

**Submitted before
Central Electricity Regulatory Commission, Delhi**

To,

The Chairperson
Central Electricity Regulatory Commission
3rd & 4th Floor, Chanderlok Building, 36,
Janpath, New Delhi – 110001

Date: 15th March 2022

Sub.: Submission of Comments and suggestion on Draft Central Electricity Regulatory Commission (Terms and Conditions for Renewable Energy Certificates for Renewable Energy Generation) Regulations, 2022 dated 15.02.2022

Through Email - secy@cercind.gov.in and advisor-re@cercind.gov.in

Dear Sir,

With reference to subject matter, we hereby submit our comments and suggestions on the proposed draft regulations.

Background:

Bajaj Finserv Limited (BFS) is a company having registered office at Bajaj Auto Limited Complex, Akurdi, Pune-Mumbai road, Pune-35. BFS installed 65.2 Mw wind power project in year 2000-2002 in response to the Govt. of Maharashtra's wind energy policy 1998 and our all seven (7) projects were registered under REC framework since beginning of framework in year 2011. Now due to steep rise in OA charges, our only 2 projects remain in REC framework.

CERC had invited comments/suggestions from the stakeholders on Central Electricity Regulatory Commission (Terms and Conditions for Renewable Energy Certificates for Renewable Energy Generation) Regulations, 2022 and BFS, being affected party due to this proposal, want to submit comments and suggestions.

Our comments and Suggestions on the proposal are annexed herewith, please consider the same while finalizing the draft.

Thanking You!

Yours Faithfully,
For Bajaj Finserv Limited



(Authorized Signatory)

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Bajaj Finserv Limited

Annex

Sl. No.	Draft Regulations	BFS's Comments
1.	4. Eligibility for Issuance of Certificates	<p><u>Comments on (1) (b) Captive generating station based on renewable energy sources.</u></p> <ul style="list-style-type: none"> ➤ Initially, all RE projects were eligible for REC framework as per REC regulations 2010. ➤ CERC vide its first amendment dated 10.7.2013 in REC Regulation 2010, excluded RE projects receiving concessional wheeling and/or transmission benefits and/or banking facility benefits. Due to this amendment almost majority RE generator came out of regulation. ➤ Following that, Co-Gen CGPs were added to the REC framework, which resulted in a heavy inflow of RECs and a huge inventory of RECs. ➤ Further, in the year 2016, CERC excluded RE generators & co-generation plants that benefits more in tariff. Also, CERC has taken care of such plant, those installed while considering REC benefit and excluded all captive plants other than CGPs commissioned during the period from 29th September, 2010 to 31st March, 2016. <p>Extract of SOR 4th amendment CERC REC regulation 2016</p> <ul style="list-style-type: none"> ➤ 4.3.3 <i>The Commission appreciates the inputs of stakeholders on aspects related to self retention of the RECs. It must be noted that the main objective of introduction of REC framework is to facilitate RPO compliance by obligated entities and overcome issues related to inter-state RE trading also. Nonetheless, <u>CGPs have no credit risk on the customer, no risk of early termination of PPA by the customer etc as the electricity generated is for self-consumption purpose. Captive consumption from a CGP is already adequately compensated in terms of saving on the tariff because of less procurement of power from the distribution companies.</u> Generally, the CGPs are either commercial or industrial consumers and as such, save equivalent to the applicable tariff for such consumer categories. The incorporation of captive co-generators into the REC framework will increase the number of RECs once more.</i>



		<ul style="list-style-type: none"> ➤ As per Ministry of Power (MoP) discussion paper on Redesigns renewable energy certificate (REC) mechanism posted on 29 Sep 2021 clearly mandate on benefits of REC. Extract • <i>No REC to be issued to the beneficiary of subsidies/concessions or waiver of any other charges. The FOR to define concessional charges uniformly for denying the RECs.</i> ➤ As per EA 2003, open access charges like cross subsidy surcharge and additional surcharge are not applicable to captive generators and hence RE/Cogen Captive generators are getting maximum benefit than Third party open access generator. ➤ To compensate RE third party open access, REC benefit is additional gain to support financially and to made project financially viable. ➤ Now, adding CGPs in REC framework but keeping their RECs not for sale is beyond understanding. Extract of Draft CERC Regulation 2022. <i>(3) Captive generating stations based on renewable energy sources and meeting the conditions as specified under clause (2) of this Regulation in respect of renewable energy generating stations shall be eligible for issuance of Certificates: Provided that the Certificates issued to such captive generating stations to the extent of self consumption, shall not be eligible for sale.</i> Extract of Draft CERC Regulation 2022. <i>(7) The Certificates issued to captive generating stations based on renewable energy sources to the extent of self-consumption shall stand redeemed on compliance of RPO:</i> <p>Suggestions:</p> <ul style="list-style-type: none"> ➤ If certificates of Captive generating stations are not for sale, then REC issuance charges from such project to be exempted. ➤ Incorporating such projects in REC framework should be reviewed based on MoP discussion paper on Redesigns renewable energy certificate (REC) mechanism posted on 29 Sep 2021.
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Comments on (2) (b) such renewable energy generating station has not availed any (i) waiver or concessional transmission charges or (ii) waiver or concessional wheeling charges or (iii) facility of banking of electricity.

Comments on (iii) facility of banking of electricity.

- The term "facility of banking electricity" is very generic when used in eligibility criteria.
- Since the REC Regulation 2010 was framed, CERC has made sure that RE generators / cogeneration plants that may be most benefitted are excluded. Accordingly, all captive and third-party REC projects, which were initially eligible for REC business, have been excluded by an amendment dated 10.7.2013, i.e. projects receiving concessional wheeling and/or transmission benefits as well as banking facility benefits.
- To avoid ambiguity, CERC clearly defines banking facility as below.

Extract of CERC's first amendment dated 10.7.2013 in REC Regulation 2010.

*Explanation:- For the purpose of this Regulation, the expression '**banking facility benefit**' shall mean only such banking facility whereby the CGP or any other renewable energy generator gets the benefit of utilizing the banked energy at any time (including peak hours) even when it has injected into grid during off-peak hours."*

- Maharashtra Electricity Regulatory Commission (MERC), having different banking definitions. Definition of Annual banking as per Distribution Open Access Regulation 2016
(4) "Banking" means the surplus Renewable Energy injected in the grid and credited with the Distribution Licensee after set off with consumption in the same Time of Day slot as specified in Regulation 20;

Extract of DOAR 2016 Banking clause 20

20.4. Banking of energy shall be permitted during all twelve months of the year:

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		<p><i>Provided that the credit for banked energy shall not be permitted during the months of April, May, October and November, and the credit for energy banked in other months shall be as per the energy injected in the respective Time of Day ('TOD') slots determined by the Commission in its Orders determining the Tariffs of the Distribution Licensees;</i></p> <p><i>Provided further that the energy banked during peak TOD slots may also be drawn during off-peak TOD slots, but the energy banked during off-peak TOD slots may not be drawn during peak TOD slots.</i></p> <p>-----</p> <p>➤ Further same provision was amended and removed annual banking and introduced monthly banking where no carry forward for next month and monthly over injection above 10% energy shall be treated as lapsed. In both regulations, MERC allowed to RE Generator to adjust high cost units in low cost but not allowed low cost unit adjustment in high cost as stated in CERC's concessional banking definition.</p> <p>Extract of amendment in MERC DOAR 2016 (first amendment 2019)</p> <p><i>"20.3. Banking of energy shall be permitted only on monthly basis.</i></p> <p><i>Provided that the credit for banked energy shall not be permitted to be carried forward to subsequent months and the credit for energy banked during the month shall be adjusted during the same month as per the energy injected in the respective Time of Day ('TOD') slots determined by the Commission in its Orders determining the Tariffs of the Distribution Licensees ;</i></p> <p>-----</p> <p><i>Provided further that the <u>energy banked during peak TOD slots may also be drawn during off-peak TOD slots, but the energy banked during off-peak TOD slots may not be drawn during peak TOD slots.</u></i></p> <p>➤ RE generation cannot be backed down or shut down when there is demand deficit and therefore surplus energy generated is banked. The banking of power is not a commercial benefit but an essential support for infirm power generating to the RE based generators which is confirmed by Hon'ble APTEL in many orders. [ATE Order vide Appeal No. 98 of 2010 titled as TNEB vs.</p>
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		<p>TNERC & Ors., APPEAL NO. 42 OF 2018 & IA NO. 214 of 2018] Hence plain word “facility of banking of electricity” will create huge ambiguity and all projects will disqualified from REC framework.</p> <p>ATE’s above opinion was on different SERCs order regarding revoking banking facility of RE plant or curtailment of banking facility or huge banking charges etc.</p> <ul style="list-style-type: none"> ➤ According to the Green Hydrogen policy published by MoP on 17.02.2022, the monthly banking facility is also included in the policy. ➤ Proposed amendment in draft will create huge ambiguity across all States as in every state banking facility is available either monthly, annually or high cost unit adjustment in low cost units. <p><u>Suggestion :</u></p> <ol style="list-style-type: none"> 1. CERC should define definition of “Banking” clearly in Section 2, applicable for REC eligibility. 2. Retain definition as per CERC REC Regulation 2010: <i>“The expression ‘banking facility benefit’ shall mean only such banking facility whereby the CGP or any other renewable energy generator gets the benefit of utilizing the banked energy at any time (including peak hours) even when it has injected into grid during off-peak hours.”</i>
2.	<p>6. Grant of Accreditation for Certificates & 8. Grant of Registration for Certificates</p>	<p><u>Comments</u></p> <ul style="list-style-type: none"> ➤ We appreciate draft provision for already accredited and registered projects under REC Regulation 2010 are deemed permitted till its validity. ➤ Eligibility criteria for already registered projects are based on prevailing regulations and after notification of draft, eligibility criteria will not be same as earlier if banking definition changed. Hence as per regular practice, State and Central agency will demand undertaking from RE Generators for confirming eligibility. <p><u>Suggestions</u></p>

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		<ul style="list-style-type: none"> ➤ While framing procedure, there should not be any process of undertaking either from State Agency or Central Agency for existing accredited & registered projects.
3.	7. Revocation of Accreditation	<ul style="list-style-type: none"> ➤ Draft is provided revocation of accreditation of eligible entities connected to inter-state transmission system only but silent on intrastate.
4	13. Pricing of Certificates	<p><u>Comments</u></p> <ul style="list-style-type: none"> ➤ By Order dated 17.06.2020 passed in Petition no. 05/SM/2020, the Central Commission revised the floor and forbearance price of solar and non-solar RECs at Rs. 0/MWh and Rs. 1000/MWh respectively. Hence many associations challenged this order before APTEL and Hon'ble APTEL set aside CERC's order vide Appeal Nos. 113 of 2020, 117 of 2020, 118 of 2020, 123 of 2020, 137 of 2020 and 138 of 2020 dated 9.Nov.2021. Extract of APTEL order <i>99. Revising the REC prices retrospectively is unreasonable. The price of RECs fixed earlier took into account their cost of generation under Regulation 9(2)(a) of the REC Regulations at the relevant time. However, applying the reduced price to prior RECs will result in a situation where the old projects in REC mechanism will never recover their cost of generation which is violative of Section 61(h) as well as 61(d) of the Electricity Act and the National Tariff Policy, 2016 which mandate recovery of cost of electricity in a reasonable manner.</i> ➤ Development in RE projects from 2000 onwards are purely depend on various incentives offered by central, State government, like Generation based incentive, REC benefits with APPC rate, sales tax benefits, Banking facility, depreciation etc.. We strongly believe that as on date such projects without any incentives are not viable considering nature of RE source and huge variability in climatic conditions. ➤ At present in Maharashtra OA charges are Rs. 5.58/Unit considering minimum income Rs.1/Kwh from REC business and MSEDCL's consumer tariff is Rs.6.98/unit. Under such circumstance, minimum REC income of Rs.1.0/Kwh will certainly protect RE generator. ➤ Retaining floor priceRs.1000/REC, will at least insure RE generator's REC price which will safeguard his investment instead of keeping open market.

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		<ul style="list-style-type: none"> ➤ We want to highlight that for Non-solar REC generator REC rate never reached to forbearance prices this is because RPO obligated entities never penalized for noncompliance of RPO targets. ➤ If floor price retained for old projects and new RECs traded as per open market then there is a threat of old RECs remain unsold. ➤ Re-introducing floor price will avoid undue advantage in REC trading through trader under mutual agreement. <p><u>Suggestions</u></p> <ul style="list-style-type: none"> ➤ Considering legal contradictory for old RECs and to protect investment in RE Generator, we humbly request Hon'ble Commission to retain floor price Rs.1000/REC as per ATE order.
5.	14. Validity of Certificates	<ul style="list-style-type: none"> ➤ We strongly support provision "The Certificates issued shall remain valid until they are redeemed.

Apkate

