested to consider the following in order to place guidelines regarding retention of RECs of subsidiary company by a parent company:

- (a) Parent company to hold more than 50% share capital in the subsidiary at all times.
- (b) The renewable generators are required to submit a certificate signed by a Chartered Accountant to the State Modal Agency certifying the shareholding pattern of the generating company in the subsidiary company along with the self retention application.
- (c) Regular reporting of the transactions of the concerned authority.
- (d) Penalizing the companies in case of violation of the guidelines stipulated by the Commission in this regard.

7. The Petitioner has submitted that retention of RECs could be thus extended to parent companies for offsetting of RPOs on a case to case basis subject to scrutiny by

the Commission. The Petitioner has prayed to evolve appropriate mechanism to allow relaxation in the nature sought in the present petition so that the sanctity of the REC market and mechanism is maintained.

8. Against the above background, the Petitioner has made the following prayers:

“ (a) Exercise its power to relax under Regulation 15 of the REC Regulations, and allow retention of RECs for offsetting RPOs of parent companies of renewable energy generator (of subsidiary company) against such RECs.

(b) Pass any such other and further reliefs as this Commission deems just and proper in the nature and circumstances of the present case.”

9. During the hearing, it was pointed out to the learned counsel for the Petitioner that the prayer made in the petition requires substantive modification in the regulations which can only be done through amendment, learned counsel submitted that the Petitioner is invoking the power of the Commission to relax the provisions of the REC Regulations in order to grant relief to the Petitioner. Learned counsel further submitted that amendment to the regulation will be prospective in operation and will not address the concern of the Petitioner for the past period.

10. We have perused the petition and heard the learned counsel for the Petitioner. After going through the contents of the petition, it emerges that the Petitioner is seeking amendment to certain provisions of the REC Regulations in order to address the problems arising out of the retention of RECs for offsetting RPOs of parent companies of renewable energy generator (of subsidiary company) against such RECs. The

present petition has been treated as a proposal of the Petitioner to amend the REC Regulations. The Commission directs the staff to consider the proposal of the Petitioner as inputs for amendment of the Regulations whenever such an exercise is required to be undertaken to amend the REC Regulations.

11. With the above, the Petition No. 2/MP/2017 is disposed of.

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

sd/-
(A.S. Bakshi)
Member

sd/-
(A. K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson