

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.119/MP/2013

Subject : Petition under Section 79 (1)(k) of the Electricity Act read with Regulations 3(4) and 14 of CERC's (Terms and Conditions for Recognitions and Issuance of Renewal Energy Certificate for renewal energy generation) Regulations, 2010.

Date of hearing : 17.9.2013

Coram : Shri V.S. Verma, Member
Shri M. Deena Dayalan, Member

Petitioner : M/s. Peethambra Granites Private Limited

Respondents : National Load Despatch Centre (NLDC)
Maharashtra State Load Dispatch Centre (MSLDC)

Parties present : Shri Rajiv Yadav, Advocate for the petitioner
Shri Kulbhusan Kumar, PGPL
Shri Arjun Krishnan, Advocate, NLDC
Shri A.Banerjee, Advocate, NLDC
Ms. Jyoti Prasad, NLDC
Shri Sailendra Verma, MSLDC

Record of Proceedings

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

- (a) On 21.8.2012, the petitioner applied to NLDC for issuance of RECs for the month of May, 2012 within the prescribed limit of three months from the date

of actual generation. However, NLDC did not issue RECs for the month of May, 2012 till date.

(b) The Status of the said application was shown as "pending for verification" on the website of Central Agency.

(c) The petitioner was not informed about any deficiency in its REC application for the month of May, by the Maharashtra State Load Dispatch Centre (MSLDC). However, from the reply of NLDC to the petitioner, it is noticed that MSLDC vide its e-mail dated 31.8.2012 informed NLDC that certain generators, including the petitioner, had not submitted open access permission, and the distribution licensee might claim the energy injected into the grid for the month of May 2012 for fulfillment of RPO.

(d) Subsequently, MSLDC vide its email dated 24.9.2012 confirmed to NLDC that open access permission for the relevant period had been obtained by the petitioner. However, by the time such confirmation was communicated to NLDC, the prescribed period of three months under Regulation 7 (1) of the REC Regulations had lapsed and therefore, NLDC refused to issue RECs for the month of May, 2012.

(e) The requisite open access permission/NOC had been obtained by the petitioner, as early as 30.7.2012, and the same had been duly submitted to SLDC under letter dated 13.8.2012.

(f) Since the said letter dated 13.8.2012 bears the receipt stamp of MSLDC and MSLDC never informed the petitioner about any missing enclosure, it evidently follows that the open access permission/NOC was indeed provided to SLDC.

(g) Since, open access permission was obtained for the purpose of applying for RECs, the petitioner had no reason to withhold the open access permission from MSLDC.

(h) MSLDC should have informed the petitioner about the missing enclosure

2. In response, the representative of MSLDC submitted as under:
- (a) The petitioner's application dated 13.8.2012 was received by SLDC without any annexure. Even though the open access permission was not received, the energy injection report issued by MSLDC.
 - (b) M/s Shiv Shakthi Ojha Pvt. Ltd, is the coordinating agency dealing on behalf of the petitioner with SLDC and the non-submission of open access permission was intimated to such coordinating agency on 6.8.2012.
 - (c) Open access permission has been granted by MSETCL and not by SLDC.
3. In response to Commission`s query as to whether open access permission is a pre-condition for issuance of Energy Injection Report, the representative of MSLDC replied negative. He clarified that in order to ensure that such renewable energy injected is not being sold for the fulfillment of Renewable Purchase Obligation of obligated entities, MSLDC verified whether the open access permission for such energy injection granted or not.
4. In response, learned counsel for the petitioner further submitted that the petitioner is injecting wind energy into the grid under banking with bilateral contracts. Since it is a renewable energy and has already been injected into the grid, the petitioner should not be denied for REC for the month of May 2012.
5. Learned counsel for NLDC submitted that MSLDC`s confirmation regarding petitioner's open access permission was received on 24.9.2012. Since by such date, the prescribed period for issuance of RECs had lapsed, NLDC could not issue RECs for the month of May, 2012. Learned counsel further submitted that the Commission may consider whether retrospective permission of open access should be considered to regularize the open access transaction.
6. The Commission observed that there should not be any communication gap between MSLDC and NLDC and proper care should be taken in future in this regard.

7. After hearing learned counsels for the petitioner, NLDC and representative of MSLDC, the Commission reserved order in the petition.

By order of the Commission

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