

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 138/MP/2012**

**Sub:** Petition under Section 79 (1) (k) of the Electricity Act, 2003 read with Regulation 14 of the Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010.

Date of hearing : 26.7.2012

Coram : Dr. Pramod Deo, Chairperson  
Shri S.Jayaraman, Member  
Shri V.S. Verma, Member  
Shri M.Deena Dalayan, Member

Petitioner : Dalmia Bharat Sugar and Industries Limited, New Delhi

Respondents : Uttar Pradesh New and Renewable Energy  
Development Agency, Lucknow  
National Load Despatch Centre, New Delhi

Parties present : Shri M.G. Ramachandran, Advocate for the petitioner  
Miss Ranjitha Ramachandran, Advocate for the  
petitioner  
Shri Pankaj Rastogi, DBSIL  
Shri R.S.Rana, DBSIL  
Shri Neeraj Kumar, GEPL  
Shri R.K.Dubey, Advocate  
Miss Minaxi Garg, NLDC  
Miss Joyti Prasad, NLDC  
Shri Satya Prakesh, NLDC

**Record of Proceedings**

At the outset, learned counsel for the petitioner submitted that petitioner is an eligible entity for issuance of Renewable Energy Certificates (RECs) in accordance with 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 the "REC Regulations") and is entitled to accreditation and registration under the REC Regulations for 10 MW (used for self consumption) from the each of its three bagasse based co-generation plants, having capacity of 25 MW, 27 MW and 26 MW located at different locations in the State of Uttar Pradesh, even if the

capacity tied up under PPA with the Distribution company for the sale of surplus power is up to 25 MW for each of the plant. He further submitted that the petitioner has self consumption requirement of 10 MW during the crushing season and non-crushing season, the self consumption is negligible and almost entire power generated would be available for sale to Distribution Companies under preferential tariff. Learned counsel submitted that PPAs clearly provide that petitioner would sell only the surplus power generated in the co-generation plant after its own captive use to the Distribution Company.

2. Learned counsel for the petitioner referred the second proviso to the Regulation 5 of the REC Regulations which provides that a Captive Power Producer (CPP) based on renewable energy sources shall be eligible for the entire energy generated from such plant including self-consumption for participating in the REC scheme subject to the certain conditions specified. Learned counsel submitted that the intent of Regulation 5(1)(b) is that a renewable generator does not simultaneously participate in the REC mechanism and avail promotional benefits in the form of preferential tariff. However, the petitioner is not claiming REC for that part of generation, which is being sold to the Distribution Company at preferential tariff.

3. Learned counsel for the petitioner further submitted that the data and information submitted to the Commission also shows that petitioner can claim RECs only on the basis of duly verified Energy Injection Report which is based on the basis of the separate meters installed for self-consumption, Auxiliary Consumption, Grid export, in accordance with the relevant Regulations. The petitioner cannot claim the energy under self or captive consumption as sale of power and RECs with respect to the energy sold to the Distribution Company under preferential tariff.

4. The representative of NLDC submitted that Regulation 5 of the REC Regulations provides that RE generator should not have any power purchase agreement for the capacity registered under REC to sell electricity at a preferential tariff. The representative of the NLDC submitted that the actual power purchase would depend on the self/captive consumption of the units and would vary from time to time and season to season. The captive requirement of the sugar mills varies based on availability of cane for crushing and on the operating conditions at various points of time. The representative of the NLDC referred the Para 8 (VII) of the Statement and Objects and Reasons of REC Regulations and submitted that REC Regulations do not envisage seasonal eligibility and any RE generator needs to clearly demarcate and declare its capacity under preferential tariff and REC mechanism.

5. Learned counsel for the UPNEDA sought two weeks time to file its reply. Accordingly, the Commission directed the UPNEDA to file its reply by 24.8.2012

with an advance copy to the petitioner. The petitioner may file its rejoinder, if any, by 31.8.2012.

6. Subject to above, order in the petition was reserved.

**By Order of the Commission**

**Sd/-  
(T. Rout)  
Joint Chief (Law)**