



नई दिल्ली  
NEW DELHI

याचिका संख्या./ Petition No.: 151/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: 24<sup>th</sup> of January, 2021

**IN THE MATTER OF:**

Petition filed under Section 79(1)(k) of the Electricity Act, 2003 read with Regulation 15 of the Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificates for Renewable Energy Generation) Regulations, 2010 seeking condonation of delay in submitting the application for issuance of Renewable Energy Certificate (REC) and other appropriate directions.

**AND IN THE MATTER:**

**India Glycols Limited**

Plot No. 2-B, Sector – 126

Noida – 201 304

Gautam Budh Nagar, UP

**...Petitioner**

**VERSUS**

National Load Despatch Centre (NLDC)

B-9, Qutab Institutional Area,

**Parties Present:**

Shri Matrugupta Mishra, Advocate, IGL  
Shri Samyak Mishra, Advocate, IGL  
Shri Sailesh Chand, IGL  
Shri Niraj Kumar, IGL  
Shri Kailash Chand Saini, NLDC  
Shri Alok Kumar Mishra, NLDC

**आदेश/ ORDER**

The Petitioner, M/s India Glycols Limited is engaged in the business of generation of electricity from its bio-mass based renewable energy co-generation facility having an installed capacity of 12 MW (availing 4 MW under REC mechanism) located at Gorakhpur, Uttar Pradesh registered under REC mechanism. The Petitioner has filed the Petition under Section 79(1)(k) of the Electricity Act, 2003 read with Regulation 15 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 'the REC Regulations, 2010') seeking condonation of delay in submitting the application for issuance of Renewable Energy Certificates (REC) and other appropriate directions.

2. The Respondent, National Load Despatch Centre (NLDC) has been designated as the Central Agency for the 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) *To condone the delay in applying for issuance of Renewable Energy Certificates due to it for energy injected in the month of February 2018 and consequently direct the*

*Respondent to issue the same;*

*(b) pass such other order(s) as deemed fit, necessary and appropriate in favor of the Petitioner.*

**Submissions of the Petitioner**

4. The Petitioner has submitted that it owns bio-mass based renewable energy co-generation facility having an installed capacity of 12 MW (availing 4 MW under REC mechanism) at Sahjanwa, District Gorakhpur, Uttar Pradesh registered under the REC mechanism. The verified energy injection report (EIR) for the month of February 2018 was issued by UPSLDC on 30.08.2018, after which it submitted the physical application to NLDC on 04.09.2018.
5. The Petitioner has submitted that since the verified EIR was received by the Petitioner only on 30.08.2018, it required one day's time to collate the reports and prepare its application, duly verified and attested by the management, so as to enable itself to apply for the issuance of certificate without any lapse. On account of the above, it failed to submit the duly completed and verified report before the last day of the month i.e. 31.08.2018 (in adherence to the procedural requirement under Regulation 7(1) of the REC Regulations, 2010). On account of this delay, issuance of RECs has been declined by NLDC.
6. The Petitioner has submitted that while it was required to complete all the internal procedural requirements and formalities by the last day of the month i.e. 31.08.2018, the subsequent days i.e. 01.09.2018, 02.09.2018 and 03.09.2018 were Saturday, Sunday and Public Holiday, respectively. Therefore, without any further delay, complete application along with the verified EIR was submitted to NLDC on 04.09.2018.
7. The Petitioner has submitted that NLDC vide its email dated 13.09.2018 refused to entertain the application dated 04.09.2018. Therefore, the petitioner made another representation vide email dated 20.09.2018 before NLDC for reconsideration of its earlier decision dated 13.09.2018. However, NLDC vide its reply dated 24.09.2018 again rejected the request of the Petitioner based on strict compliance with the timelines prescribed under Regulation 7.1 of the REC Regulations, 2010.

8. The Petitioner has submitted that its application specifying the quantum for which REC was requested to be issued was submitted on the online portal of the Respondent as early as 20.08.2018, based on the EIR from REC Registry. However, on account of delay in obtaining the verified EIR from UPSLDC (which was obtained only on 30.08.2018), it was unable to submit the physical copy of its application seeking request for issuance of RECs for the month of February 2018, by the last day of the month i.e. 31.08.2018.
9. The Petitioner has submitted that it being a biomass-based generating entity, the viability of its generating facility depends to a large extent on the fuel price. In order to enable recovery of the cost of generation and to realize revenue, and seeking to promote renewable facilities, this Commission has provided for a floor price and forbearance price of a RE Certificate. REC once issued, remains valid for a period of 1095 days from the date of issuance. The intent behind the promulgation of the REC Regulations, 2010 was to promote generation and cogeneration based on RE sources. While the legislative intent to promote RE based generating facilities is writ large, the procedural lapse of not being able to submit the application by the last day of the month, which if not adequately and appropriately considered by this Commission, by virtue of its power to relax the norms under Regulation 15 of the REC Regulations, 2010, it would not only affect sustainability of the Petitioner, but would also affect its ability to recover the cost of power which has been utilised upon injection into the grid but not accounted for, and for which, no concession/ incentives have been availed by the Petitioner.

### **Analysis and Decision**

10. The Petition was admitted on 09.07.2019 and came up for hearing on 25.08.2020 and thereafter, it was reserved for Orders on 25.08.2020. During the hearing held on 25.08.2020, the representative of NLDC submitted that in terms of Regulation 7 of REC Regulations, 2010, the renewable energy generator is required to apply for REC to NLDC within 6 months from the month in which renewable energy was generated and injected into the grid. Representative of NLDC further submitted that admittedly, there is a delay in the present case and under the extant Regulations/ Procedure, NLDC does not have power to condone any such delay.
11. We have heard the learned counsels for the Petitioner and the Respondent and have carefully

perused the records.

12. The brief facts of the case are that M/s India Glycols Limited (the Petitioner) is engaged in the business of generation of electricity from its bio-mass based renewable energy co-generation facility having an installed capacity of 12 MW located at Gorakhpur, Uttar Pradesh out of which 4 MW was accredited on 17.05.2016 and registered under REC mechanism on 08.06.2016. Based on the EIR received from REC Registry, the Petitioner submitted online application on the portal on 20.08.2018 specifying the quantum for which REC needs to be issued. However, the Petitioner obtained the verified EIR report from UPSLDC only on 30.08.2018, and owing to internal processes of the Petitioner and the subsequent days i.e. 01.09.2018, 02.09.2018 and 03.09.2018 being non-working days, the Petitioner physically filed the application with NLDC on 04.09.2018. However, NLDC vide its email dated 13.09.2018 refused to accept the request of the Petitioner. The Petitioner made another representation vide email dated 20.09.2018 which was again rejected by NLDC on 24.09.2018 based on the timelines prescribed under Regulation 7.1 of the REC Regulations, 2010. The Petitioner has filed the present petition seeking condonation of three days delay in submitting the application for issuance of RECs for the month of February 2018.
13. The only issue involved is whether the procedural delay of 3 days in filing the application for issuance of RECs for the month of February 2018 can be condoned and whether the Respondent can be directed to issue equivalent RECs for the energy injected accordingly?
14. The relevant provisions of *Procedure for Issuance of Renewable Energy Certificates to the Eligible Entity by Central Agency* (hereinafter referred to as “REC Issuance Procedures”) 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*

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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.*  
....”

15. Further, Regulation 7(2) of the REC Regulations, 2010 provides as under:-

***“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.”*

16. From the above, the Commission observes that as per mandate of the REC Regulations, 2010 and the REC Issuance Procedures, the eligible entity has to 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/ on Recommendation of SERC for issuance of RECs) and shall also submit the same information in physical form with the Central Agency (NLDC) within six months. The Central Agency has to verify the application in terms of the Energy Injection Reports issued by the concerned State Load Despatch Centre in respect of the Eligible Entity, fee & charges for issuance of certificates and compliance auditors report, if any.



17. The Commission observes that the Petitioner has accepted the delay of three days in filing of the application for issuance of RECs for the month of February 2018 and that the delay was due to delay in approving EIR by UPSLDC and has prayed for condoning the delay and issuance of equivalent RECs. NLDC has submitted that it does not have the powers to condone the delay in the present case and under the extant Regulations/ Procedure.
18. In our view, the delay in filing physical EIR with NLDC for issuance of RECs for the month of February 2018 was because of late receipt of approval of UPSLDC which was beyond the control of the Petitioner. The same is procedural in nature and merits condonation. Accordingly, the delay in filing EIR by the Petitioner is condoned and the NLDC is directed to process the case of the Petitioner for issuance of RECs for the month of February 2018 after due verification.
19. Accordingly, the Petition No. 151/MP/2019 is disposed of.

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