



नई दिल्ली
NEW DELHI

याचिका संख्या./ Petition No.: 466/MP/2019

कोरम/ Coram:

श्री पी. के. पुजारी, अध्यक्ष/ Shri P. K. Pujari, Chairperson
श्री आई. एस. झा, सदस्य/ Shri. I.S. Jha, Member
श्री अरुण गोयल, सदस्य/ Shri. Arun Goyal, Member

आदेश दिनांक/ Date of Order: 22nd of July, 2020

IN THE MATTER OF:

Petition filed under Section 79(1)(k) of the Electricity Act, 2003 and Regulation 2(1)(d) read with Regulation 27 and 111 of the Central Electricity Regulatory Commission (Conduct of Business Regulations) 1999, and Regulations 3, 7 & 14 and 15 of Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 seeking condonation of delay in uploading Energy Injection Report data for the month of March, 2019 and consequently delay in complying with the procedure for issuance of Renewable Energy Certificates and to further direct the Respondent to issue the certificates due to the Petitioner.

AND IN THE MATTER:

M/s Simbhaoli Power Pvt. Ltd.
Regd. Office Kothi No.1 Power Division Compound
Simbhaoli, District: Hapur,
Uttar Pradesh- 245207

...Petitioner

VERSUS

National Load Despatch Centre
B-9, Qutab Institutional Area, Katwaria Sarai,
New Delhi-110016

...Respondent

Parties Present:

Shri Pawan Upadhyay, Advocate, SPPL

आदेश/ ORDER

The Petitioner, M/s Simbhaoli Power Pvt Ltd is a renewable energy generator and has filed the Petition under Section 79(1)(k) of the Electricity Act, 2003 and Regulation 2(1)(d) read with Regulation 27 and 111 of the Central Electricity Regulatory Commission (Conduct of Business Regulations) 1999, and Regulations 3, 7, 14 and 15 of 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 the 'REC Regulations, 2010').

2. The Respondent, National Load Despatch Centre (NLDC) has been designated as the Central Agency for REC mechanism, in accordance with the REC Regulations, 2010. NLDC is entrusted with registration of eligible renewable energy generators, issuance of RECs, maintenance and settlement of REC accounts, repository of transactions in REC, and such other functions incidental to implementation of REC mechanism as may be assigned by CERC from time to time.
3. The Petitioner has made the following prayers:
 - a. *Condone the delay in applying for issuance of REC due to it for the month of March, 2019 due to the Petitioner for energy injected.*
 - b. *Direct the Respondent to issue the REC due to the Petitioner for the month of March, 2019*
 - c. *Pass such other and further order(s) as this Commission may deem fit and proper in the premises of this case."*

Submissions of the Petitioner

4. The Petitioner has submitted that it is a renewable energy generator having two units. The first unit with a total installed capacity of 28 MW is situated at Simbhaoli (in Hapur district of UP) out of which 17 MW is registered under Renewable Energy Certificate (REC) mechanism with Registration No- UP0NSSPPLH002R251016, whereas, the second unit with a total installed capacity of 16 MW is situated at Chilwaria (in Bahraich district of UP) out of which 12 MW is registered under REC mechanism with Registration No - UP0NSSPPLC001R251016. The project has been accredited by Uttar Pradesh New and Renewable Development Agency (hereinafter referred to as 'UPNEDA'), which is the State nodal agency, and the project has also been registered by NLDC.
5. The Petitioner has submitted that based on joint meter reading (JMR) prepared jointly by the officials of Uttar Pradesh Power Transmission Corporation Limited (hereinafter referred to as 'UPPTCL') and the Petitioner, the Energy Injection Report (EIR) for the month of March 2019 was prepared giving details regarding energy injection and eligibility for issuance of RECs. EIR along with JMR was submitted to UPPTCL office at Hapur for verification and thereafter for forwarding the same to Uttar Pradesh State Load Dispatch Center (UPSLDC). Accordingly, the EIR for the month of March 2019 was forwarded by UPPTCL to UPSLDC on 15.04.2019. After much follow-up, UPSLDC finally approved EIR for the month of March 2019 on 24.09.2019.
6. The Petitioner has submitted that as per the applicable procedure, EIR approved by UPSLDC can be uploaded on NLDC's website only thrice a month i.e. on 10th, 20th and the last day of the month. However, when it attempted to upload EIR for the month of March 2019 (approved on 24.09.2019 from UPSLDC and received on 30.09.2019) on NLDC's website on 01.10.2019, the Petitioner failed in its attempt since the column for the month of March 2019 was not displayed therein. The delay was on part of UPSLDC since the approval was not granted despite EIR having been forwarded to it on in time.
7. The Petitioner has submitted that it deposited the physical documents with NLDC on 01.10.2019 and also sent an email on 07.10.2019 to NLDC whereby it categorically pointed

out facts as to the dates viz. date of approval of EIR by UPSLDC and date on which it attempted to upload the details of EIR on the NLDC website but could not upload since the website did not display the data column for the month of March 2019.

8. The Petitioner has submitted that on 07.10.2019, NLDC informed that the application for issuance of RECs for the month of March 2019 would not be accepted as the period of six months since the month of generation had lapsed and, therefore, EIR for March 2019 could not be uploaded.
9. The Petitioner has submitted that EIR alongwith JMR for the month of March 2019 were submitted to UPSLDC well in time but the same could be verified by UPSLDC only on 24.09.2019 and made available to the petitioner on 30.09.2019 i.e. on the last day, when it could have been uploaded by the Petitioner on the website of NLDC for issuance of RECs. The delay in any case is not attributable to the Petitioner and hence, the delay in applying for issuance of RECs due to it may be condoned and NLDC should be directed to issue the RECs for the month of March 2019.

Analysis and Decision

10. The Petition was admitted on 20.12.2019 and came up for hearing on 26.05.2020 and thereafter, the petition was reserved for Orders. As per the 'Record of Proceedings' dated 26.05.2020, the Petitioner was directed to serve notice on the Respondent and the Respondent was given time to file a reply by 15.06.2020. However, the Respondent did not file its reply.
11. The Petitioner (M/s Simbhaoli Power Pvt Ltd) is a renewable energy generator having two units, one at Simbhaoli (in the district of Hapur, UP) with an installed capacity of 28 MW and the other at Chilwaria (in the district of Bahraich, UP). The first unit has, out of the installed capacity of 28 MW, 17 MW under the REC mechanism, while the second unit has, out of the installed capacity of 16 MW, 12 MW under the REC mechanism. EIR for the month of March 2019 was approved by UPSLDC on 24.09.2019 and the same was communicated to the Petitioner on 30.09.2019 i.e. on the last permissible day for uploading EIR on NLDC's website for issuance of RECs. Therefore, when the Petitioner attempted to upload EIR on NLDC's website on 01.10.2019, it did not succeed. The physical copies of the documents were submitted to NLDC on 01.10.2019. However, NLDC vide its reply dated 07.10.2019

declined to accept the Petitioner's application as the period of six months since generation month (March 2019) had lapsed. The Petitioner has submitted that the delay in submission of EIR for the month of March 2019 is only a procedural delay and the same may be condoned and the RECs for the relevant period may be issued.

12. The Commission observes that the relevant provisions of Procedure for Issuance of Renewable Energy Certificates to the Eligible Entity by Central Agency (hereinafter referred to as “REC Issuance Procedure”) stipulates as under:-

“3. STEP-WISE DESCRIPTION OF THE PROCEDURE

3.1. Step - 1: An application for issuance of Renewable Energy Certificate shall be made by the Eligible Entity to the Central Agency. The eligible entity shall apply for Issuance of REC on the Web Based Application as per the details given in the Energy Injection Report (EIR issued by the SLDC / Recommendation of SERC for issuance of RECs) and shall also submit the same information in physical form with the Central Agency. The online application shall be acceptable by the Central Agency only if complete in all respect. The physical application for issuance of certificate shall include (i) Energy Injection Report (EIR) for RE projects /Recommendation of SERC for issuance of RECs for distribution licensee, and shall be made in the specified format (FORMAT-3.1: “Application for Issuance of Renewable Energy Certificates to the Eligible Entities”/FORMAT-3.1.1 for distribution licensee) (ii) Print out of online application duly signed and stamped by Authorized Signatory (iii) Commissioning Certificate for RE Generator, only for issuance for the first month after registration.

The application shall be accompanied with the details of payment of the applicable fee & charges towards issuance of certificates as determined by CERC from time to time. While making application for issuance of RECs, the Applicant (Eligible Entity) shall quote the unique Registration Number assigned to it by Central Agency at the time of registration.

3.2. Step - 2: After receipt of physical application for issuance of renewable energy certificates from the Eligible Entity, the Central Agency shall undertake a preliminary scrutiny within 6 working days to ensure that the Application Form is complete in all respect along with necessary documents and applicable fees and charges. As part of preliminary scrutiny, the Central Agency shall satisfy that the following conditions are fulfilled by the RE generators or distribution licensee, as the case may be:

- a) The application is made in the format specified by the Central Agency from time to time.*
- b) The status of Accreditation of the Eligible Entity with the State Agency has not expired. The status of Registration of the Eligible Entity with the Central Agency has not expired.*
- c) The duly certified EIR/ Recommendation of SERC for issuance of RECs is attached for the same period for which application is made towards issuance of Renewable Energy Certificate by the Eligible Entity.*

d) *The application is accompanied with fees & charges.*

3.3. Step - 3: *After conducting the preliminary scrutiny, the Central Agency shall intimate in writing to the Applicant for submission of any further information or clarification, if necessary, to further consider the application for issuance of Renewable Energy Certificates or reject the application.*

3.4. Step - 4: *While considering any application for issuance of Renewable Energy Certificate, the Central Agency shall verify and ascertain availability of following information:*

a) *Verification of the time period for which the Central Agency may have already issued Renewable Energy Certificates to the concerned Eligible Entity.*

b) *Verification of Renewable Energy Certificates claimed by the Eligible Entity from the duly certified Energy Injection Reports by the concerned State Load Despatch Centre in respect of concerned Eligible Entity.*

c) *Details of fee & charges made for issuance of certificates.*

d) *Confirmation of Compliance Auditor report, if any.*

3.5. Step - 5: *The Central Agency shall issue Renewable Energy Certificates to the Eligible Entity only after confirming, the claims made by the Eligible Entity, with the duly certified EIR forwarded by the SLDC/ Recommendation of SERC for issuance of RECs . In case of any discrepancy, in the EIR enclosed by the Eligible Entity along with Application and regular EIR received by Central Agency from concerned State Load Despatch Centre, the information contained in regular EIR furnished by concerned State Load Despatch Centre shall be considered as final and binding for the purpose of issuance of Renewable Energy Certificates.*

...”

13. Regulation 7(2) of the REC Regulations, 2010 provides as follows:-

“7. Denomination and issuance of Certificates

(1) The eligible entity other than distribution licensee 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

(1A) The eligible distribution licensees shall apply to the Central Agency for Certificates within three months from the date of obtaining the certification, as provided in clause (1 A) of the Regulation 5, from the concerned Appropriate Commission

(2) The Certificates shall be issued to the eligible entity after the Central Agency duly satisfies itself that all the conditions for issuance of Certificate, as may be stipulated in the detailed procedure, are complied with by the eligible entity:

(3) The Certificates shall be issued by the Central Agency within fifteen days from the date of application by the eligible entities.

(4) The Certificates shall be issued to the eligible entity on the basis of the units of electricity generated from renewable energy sources and injected into the Grid [or deemed to be injected in case of self consumption by eligible captive generating plant and duly accounted in the Energy Accounting System as per the Indian Electricity Grid Code or the State Grid Code as the case may be, and the directions of the authorities constituted under the Act to oversee scheduling and dispatch and energy accounting, or based on written communication of distribution licensee to the concerned State Load Dispatch Centre with regard to the energy input by renewable energy generators which are not covered under the existing scheduling and dispatch procedures.”

14. From the above, the Commission observes that as per the REC Regulations, 2010 and the REC Issuance Procedures, the eligible entity has to apply for issuance of RECs on the web based application as per the details given in the Energy Injection Report and also submit the same information in physical form with the Central Agency within six months. The Central Agency has to verify the application in terms of the Energy Injection Report issued by the concerned State Load Despatch Centre in respect of the Eligible Entity.
15. The Commission observes that the delay in filing of the application by the Petitioner for issuance of RECs for the month of March 2019 was caused due to delay in approval of EIR by UPSLDC. The Petitioner has prayed for condoning the delay and requested for issuance of RECs for the period. In our view, the delay in submitting the application because of delay in approval by UPSLDC is procedural in nature and the Petitioner cannot be hold accountable for the same. Therefore, the Petitioner should be issued RECs for the period of March 2019. Accordingly, we direct the Respondent NLDC to process the case of the Petitioner for issuance of RECs for the month of March 2019 after due verification.
16. Accordingly, the Petition No. 466/MP/2019 is disposed of.

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