

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 9/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: 13th of September, 2017

In the matter of

Petition under 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 read with Sections 66 and 79(l)(k) of the Electricity Act, 2003 for seeking directions to National Load Despatch Center to issue RECs to the Petitioner in terms of the Renewable Energy Certificate (REC) mechanism for 21MW self-consumption of energy.

And

In the matter of:

Century Textiles and Industries Limited (Project: Century Pulp & Paper)

Century Bhavan

Dr. Annie Besant Road

Worli, Mumbai 400030

Maharashtra

India

...Petitioner

Versus

- 1) National Load Despatch Center
B-9, Qutab Institutional Area
Katwaria Sarai
New Delhi-110016

...Respondent No. 1

- 2) Uttarakhand Renewable Energy Development Agency (UREDA)
Urja Park Campus
Industrial Area Patel Nagar
Dehradun-248001

... Respondent No. 2

Parties Present:

Shri Hemant Singh, Advocate, CTIL

Shri Nishant Singh, Advocate, CTIL

Shri Nimesh Jha, Advocate, CTIL

ORDER

M/s Century Textiles and Industries Limited (hereinafter referred to as the "Petitioner") is a company incorporated under the provisions of the Companies Act, 1956, having its registered office in Mumbai and Works at 'Century Pulp & Paper', Nainital, Uttarakhand. The Petitioner is engaged in the production and manufacturing of paper and the 'black liquor', a by-product of the manufacturing process, is thereafter used for the generation of power for the purpose of self-consumption, through renewable energy boilers installed for the said purpose.

2. The Respondent No.1 is National Load Despatch Center which has been designated as the "Central Agency" under Regulation 3(1) 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').

3. The Respondent No.2 is Uttarakhand Renewable Energy Development Agency (UREDA) which has been nominated as "State Designated Agency (SDA)" by Govt. of Uttarakhand, vide its order No. 632/576/AS(E)/Camp/2008 dated 27.8.2008.

Facts of the Petition

4. The Petitioner has installed four steam driven power generator sets in its captive power plant. In 1985, the Petitioner installed 6.8 MW, 11 KV, BHEL power generator set which is steam driven through Chemical Recovery Boiler.

5. In 1994, the Petitioner installed 21.0 MW, 11 KV, TDK power generator set which is steam driven through Chemical Recovery Boiler.

6. In 2004, the Petitioner installed 16.0 MW, 11 KV, TDK power generator set which is steam driven through Chemical Recovery Boiler.

7. In 2010, the Central Commission made the REC Regulations for the development of market in power from Non-Conventional Energy Sources by issuance of transferable and saleable credit certificates.

8. In 2011, the Petitioner installed 43.0 MW, 11 KV, TDK power generator set which is steam driven through Chemical Recovery Boiler.

9. Out of the above four mentioned turbines, the Petitioner connected to two turbines with three chemical recovery boilers as shown in the table below:

Boiler		Associated Turbine	
Solid Firing Chemical Recovery	Date of Installation	Associated Turbine	Date of Installation
BHEL 300 MTPD	1984	6.8MW, 11 kV, BHEL make	1985
ABL 350 MTPD	1995	21MW, 11kV, TDK make	1994
ENMAS 1200 MTPD	2011		

10. The Petitioner modified the steam distribution system and registered the project in such a manner that the two TG sets, being 6.8MW and 21MW were fed from steam generated from chemical recovery based boilers, which used black liquor as the renewable energy fuel.

11. On 4.5.2011, the Director of Factories & Boilers, Uttarakhand, certified the commissioning of the ENMAS boiler vide its certificate dated 04.05.2011.

12. On 9.1.2012, Ministry of New and Renewables Energy (MNRE) classified 'Black liquor' as renewable energy fuel, vide letter No. 20/922/2011.

13. On 19.6.2014, the Project got Accredited under the name of “M/s Century Pulp & Paper” by UREDA and Certificate No. ULONSCENTU001A190614 was issued.

14. In July, 2014, the Petitioner’s company began generation of electricity from the aforesaid project and consequently also began generating certificates under the REC mechanism.

15. The Petitioner realised that it has wrongly registered the REC Project in the name of ‘Century Pulp & Paper’ (division) instead of M/s Century Textiles and Industries Ltd and as such it cannot get the REC certificates redeemed.

16. The Respondents indicated that there is no procedure to change the name of the Entity, hence redemption of the REC certificates would not be possible and the project needs to be re-registered under the name of the parent company i.e. M/s Century Textiles and Industries Ltd.

17. On 10.2.2016, the Petitioner requested for revocation of earlier registration under the name of ‘M/s Century Pulp and Paper’ and on 11.2.2016, the Petitioner applied for registration under the name of ‘M/s Century Textiles and Industries’.

18. On 16.3.2016, UREDA revoked the accreditation under the name of ‘M/s Century Pulp and Paper’.

19. On 30.3.2016, the Commission made an amendment in Regulation 5 of REC Regulations, 2010 via Fourth Amendment vide which Clause 1(B) is added, which puts restrictions on the renewable power generators availing benefits under the REC Mechanism.

20. On 29.07.2016, UREDA forwarded the letter dated 19.7.2016 received from POSOCO, intimating the Petitioner to submit some information as per REC Regulations (4th Amendment). Meanwhile, the request of issuance of RECs from March 2016 onwards was kept in abeyance.

21. On 10.9.2016, the Petitioner furnished the aforesaid information to UREDA and also marked a copy of the said letter to NLDC, New Delhi. However, the Respondents found that the petitioner was ineligible for the REC Certificates under REC Mechanism.

Submission of Petitioner:

22. The Petitioner has submitted that it is engaged in the production and manufacture of paper. Black liquor, which is a by-product of the manufacturing process (also a renewable energy generation source) is thereafter used for the generation of power for the purpose of self-consumption, through renewable energy boilers installed for the said purpose. 'Black liquor' is a waste material of wood and has been considered as renewable energy fuel vide MNRE letter no. 20/922/2011 dated 9.1.2012.

23. The Petitioner has submitted that, *inter alia*, it has the following power arrangements for the plant:

- a) 11,000 KVA electrical power through an independent 132 KV feeder from UPCL, Kichha 132 KV Sub-station.
- b) The captive power plant consisting of 4 Nos. steam driven power generator sets –

- i) 6.8 MW, 11 KV, BHEL make installed in 1985 - Steam fed through Chemical Recovery Boiler.
- ii) 21.0 MW, 11 KV, TDK make installed in 1994 - Steam fed through Chemical Recovery Boiler.
- iii) 16.0MW, 11 KV, BHEL make installed in 2004 - Steam fed through Power Boilers.
- iv) 43.0 MW, 11 KV, BHEL make installed in 2011- Steam fed through Power Boilers.

24. Out of the aforementioned four turbines, the Petitioner is currently using the 6.8MW (Unit 1) and 21MW (Unit II) turbines under the Renewable Energy Certificate (REC) Mechanism.

25. The arrangement of renewable energy based boilers and associated turbines is as tabulated below:

S. No.	Boiler		Associated Turbine	
	Solid Firing Chemical Recovery Boiler	Date of Installation	Type	Date of Installation
1	BHEL 300 MTPD	1984	6.8MW, 11 kV, BHEL make	1985
2	ABL 350 MTPD	1995	21MW, 11kV, TDK make	1994
3	ENMAS 1200 MTPD	2011		

26. The Petitioner has submitted that ENMAS boiler (at S.No.3), which is connected with the 21 MW TG set, together constitutes a separate generating unit and the date of commissioning of this generating unit has to be considered from the date of commissioning of the associated ENMAS boiler i.e. 2011.

27. The project got accreditation from Respondent No. 2 under the name of 'M/s Century Pulp and Paper' and thereafter began generation of electricity from the aforesaid project in July 2014 and started receiving RECs.

28. Later it came to the knowledge of the petitioner that the project was wrongly registered under the name of 'Century Pulp and Paper' which is a division of M/s Century Textiles and Industries Ltd. Further, the redemption of the REC certificates would only be possible if the project is registered under the name of the parent company i.e. 'M/s Century Textiles and Industries Ltd'. Accordingly, the Petitioner requested for the revocation of registration under the name of 'Century Pulp and Paper' and for re-registration under the name of parent company 'M/s Century Textiles and Industries'. Respondent No. 2 revoked the accreditation given under the name of 'Century Pulp and Paper' vide its letter dated 16.3.2016. However, in the meanwhile, the Commission amended the REC Regulations, which placed certain restrictions on the renewable power generators availing the benefit of the REC mechanism. The relevant extract of the amended REC Regulations is extracted as under:

“5. Eligibility and Registration for Certificates:

.....

(1B) A Captive Generating Plant (CGP) based on renewable energy sources, including renewable energy generating plant not fulfilling the conditions of CGP as prescribed in the Electricity Rules, 2005 but having self-consumption, shall not be eligible for participating in the REC scheme for the energy generated from such plant to the extent of self-consumption, if such a plant:

a) has been commissioned prior to 29th September 2010 or after 31st March 2016; or

b) is not registered with Central Agency under REC scheme on or before 30th June 2016.

.....”

29. The Petitioner has submitted that the RECs were being regularly and consistently issued to the Petitioner until February 2016. However, after the notification of Fourth amendment in the REC Regulations in March 2016, the Respondent No. 1 stopped issuing RECs to the Petitioner for the energy generated by it from the aforesaid unit.

30. The Petitioner has submitted that with the purpose of registration under the REC mechanism, the turbines were segregated in 2014. The RE steam generated from its ENMAS boiler (COD 2011) was segregated & dedicated to 21MW turbine. The ENMAS boiler along with the associated 21MW TG set was commissioned in 2011, i.e. during the control period of the REC Regulations between 29.09.2010 to 31.03.2016. The Director of Factories & Boilers, Utarakhand, has certified the commissioning of the aforesaid ENMAS boiler from 04.05.2011, vide its certificate dated 04.05.2011. Consequently, the said unit of the Petitioner cannot be denied the benefit of the REC mechanism as a result of the amendment in the REC Regulations.

31. The Petitioner has submitted that Respondent No. 2 wrote a letter dated 29.07.2016 to the Petitioner, intimating it that certain information was required from it pursuant to the fourth amendment in the REC Regulations. In response, the Petitioner, vide its letter dated 10.09.2016, provided the aforesaid information required by UREDA/ Respondent No. 2 regarding details of the renewable energy boilers installed at the site of the Petitioner along with the dates of commissioning of its renewable energy boilers, including the ENMAS boiler.

32. The Petitioner has submitted that the restriction prescribed in the REC Regulations, 2010 vide fourth amendment does not apply to it as the ENMAS boiler

along with the associated 21MW TG set, which got commissioned in 2011, is neither covered in the period before 29.09.2010 nor after 31.03.2016. Thus, it squarely falls within the control period of the amended REC Regulations.

33. The Petitioner has submitted that the anomalous situation arising in the present case is on account of the standard formats available on the website of Respondent No. 1, while applying for registration under the REC scheme, which take into account only the date of commissioning of a TG set of a generating station for the purpose of determination of commissioning date. Such formats do not envisage a peculiar situation of the present nature wherein an existing generating station using common turbines for different types of boilers, decides to install/ commission a fresh renewable energy based boiler along with an existing TG set, which has a separate date of commissioning. The Petitioner has submitted that the date of commissioning of TG sets alone cannot be considered for the purpose of determination of eligibility of a plant under the REC mechanism as it would lead to a situation wherein any conversion/ modification in source of energy of an existing generating plant would require setting up of the entire power generation apparatus all over again i.e. the boiler, turbine and generator. It would be an imprudent approach especially when conversion of source of energy based on which a power plant is run, can be done solely by changing the nature of the boiler, which is the place where the necessary fuel is fired/ burnt. It is natural to assume that in such scenarios, the date of commissioning of the new boiler has to be considered for the purpose of determination of date of commissioning of the said generating unit particularly for the purposes of the amended REC Regulations. In the absence of such an approach, modification of the entire generation apparatus would become a tedious and expensive task which would further increase the cost of generation of renewable

power, that even otherwise happens to be more expensive than the conventional sources of power generation.

34. The Petitioner has submitted that the ENMAS boiler along with its associated 21MW turbine and generator, constitutes a separate generating unit in terms of the Indian Electricity Grid Code, 2010. Therefore, even though the ABL boiler (which was commissioned in 1995) and the ENMAS boiler (commissioned in 2011) are using the same 21MW turbine, the same have to be considered as two separate generating units in terms of the Grid Code and as such will have separate dates of commissioning based on the dates of commissioning of the different boilers associated with the said 21MW turbine.

35. The Petitioner has submitted that Section 2(30) of the Electricity Act, 2003 also defines "generating station" or "station" to mean *any station for generating electricity, including any building and plant with step-up transformer, switchgear, switch yard, cables or other appurtenant equipment, if any, used for that purpose and the site thereof; a site intended to be used for a generating station, and any building used for housing the operating staff of a generating station, and where electricity is generated by water-power, includes penstocks, head and tail works, main and regulating reservoirs, dams and other hydraulic works, but does not in any case include any sub-station*. Thus, the entire plant including the boiler and the TG will constitute a power plant and the said renewable energy plant for which issuance of RECs is sought to be continued in the present case, came into existence only in 2011 i.e. within the period as specified in the Fourth Amendment of the REC Regulations. The Petitioner has submitted that since March 2016 till date it has generated 83067.40 MW of electricity from its 21MW renewable energy plant and is

accordingly entitled to RECs for 74760.66 MW of electricity (being the net generation of electricity after deduction of 10% auxiliary consumption).

36. The Petitioner has submitted that the concern of the Petitioner is not unfounded and the same stems from the fact that the Respondent No. 1 in a similar case of M/s BILT Graphic Paper Product Limited (BILT), has rejected the application of BILT for registration under the REC mechanism by ignoring the date of commissioning of the renewable energy based boiler and considering the date of commissioning of the associated TG set alone, as mentioned by BILT in the said form above. Accordingly, the Petitioner has requested to direct the Respondent No. 1 to issue RECs to the Petitioner in terms of the REC mechanism for 21 MW self-consumption of energy for the period from March 2016 till date.

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

(a) Direct the Respondent No. 1 to issue RECs to the Petitioner in terms of the REC mechanism for 21MW self-consumption of energy generated for the period from March 2016 till date in terms of the Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010, and as amended from time to time;

(b) Direct the Respondent No. 1 to make the Petitioner eligible to participate in the REC Mechanism through its 21MW TG set along with the ENMAS Chemical Recovery based boiler;

(c) Pass such other order(s) as the Hon'ble Commission may deem just In the facts of the present case.

38. Notice was issued to the respondents to file their replies. NLDC and UREDA have filed their replies.

Submission of Respondent No. 1(NLDC):

39. The Respondent No. 1 has filed the reply on 24.07.2017 vide which it has submitted that Petitioner is not an eligible entity for grant of RECs in view of the fourth amendment dated 30.03.2016 to the REC Regulations, 2010 since the renewable energy generating unit against which RECs are sought for, was commissioned on 1.12.1994, which is beyond the control period prescribed under the said amendment. The Respondent has submitted that the present petition involves adjudication upon a legal issue i.e. whether in view of the 4th amendment, the Petitioner's generation unit is eligible under the REC Regulations or not? The Respondent has submitted that in exercise of powers conferred under sub-section (1) of Section 178 and Section 66 read with clause (y) of sub-section 2 of Section 178 of the Act, the Commission brought into force the REC Regulations. Subsequently, the Commission issued a notification dated 29.01.2010, and designated the answering Respondent as the 'Central Agency' under Regulation 3(1) of the REC Regulations.

40. On 30.3.2016, the 4th Amendment was published in the official gazette whereby inter alia, a new clause i.e. 1 (B) was inserted under Regulation 5 which stipulates that Captive Generating Plant (CGP) which do not fulfill the conditions prescribed under Electricity Rules, 2005 are eligible to participate under the REC scheme to the extent of self-consumption, only if, their date of commissioning is between 29.9.2010 and 31.3.2016; and if they are registered under the REC scheme on or before 30.6.2016.

41. The Respondent has submitted that the controversy in the present case revolves around the definition of a 'generating plant' or 'generating unit'; and whether any subsequent installation or modification in the 'generating unit' would alter its date of commissioning. In the instant case the Petitioner has sought issuance of RECs against a generation unit consisting of a TDK make, 21 MW, 11 KV steam driven turbine generators installed in 1994, in which, the steam is been purportedly fed through an 'ENMAS - 1200 MTPD solid firing' chemical recovery boiler that was installed in 2011. The ENMAS boiler uses 'black liquor', a renewable energy source as its fuel. Further, the aforesaid turbine is also connected to a ABL-350 MTPD solid firing chemical recovery boiler that was installed in 1995.

42. It is the case of the Petitioner that the aforesaid ENMAS boiler along with 21 MW TG set, constitutes a separate generating unit and the date of commissioning of this generating unit has to be considered from the date of commissioning of the associated ENMAS boiler i.e. 2011. The Respondent has submitted that the term 'generating unit' has been defined under clause 2(I)(ii) of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 as under:

"an electrical Generating Unit coupled to a turbine within a Power Station together with all Plant and Apparatus at that Power Station which relates exclusively to the operation of that turbo-generator."

43. Further, Section 2(30) of the Act defines the term "generating station" as under:-

"generating station" or "station" means any station for generating electricity, including any building and plant with step-up transformer, switchgear, switch yard, cables or other appurtenant equipment, if any, used for that purpose and the site thereof; a site intended to be used for a generating station, and any building used for housing the operating staff of a generating station, and where electricity is generated by water-power, includes penstocks, head and tail works, main and regulating reservoirs, dams and other hydraulic works, but does not in any case include any sub-station."

A perusal of the above is sufficient to show that a single equipment / apparatus cannot by itself be treated as a generating unit or a plant.

44. Taking this into account, the Petitioner's interpretation that 21 MW Turbine Generator (TG) set along with ENMAS boiler (installed in 2011) should constitute a separate generating unit is erroneous, especially when admittedly the ABL boiler (installed in 1995) remains connected with the above stated TG set.

45. Further, in so far as the date of commissioning is concerned, it is noted that the Petitioner's 21 MW TG set was installed on 1.12.1994. It is not disputed that the same was being fed through the ABL make boiler, before the ENMAS boiler was installed in 2011. Even the Petitioner has stated the date of commissioning of the above TG set to be of the year 1994. The date of commissioning of the generating unit ought to be considered as the commissioning of the whole unit and not by a later date on which one or more parts have been installed or any modification has taken place. Hence, in the facts and circumstances of the present case, it would be wrong to suggest that the 'generating unit' which consists of the 21 MW TG set as well as a ABL make boiler apart from ENMAS boiler, was commissioned in 2011, solely because the ENMAS boiler was installed in 2011. Therefore, the Petitioner is not eligible for issuance of RECs as per 4th Amendment of the REC Regulations and the Petition is liable to be dismissed.

Submission of Respondent No. 2 (UREDA):

46. The Respondent No. 2 has filed the reply on 10.07.2017 vide which it has submitted that the date of commissioning of generating unit cannot be considered from the date of commissioning of the associated ENMAS boiler i.e. 2011. By the

way of fourth amendment in the REC Regulations, the petitioner is no more eligible to take the benefit of RECs. The Accreditation Certificate was issued by considering the date of commissioning of TG set of power project in 1994 and 1985 which is not applicable now after the aforesaid amendment. At the time of seeking registration, the petitioner while filling up online application form no APPLULOACCR1102162787 dated 11.02.2016, had declared the dates of commissioning of its 21 MW and 6.8 MW turbines for REC generation to be that of 01 Dec 1994 and 26 Dec 1985 respectively. The commissioning certificate dated 19.04.2014 issued to the petitioner by Executive Engineer, Electricity Test Division and Executive Engineer, Electricity Distributive Division, Haldwani, also reflects the date of commissioning of the generators of 21MW and 6.8 MW turbines as 01.12.1994 and 26.12.1985 respectively.

47. As a matter of procedure under the UERC Regulations 2010, a State Agency is required to go through the check list and rely upon the commissioning certificate from State transmission utility/concerned distribution licensee.

48. The Power System Corporation Limited vide its letter ref. POSOC/NLDC/REC 6/537 dated 19.07.2016 sought certain information/declarations from RE Generators, in order to ensure smooth implementation of the fourth amendment to REC Regulations, 2010. Consequently the answering Respondent no. 2 sent a letter dated 29.7.2016 to the RE Generators including the Petitioner to provide the required information sought by NLDC.

49. The answering Respondent No. 2 received the information from petitioner vide its letter dated 10.9.2016. It is pertinent to note that in its declaration, the petitioner did not mention the date of commissioning of TG set of project but gave

the date of commissioning of boiler, which was not considerable in view of the procedures laid down under the UERC Regulations, 2010 for accreditation of RE Generation project by State Agency.

50. In light of the foregoing paragraphs, the Petition may be dismissed.

Submission of Petitioner through 'Rejoinders':

51. The Petitioner has filed two rejoinders on 21.8.2017 to reply to the objections taken by the Respondent. The Petitioner has almost reiterated the stand already taken in the petition and oral submissions at the time of hearings of the case. Therefore, the same are not being reproduced for the sake of brevity.

52. The Petitioner has also raised the following additional submissions and clarifications through these rejoinders:

53. During the pendency of the instant petition the Respondent No. 1 has revoked the registration of the Petitioner from the REC scheme pursuant to fourth amendment of the REC Regulations, 2010, vide their e-mail communication dated 02.03.17. Thus, the Petitioner suffers adverse financial impact.

54. The contention raised by the Respondent No.1 that because there was another boiler (ABL) which was being used with the 21 MW turbine prior to the commissioning of the ENMAS boiler in 2011, the same cannot, in any way, be construed to be a separate generation plant, is wrong. Earlier the 21 MW turbine "together" with the ABL boiler was constituting a power plant. Now, the 21 MW turbine "together" with the ENMAS boiler, constitutes a separate generating unit. On commissioning of the ENMAS boiler in the year 2011, the ABL boiler (commissioned in 1994) is not at all associated with the 21 MW TG.

55. It is not the case of replacement of an auxiliary part of an existing power plant but that of an old turbine generator being commissioned again with a new boiler and other modifications. A parallel has to be drawn with the situation when second hand parts of a power plant are purchased and reassembled and commissioned again. In that situation, the plant is said to have been commissioned again when the machine is run once again and the life of the power plant is determined on the basis of the evaluation of useful life which is remaining for the second-hand plant from the date when the plant was commissioned again and not from the date when the individual re-assembled parts were commissioned for the first time. Similarly, in the present case as well, the 21 MW TG set with the ENMAS boiler was "together" commissioned in the year 2011.

56. The generation plant, on the date of its commissioning i.e. 04.05.2011 fulfilled the conditions prescribed under all rules and Regulations and the modifications in the configuration of the plant were made pursuant to the discussions with Respondent No. 2 and subsequent to the date of commissioning. It was receiving the RECs on a regular basis, which in itself is testament to the fact that the Petitioner's plant was fulfilling all the required conditions to receive the RECs.

57. The entire reason why the dates in 1984 and 1995 were noted in the first place was on account of the anomalies existing in the forms issued by the Respondent No. 1 which only record the date of commissioning of the turbine of a generating station. The aforesaid permission was to be granted based on the eligibility factors, as listed in Regulation 5 of the REC Regulations, 2010 and date of commissioning of power station was not one of them. Therefore, the requirement was never felt to get the REC registration forms modified so as to include situations

wherein different boilers could be commissioned with the same TG set, on different dates.

Analysis and decision

58. We have heard the learned counsels for the Petitioner and the Respondents and have carefully perused the records.

59. Briefly, the facts of the case are that the Petitioner is engaged in the production and manufacture of paper and is currently using the 6.8MW (Unit 1) and 21MW (Unit II) turbines under the Renewable Energy Certificate (REC) Mechanism. The 6.8MW Turbine (Make 1984) is connected with BHEL Boiler (make 1985) whereas 21MW Turbine (make 1994) is connected with two boilers viz. ABL Boiler (make 1995) and ENMAS Boiler (make 2011). On 19.06.2014 the project was accredited under the name of "M/s Century Pulp & Paper" by Respondent No.2 and Certificate No. ULONSCENTU001A190614 was issued. In July 2014, the Petitioner's company began generation of electricity from the aforesaid project and consequently also began receiving certificates under the REC mechanism. The Petitioner realised that it could not get the RPO benefit as it had wrongly registered the REC Project in the name of 'Century Pulp & Paper' (division) instead of M/s Century Textiles and Industries Ltd (main parent company). The petitioner has argued that there was no procedure to change the name of the Entity, hence the project was to be re-registered under the name of the parent company i.e. M/s Century Textiles and Industries Ltd. On 10.02.2016, the Petitioner requested Respondent No.2 for revocation of earlier registration under the name of 'M/s Century Pulp and Paper' and on 11.02.2016, the Petitioner applied for registration under the name of 'M/s Century Textiles and Industries Ltd.'. On 16.03.2016 Respondent No.1 revoked the

accreditation under the name of 'M/s Century Pulp and Paper'. Meanwhile, on 30.03.2016 the Commission issued an amendment to Regulation 5 of REC Regulations, 2010 via Fourth Amendment vide which Clause 1(B) was added, which the petitioner feels, has some restrictions on the renewable power generators availing benefits under the REC Mechanism. On 29.07.2016 Respondent No.2 forwarded a letter dated 19.07.2016 received from POSOCO, intimating the Petitioner to submit some information as per REC Regulations, 2010 (4th Amendment) while issuance of RECs for March 2016 onwards was kept in abeyance. The Respondents concluded that the petitioner was ineligible for RECs as per the fourth amendment to REC Regulations, 2010. Respondent No. 1 revoked the registration of the Petitioner from the REC scheme vide their e-mail communication dated 2.3.2017. The Petitioner has submitted that since March 2016 till date it has generated 83067.40 MWh of electricity from its 21MW renewable energy plant and is accordingly entitled to RECs for 74760.66 MWh of electricity (being the net generation of electricity after deduction of 10% auxiliary consumption).

60. In various hearings, on merits, the Petitioner submitted that **Firstly**, ENMAS boiler which is connected with the 21 MW TG set, together constitutes a separate generating unit and the date of commissioning of this generating unit has to be considered from the date of commissioning of the associated ENMAS boiler i.e. 2011 (i.e. during the control period of the REC Regulations, 2010 between 29.09.2010 to 31.03.2016).The turbines were segregated in 2014 with the purpose of registration under the REC mechanism. On commissioning of the ENMAS boiler in the year 2011, the ABL boiler (commissioned in 1994) was not at all associated with the 21 MW Turbine. Further, prior to the commissioning of ENMAS boiler, the 21 MW turbine 'together' with the ABL boiler was constituting a power plant. Now, after the

commissioning of the ENMAS boiler, the 21 MW turbine 'together' with the ENMAS boiler, constitutes a separate generating unit. The Director of Factories & Boilers, Uarakhand, has certified the commissioning of the aforesaid ENMAS boiler from 04.05.2011. Further, it is not the case of replacement of an auxiliary part of an existing power plant but that of an old turbine generator being commissioned again with a new boiler and other modifications. A parallel has to be drawn with the situation when second hand parts of a power plant are purchased and reassembled and commissioned again. In that situation, the plant is said to have been commissioned again when the machine is run once again and the life of the power plant is determined on the basis of the evaluation of useful life which is remaining for the second-hand plant from the date when the plant was commissioned again and not from the date when the individual re-assembled parts were commissioned for the first time. Consequently, the Petitioner cannot be denied the benefit of the REC mechanism as a result of the amendment in the REC Regulations. **Secondly**, the RECs were being regularly and consistently issued to the Petitioner until February 2016. However, after the notification of Fourth amendment in the REC Regulations in March 2016, the Respondent No. 1 stopped issuing RECs to the Petitioner for the energy generated by it from the aforesaid unit. Therefore, the Respondents may be directed to allow the benefit of the REC mechanism to the Petitioner. **Thirdly**, the anomalous situation arising in the present case is on account of the standard formats available on the website of Respondent No. 1, while applying for registration under the REC scheme, which take into account only the date of commissioning of a Turbine Generating set of a generating station for the purpose of determination of commissioning date. Such formats do not envisage a peculiar situation of the present nature wherein an existing generating station using common turbines for

different types of boilers, decides to install/ commission a fresh renewable energy based boiler along with an existing TG set, which has a separate date of commissioning. The entire reason why the dates in 1984 and 1995 were noted in the first place was on account of the anomalies existing in the forms issued by the Respondent No.1 which only record the date of commissioning of the turbine of a generating station. The aforesaid permission was to be granted based on the eligibility factors, as listed in Regulation 5 of the REC Regulations, 2010 and date of commissioning of power station was not one of them. Therefore, the requirement was never felt to get the REC registration forms modified so as to include situations wherein different boilers could be commissioned with the same TG set, on different dates. **Finally**, during the pendency of the instant petition the Respondent No. 1 has revoked the registration of the Petitioner from the REC scheme pursuant to fourth amendment of the REC Regulations, 2010, vide their e-mail communication dated 2.3.2017. Thus, the Petitioner suffers adverse financial impact. In light of the above, Respondent No. 1 may be directed to issue RECs to the Petitioner for 21MW self-consumption of energy generated for the period from March 2016 till date.

61. *Per Contra*, the Respondent has submitted that **Firstly**, the Petitioner is not an eligible entity for grant of RECs in view of the fourth amendment dated 30.03.2016 to the REC Regulations, 2010 since the renewable energy generating unit against which RECs are sought for, was commissioned on 01.12.1994, which is beyond the control period prescribed under the said amendment. Furthermore, the date of commissioning of the generating unit ought to be considered as the commissioning of the whole unit and not by a later date on which one or more parts have been installed or any modification has taken place. Hence, in the facts and circumstances of the present case, it would be wrong to suggest that the 'generating

unit' which consists of the 21 MW TG set as well as a ABL make boiler apart from ENMAS boiler, was commissioned in 2011, solely because the ENMAS boiler was installed in 2011. **Secondly**, the Petitioner has sought issuance of RECs against a generation unit consisting of a TDK make, 21 MW, 11 KV steam driven turbine generators installed in 1994, in which, the steam is been purportedly fed through an 'ENMAS - 1200 MTPD solid firing' chemical recovery boiler using fuel as 'Black Liquor' that was installed in 2011. Further, the aforesaid turbine is also connected to ABL-350 MTPD solid firing' chemical recovery boiler that was installed in 1995. Hence, because there are two boilers Viz. ABL and ENMAS which are connected to the same 21 MW turbine, the same cannot, in any way, be construed to be a separate generation plant. Therefore, the Petitioner is not eligible for issuance of RECs. **Thirdly**, 21 MW turbine generating set was installed on 01.12.1994 and it is not disputed that the same was being fed through the ABL make boiler, before the ENMAS boiler was installed in 2011. Even the Petitioner has stated the date of commissioning of the above turbine generating set to be of the year 1994. As a matter of procedure under the UERC (compliance of Renewable Purchase Obligation) Regulations, 2010, a State Agency is required to go through the check list and rely upon the commissioning certificate from State transmission utility/concern distribution licensee. **Finally**, in view of above the Petitioner is not eligible for issuance of RECs as per 4th Amendment of the REC Regulations.

62. The Commission observes that Section 2(30) of the *Electricity Act 2003*, defines the term "generating station" as under:

"(30) "generating station" or "station" means any station for generating electricity, including any building and plant with step-up transformer, switchgear, switch yard, cables or other appurtenant equipment, if any, used for that purpose and the site thereof; a site intended to be used for a generating station, and any building used for

housing the operating staff of a generating station, and where electricity is generated by water-power, includes penstocks, head and tail works, main and regulating reservoirs, dams and other hydraulic works, but does not in any case include any sub-station."

The Commission further observes that the term "generating unit" has been defined under clause 2(l)(ii) of the *Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010* as under:-

"(ii) an electrical Generating Unit coupled to a turbine within a Power Station together with all Plant and Apparatus at that Power Station which relates exclusively to the operation of that turbo-generator"

From the conjoint reading of the above, the Commission is of the view that the generating plant as a whole consists of many critical equipments viz. building and plant with step-up transformer, switchgear, switch yard, cables or other appurtenant equipment, electrical generating units coupled to a turbine etc. The date of commercial operation means the date of successful commissioning of the generating station as a whole i.e. the date on which the generating plant starts injecting electricity into the grid. Further, once the generating plant gets commissioned, the same can be upgraded technically as per the requirement of the plant. Technical upgrades to the generating station do not lead to change in the date of commissioning of the plant. The date of commissioning of a single equipment/apparatus in isolation cannot be construed as the date of commissioning of the generating station.

63. In the instant case, ENMAS boiler was commissioned in 2011 and was connected to already operating 21MW Turbine (make 1994). The boilers alongwith the turbine, as a whole, can only be construed to be a separate generation plant. Therefore, even if date of commissioning of the associated ENMAS boiler was 2011,

the same will not alter/shift the date of commissioning of the entire generating plant, which is 01.12.1994. This time period is outside the control period of the REC Regulations, 2010 for captive generators i.e. between 29.09.2010 to 31.03.2016.

64. Further, the project was accredited under REC Mechanism and began receiving certificates under the REC mechanism from July, 2014. Since, the Petitioner could not redeem the REC certificates due to the name change issue, the Petitioner requested Respondent No.2 for revocation of earlier registration under the name of 'M/s Century Pulp and Paper' on 10.02.2016 and applied for registration under the name of 'M/s Century Textiles and Industries Ltd.' (being parent company) on 11.02.2016. As per procedure, while applying for a fresh registration, the Petitioner has to fill the '*Acknowledgement details*' based on the check-list (as filed by the Respondent No. 2 with its reply as Annexure 1 & 2). As per the said document, the Petitioner has declared the date of commissioning of the generating plant as 1.12.1994. It is deduced that when the project was initially registered under the REC mechanism in the name of 'M/s Century Pulp and Paper' in 2014, it must have mentioned the date of commissioning as 1.12.1994. Therefore, for the said plant, the date of commissioning is fixed. No contrary view on date of commissioning of the project can be taken at this stage. The Petitioner has also not argued on this issue. It is a far-fetched argument that the Petitioner considered the date of commissioning of Turbine as the date of commissioning of the project.

65. Since, the generating plant of the Petitioner was commissioned on 1.12.1994 and as per the fourth amendment to the REC Regulations, the renewable energy generating plants commissioned prior to 29.9.2010 are not eligible for grant of RECs for self-consumption, the Petitioner ceases to be eligible for grant of RECs for power

utilized for self-consumption with effect from the date of notification of fourth amendment to REC Regulations. Accordingly, the prayers of the Petitioner are rejected.

66. Petition No. 9/MP/2017 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