



नई दिल्ली  
NEW DELHI

याचिका संख्या. /Petition No.: 263/MP/2018

कोरम/Coram:

श्री पी. के. पुजारी, अध्यक्ष/Shri P. K. Pujari, Chairperson  
डॉ. एम. के. अय्यर, सदस्य/ Dr. M.K. Iyer, Member  
श्री आई. एस. झा, सदस्य/ Sh. I.S. Jha, Member

आदेशदिनांक /Date of Order: 24<sup>th</sup> of June, 2019

**IN THE MATTER OF:**

Petition under Section 79(1) of the Electricity Act, 2003 and Sections 14 and 15 of the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010, challenging the illegal and arbitrary rejection of grant of REC application of the Petitioner by Respondents

**AND IN THE MATTER:**

M/s ENN ENN CORP LIMITED  
Abhishek House,  
Kadampali Society, Opp. Jeevan Bharti School  
Nanpura, Surat-395001, Gujarat

...Petitioner

VERSUS

National Load Despatch Centre  
Power System Operation Corporation Limited  
B-9, Qutab Institutional Area, Katwaria Sarai,  
New Delhi – 110016

...Respondent

**Parties Present:** Shri Pankaj Bhagat, Advocate, EECL  
Ms. Tusharika Sharma, Advocate, EECL  
Shri Arjun Krishnan, Advocate, NLDC  
Shri Kaustav Som, Advocate, NLDC  
Shri Ankur Singh, Advocate, NLDC

### आदेश/ ORDER

The Petitioner, M/s ENN ENN CORP LIMITED has filed the present Petition under Section 79(1) of the Electricity Act, 2003 and Section 14 & 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”) challenging the illegal and arbitrary rejection of grant of Renewable Energy Certificate (hereinafter referred to as “REC”) application of the Petitioner by Respondents. The Petitioner is engaged in the business of construction of flats, renting of properties etc. and has set up three wind energy generating stations in Gujarat with cumulative installed capacity of 12.6 MW. All the three energy generating stations of the Petitioner are registered under REC Mechanism.

2. The Respondent, National Load Despatch Centre is designated as the Central Agency under Regulation 3 of the REC Regulations, 2010 and is responsible for issuing RECs to eligible entities under the REC Regulations, 2010 and/or as directed by the Commission.
3. The Petitioner has made the following prayers:

*a) Permit the petitioner to file its application for issuance of RECs for the period April 2017 to November 2017, and*

- b) Direct Respondent to issue 19191.196 nos. of RECs to Petitioner for the period 18.01.2017 to 07.11.2017 as verified and approved by the Respondent, SLDC pertaining to co-generation from Petitioner Units' during February, 2017 to November 2017; and
- c) In alternative direct the respondent to re-consider application submitted by the petitioner on 25.11.2017, and
- d) Pass any other order(s) as deemed fit, necessary and appropriate.

**Submissions of the Petitioner:**

4. The Petitioner has submitted that amongst other businesses, it owns and operates 3 wind energy generating stations in the State of Gujarat. The projects have been accredited and registered under REC mechanism as below:

	Capacity (MW)	Certificate	Issue Date	Expiry Date	Certificate No.
<b>PROJECT 1</b>					
Revenue survey No. 10/P1 and 207/P1 Site- Mahidad, Village- Dahisara, Taluka- Jasdan -	4.2 MW	Accreditation	20.10.2011	19.10.2016	GJ0NSEEC LW001A201011
		Registration	18.01.2012	17.01.2017	GJ0NSEEC LW001R180112
<b>PROJECT 2</b>					
Revenue survey No. 231/p and 228/p Site- Motadadva, Village- PipaliyaDhoro, Taluka- Chotila Revenue survey No. 227/24p Site- Motadadva, Village- Khadvavdi, Taluka- Jasdan, Gujarat	6.3 MW	Accreditation	20.10.2011	19.10.2016	GJ0NSEEC LX002A201011
		Registration	18.01.2012	17.01.2017	GJ0NSEEC LX002R180112
<b>PROJECT 3</b>					
LOC No. JSD-51, Village- Barvada, Taluka- Jasdan, Gujarat	2.1 MW	Accreditation	18.01.2012	17.01.2017	GJ0NSEEC LY003A180112
		Registration	29.03.2012	28.03.2017	GJ0NSEEC LY003R290312

5. The Petitioner had applied for issuance of RECs in May 2017 for the months of February 2017 and March 2017 for its wind energy generating stations in Gujarat through web based application along with submission of online energy injection reports.
6. The Petitioner submitted the hard copy of the aforesaid online applications along with copy of energy injection reports and payment details of issuance fee were sent to the Respondent through courier dated 20.05.2017. The Respondent vide emails dated 31.05.2017 informed that as the registration of Project No. 1 and Project No. 2 have expired on 17.01.2017 and as the re-registration has not been revalidated, the issuance of RECs for the said projects have been kept on hold from the month of February 2017 and onwards.
7. Therefore, without any further delay, the Petitioners on 03.06.2017, applied for re-registration of its projects and paid the requisite fees for accreditation and registration of the three projects. The Respondent vide email dated 08.11.2017 informed that the projects of the petitioner have been registered and accordingly, the certificate of registration with respect to all its three projects have been granted as per details given as under:

	Capacity (MW)	Certificate	Issue Date	Expiry Date	Certificate No.
<b>PROJECT 1</b>					
Revenue survey No. 10/P1 and 207/P1 Site- Mahidad, Village- Dahisara, Taluka- Jasdán -	4.2 MW	Accreditation	19.09.2017	18.09.2022	GJ0NSEEC LB005A190 917
		Registration	08.11.2017	07.11.2022	GJ0NSEEC LB005R081 117
<b>PROJECT 2</b>					
Revenue survey No. 231/p and 228/p Site- Motadadva, Village- PipaliyaDhoro, Taluka- Chotila Revenue survey No. 227/24p Site- Motadadva, Village- Khadvavdi, Taluka- Jasdán, Gujarat	6.3 MW	Accreditation	19.09.2017	18.09.2022	GJ0NSEEC LC006A190 917
		Registration	08.11.2017	07.11.2022	GJ0NSEEC LC006R081 117
<b>PROJECT 3</b>					
LOC No. JSD-51, Village- Barvada, Taluka- Jasdán, Gujarat	2.1 MW	Accreditation	19.09.2017	18.09.2022	GJ0NSEEC LA004A190 917
		Registration	08.11.2017	07.11.2022	GJ0NSEEC LA004R081 117

8. The Petitioner filed the application for issuance of RECs for the months of February 2017 and March 2017 and also deposited fees within time. Vide letter dated 25.11.2017, it informed the Respondent about the total number of RECs pending for issuance. The Petitioner further informed the Respondent that pending registration of all the three Projects under REC mechanism, it could not apply for RECs for the period April 2017 to November 2017. The Projects were finally registered in November 2017 under the REC mechanism. Accordingly, it requested the Respondent to issue the following RECs:

<b>Project</b>	<b>Project Capacity and period</b>	<b>Number of RECs</b>
Project 1	4.2 MW (From 18th Jan 2017 to 7th Nov 2017)	5793.016
Project 2	6.3 MW (From 18th Jan 2017 to 7th Nov 2017)	10,312.906
Project 3	2.1 MW (From 29th Mar 2017 to 7th Nov 2017)	3085.274

9. The Petitioner has submitted that the Respondent vide its email dated 29.12.2017 informed that Project No. 1 and Project No. 2 are eligible for issuance of RECs till the validity of registration i.e. 17.01.2017 while Project No. 3 is eligible for issuance of RECs till the validity of registration i.e. 28.03.2017. Subsequently, vide email dated 30.01.2018, the Respondent informed the Petitioner that on scrutiny based on the revised energy injection report sought from Gujarat SLDC, 247 RECs issued to Project No.1 and 506 RECs issued to Project No. 2 stood deducted. Thus, it could be seen that as long length of five year period was involved for revalidation, even NLDC committed an inadvertent error on its part.
10. The Petitioner has further stated that despite injecting energy and fulfilling all other requisite formalities, they could not apply for RECs for the period April 2017 to November 2017 in a proper format as major part of this period was consumed in re-registration of the projects as suggested by the respondent. It was only on 08.11.2017, i.e. after receiving the registration certificate that the petitioner could apply to the Respondent for issuance of RECs.

### **Submissions of the Respondent:**

11. The Respondent has submitted that under Regulation 3(3) of the REC Regulations 2010 Detailed Procedures with regards to registration, accreditation and issuance of REC certificates to eligible entities have been issued by it which in turn has been approved by the Commission.
12. The Petitioner has admittedly not complied with the applicable laws, including the REC Regulations, 2010 the REC Issuance Procedure (Procedure for Issuance of Renewable Energy Certificate to the Eligible Entities) and the REC Registration Procedure (Procedure for Registration of Renewable Energy Generation Project or Distribution Licensee, as the case may be, by Central Agency) and in light of the same, the relief sought by the Petitioner by way of the present Petition is not sustainable in law.
13. The Respondent states that the Petitioner had earlier approached the Commission vide its Petition No. 223/MP/2017 seeking similar relief (as prayed for in the present petition) which had arisen due to the Petitioner's admitted non-compliance of the applicable laws and procedures, including the same REC Regulations and the REC Issuance Procedure. It is submitted that the Commission, in its Order dated 20.06.2018 disposing the Petition No. 223/MP/2017, had specifically recorded the following with respect to the Petitioner:

*"12. We are in agreement with the contention of NLDC. The Petitioner was required to submit the application for issuance of RECs in terms of Regulation 7 of the REC Regulations and Detailed Procedure made thereunder. However, the Petitioner did not comply with the provisions of the REC Regulations and Detailed Procedure. During the course of hearing, learned counsel for the Petitioner tendered un-conditional apology for late submission of the physical copy of the application along with Energy Injection Report (which was sent to the Respondent on 14.11.2016 by courier and the same was admittedly received by the Respondent on 15.11.2016). Though the application (complete in all respects) was applied/punched within the time stipulated and was within limitation, the late submission of the hard-copy of the complete form was on account of Diwali Holidays. The Petitioner has accepted its mistake regarding non-submitting the physical copy of the application within time. ...*

*13. In our view, since the Petitioner has already submitted the application on-line within time and paid the NLDC processing fees, delay in submission of the physical copy of the application by 14 days though not in conformity with the Detailed Procedure, does not act in abrogation of the right of any other parties including NLDC. As an exception case, we direct NLDC to process the case of the Petitioner for*

*grant of RECs for the month of April, 2016 within one month from the date of issue of this order. We also take serious note of the lack of diligent adherence to procedures by the Petitioner and administer a strong warning to the Petitioner to be careful in future and comply with the provisions of the REC Regulations in letter and spirit. This should not become a precedent to be quoted in future in case of non-compliance of the provisions of the REC Regulations.”*

14. The Respondent has submitted that the above history of the Petitioner’s repeated non-compliance with applicable laws and procedures for the purpose of issuance of RECs is of particular relevance in light of the facts of the present petition before the Commission, where the Petitioner has again not complied with the applicable laws and procedures under the REC Regulations, and has sought relief despite such admitted non-compliance.
15. Neither the REC Regulations, 2010 nor the aforesaid REC Issuance Procedures and the REC Registration Procedures vest any discretionary power on the answering Respondent to relax, extend or condone the delay as the compliance with any of the provisions contained therein are concerned.
16. Regulation 7 of the REC Regulations, 2010 stipulates that an eligible entity must apply to the answering Respondent for issuance of REC within 6 (six) months from the month for which the RECs are sought. The relevant extracts of REC Regulations, 2010 are as below:

***“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.*

*... (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 power producer,*

*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 Despatch Centre with regard to the energy input by renewable energy generators which are not covered under the existing scheduling and dispatch procedures.*

*(5) The process of certifying the energy injection shall be as stipulated in the detailed procedures to be issued by the Central agency.*

*(6) Each Certificate issued shall represent one Megawatt hour of electricity generated from renewable energy source and injected or deemed to be injected (in case of self consumption by eligible captive generating plant) into the grid.”*

*...”*

17. Regulation 10 of REC Regulations, 2010 clarifies the position with respect to the issuance of RECs which reads as follows:

***“10. Validity and extinction of Certificates***

*(1) After registration, the renewable energy generation plant shall be eligible for issuance of Certificates under these Regulations from the date of commercial operation or from the date of registration of such plant by the Central Agency whichever is later:  
...”*

18. In the instant petition, the registration of the Petitioner’s three projects expired on 17.01.2017, 17.01.2017 and 28.03.2017 respectively. The Projects were again registered on 08.11.2017. The Petitioner is seeking the issuance of RECs to the concerned projects for the intervening period i.e. from 18.01.2017 (the next day of expiry of the registration) till 07.11.2017 (the date of fresh registration of the Projects). Therefore, it is submitted that the Petitioner is not entitled for issuance of RECs for the above period between 18.01.2017 and 07.11.2017 when the projects of the Petitioner were not registered under the REC Regulations, 2010.

19. The REC Regulations, 2010 read with relevant provisions of the REC Issuance Procedure and the REC Registration Procedure collectively stipulate a scheme whereby the eligible entity is obligated to follow the steps in the procedures therein and only once the Central Agency is satisfied that the eligible entity has duly complied with the conditions, can it issue



the certificates .Further, the applicability and scope of the REC Issuance Procedure makes it unequivocally clear that there cannot be any REC issuance for projects which are not registered during such period. Sub-clauses (1), (2), (4) and (5) of Regulation 7 of the REC Regulations, 2010 as well as Step 1 and Step 5 of the REC Issuance Procedure and Paras 4.1(b), 4.1(d) and 4.1(f) of the REC Registration Procedure, uses the word “shall” which denotes that a provision is imperative in nature and must be strictly complied with.

20. The Hon’ble Supreme Court in *Ramchandra Keshav Adke v. Govind Joti Chavare*, (1975) 1 SCC 559 has held that when a statute provides for a thing to be done in a particular manner , it must be done in that way or not at all. Relevant paragraphs of the aforesaid judgement are extracted below: -

*“24. Next point to be considered is, what is the consequence of non-compliance with this mandatory procedure?”*

*25. A century ago, in Taylor v. Taylor Jassel, M.R. adopted the rule that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all and that other methods of performance are necessarily forbidden. This rule has stood the test of time. It was applied by the Privy Council, in Nazir Ahmed v. Emperor and later by this Court in several cases, to a Magistrate making a record under Sections 164 and 364 of the Code of Criminal Procedure, 1898. This rule squarely applies “where, indeed, the whole aim and object of the legislature would be plainly defeated if the command to do the thing in a particular manner did not imply a prohibition to do it in any other.” The rule will be attracted with full force in the present case, because non-verification of the surrender in the requisite manner would frustrate the very purpose of this provision. Intention of the legislature to prohibit the verification of the surrender in a manner other than the one prescribed, is implied in these provisions. Failure to comply with these mandatory provisions, therefore, had vitiated the surrender and rendered it non est for the purpose of Section 5(3)(b).”*

21. In the instant case, the Petitioner was well aware of the applicable laws and also about the validity of the registration of the projects. The Petitioner was required to comply with the applicable laws on its own and need not have waited till its non-compliance was pointed out by the Respondent. Further, the Petitioner has admitted that it has failed to comply with the REC Regulations, 2010, the REC Issuance Procedure and the REC Registration Procedure.

### **Submissions in the Rejoinder filed by the Petitioner**

22. The Petitioner has denied the averments filed by the Respondent in its reply and also reiterated its stand taken in the Petition and as such the same has not been reproduced for the sake of brevity. Additionally, the Petitioner has submitted that due to the length of the period, it continued applying for issuance of RECs despite expiry of its registration. The Petitioner also tendered unconditional apology.

### **Analysis and Decision:**

23. The Petition was admitted on 31.01.2019. We have heard the learned counsels for the Petitioner and the Respondent in the hearing held on 20.03.2019 and have carefully perused the records. The brief facts of the case are that the Petitioner owns and operates 3 projects based on wind energy in the State of Gujarat, as below:

	<b>Capacity (MW)</b>	<b>Certificate</b>	<b>Issue Date</b>	<b>Expiry Date</b>	<b>Renewed Issuance Date</b>	<b>Renewed Expiry Date</b>
<b>PROJECT 1</b>	<b>4.2 MW</b>	Accreditation	20.10.2011	19.10.2016	19.09.2017	18.09.2022
		Registration	18.01.2012	17.01.2017	08.11.2017	07.11.2022
<b>PROJECT 2</b>	<b>6.3 MW</b>	Accreditation	20.10.2011	19.10.2016	19.09.2017	18.09.2022
		Registration	18.01.2012	17.01.2017	08.11.2017	07.11.2022
<b>PROJECT 3</b>	<b>2.1 MW</b>	Accreditation	18.01.2012	17.01.2017	19.09.2017	18.09.2022
		Registration	29.03.2012	28.03.2017	08.11.2017	07.11.2022

24. The above projects are accredited and registered as an Eligible Entity under REC mechanism. The Petitioner has been receiving the RECs for the electricity generated from three wind energy generating stations in Gujarat with cumulative installed capacity 12.6 MW since 2011. The Petitioner applied for issuance of RECs for the months of February 2017 and March 2017 in the month of May 2017 for the three projects.
25. The Respondent vide emails dated 31.05.2017 informed that the registration of Project No. 1 and Project No. 2 were due to expire on 17.01.2017 and the re-registration has not been revalidated. The issuance of RECs was kept on hold by the Respondent. Also, the RECs issued for the month of January 2017 were limited to the validity of registration for Project 1 and Project 2 wherein 247 RECs issued were deducted for Project No. 1 and 506 RECs were deducted for Project No. 2.

26. The Petitioner on 03.06.2017 applied for re-registration of its projects and paid the requisite fees for accreditation and registration of the three projects. The Respondent vide email dated 08.11.2017 informed that the projects of the petitioner have been registered and accordingly, the certificate of registration in respect to all its three projects were granted. However, the Petitioner has claimed 19191.196 RECs as under:

<b>Project</b>	<b>Project Capacity and period</b>	<b>Number of RECs</b>
Project 1	4.2 MW (From 18th Jan 2017 to 7th Nov 2017)	5,793.016
Project 2	6.3 MW (From 18th Jan 2017 to 7th Nov 2017)	10,312.906
Project 3	2.1 MW (From 29th Mar 2017 to 7th Nov 2017)	3,085.274
<b>TOTAL</b>		<b>19,191.196</b>

27. **Per Contra**, the Respondent has submitted that the Petitioner is not entitled for issuance of RECs for the aforesaid period as the registration for the Projects 1 & 2 expired on 17.01.2017 and registration for Project 3 expired on 28.03.2017. The projects were subsequently re-accredited on 19.09.2017 and registered on 08.11.2017.
28. From the submissions of the parties, the only issue which arises before this Commission is *Whether the Petitioner is entitled to issuance of 19191.196 RECs under the REC Regulations and the Procedures laid down thereunder?*
29. No other issues were pressed or claimed.
30. We now discuss the issue in detail.

*Issue: Whether the Petitioner is entitled to issuance of 19191.196 RECs under the REC Regulations and the Procedures laid down thereunder?*

31. The Commission observes that relevant provisions of *Procedure for Issuance of Renewable Energy Certificates to the Eligible Entity by Central Agency* are extracted below: -

### **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.

...”

32. Regulation 7(2) of the *Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) 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.

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

...”

33. Further, Regulation 10(1) of the *Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010* provides as follows:

**“10. Validity and extinction of Certificates**

(1) After registration, the renewable energy generation plant shall be eligible for issuance of Certificates under these Regulations from the date of commercial

*operation or from the date of registration of such plant by the Central Agency whichever is later:*

*Provided further that the Certificate issued under these regulations shall remain valid for one thousand and ninety five days from the date of issuance.*

*...”*

34. From the above, the Commission observes that an eligible entity is eligible for issuance of RECs from the date of commercial operation or from the date of registration of such plant whichever is later and is required to apply for issuance of REC through REC web application within six months from the corresponding generation from eligible renewable energy projects. Central Agency shall duly satisfy itself that all the conditions for issuance of Certificates as stipulated in the Detailed Procedure are complied with by the eligible entity and then the certificate shall be issued to the eligible entity. In the instant case, eligible entity has submitted online application for the issuance of RECs for the month of February 2017 and March 2017 for the three projects and sent the physical copy of the application along with the energy injection report and payment details to the Respondent in the month of May, 2017. However as per the registration details, the registration for Projects 1 & 2 expired on 17.01.2017 and for Project 3 on 28.03.2017.
35. The Commission further observes that in the instant case, the application for issuance of RECs for the period during the procedure for revalidation of accreditation and registration of the three projects could not be made by the Petitioner. The RECs issued to the Project 1 and Project 2 which were deducted by the Respondent subsequent to the energy injection report received from Gujarat SLDC are in line with the provisions of the REC Regulations, 2010 and REC Issuance Procedure.
36. During the course of hearing, the Respondent has submitted that the Petitioner had previously also acted in non-adherence to the REC Regulations, 2010 as stated in Order dated 20.06.2018 in Petition No. 223/MP/2017. Non-compliance of REC Regulations, 2010 REC Issuance Procedure and Commission's directions in future would tantamount to penal action against the Petitioner including but not limited to revocation of registration and debarring from participation in REC mechanism. The Petitioner had then tendered an unconditional apology to the Commission for the lapse on its part in the past also.

37. The Commission observes that as per the principle laid down for grant of RECs, if the Petitioner is engaged in generation of electricity from renewable energy sources then it shall be eligible for dealing in RECs if it sells the electricity generated to the distribution licensee of the area in which the eligible entity is located, at the pooled cost of power purchase of such distribution licensee as determined by the Commission or selling power to third party/open access or for generating and injecting power for captive use subject to the eligibility criteria as per the REC Regulations, 2010 as amended from time to time. Further, the main objective of REC Regulations, 2010 is to promote the generation of renewable energy and there was generation of renewable energy for the period mentioned above. Therefore, RECs need to be issued for the generation in the months beginning from January 2017 to November 2017 for the Projects 1 and Project 2 and from March 2017 to November 2017 for Project 3. Accordingly, we direct Respondents to process the case of the petitioner for grant of RECs for the generation during the aforesaid period for the Petitioner's projects subject to the review of the application in line with the energy injection report.

38. Accordingly, the Petition No. 263/MP/2018 is disposed of.

Sd/-  
श्री आई. एस. झा  
सदस्य

Sd/-  
डॉ एम के अय्यर  
सदस्य

Sd/-  
श्री पी के पुजारी  
अध्यक्ष