



# TECHNO ELECTRIC & ENGINEERING COMPANY LIMITED

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## BEFORE THE HON'BLE CENTRAL ELECTRICITY REGULATORY COMMISSION, NEW DELHI

Notification No. RA-14026(11)/1/2022-CERC

In the matter of:

Central Electricity Regulatory Commission (Terms and Conditions for Renewable Energy Certificates for Renewable Energy Generation) Regulations, 2022.

Comments / suggestions on behalf of Techno Electric & Engineering Company Limited on the draft Regulations circulated by the Central Electricity Regulatory Commission vide notification no. RA-14026(11)/1/2022-CERC dated 15.02.2022.

### I. INTRODUCTION

1. **Techno Electric & Engineering Company Limited ("Techno")**, is a generating company and provider of EPC services to India's core sector industries. Techno has entered into Energy Purchase Agreements ("EPA") for sale of power generated by its 67 Wind Energy Generators (WEGs) totalling 111.9 MW with Tamil Nadu Generation and Distribution Company Limited ("TANGEDCO"). The entire energy generated from these WEGs is **sold to TANGEDCO by Techno at APPC rate under CERC REC Regulations 2010.**

2. The Hon'ble Commission vide notification no. RA-14026(11)/1/2022-CERC dated 15.02.2022 circulated draft Central Electricity Regulatory Commission (Terms and Conditions for Renewable Energy Certificates for Renewable Energy Generation) Regulations, 2022 inviting comments of the stakeholders by 15.03.2022, extended to 25.3.2022. The comments of Techno are as under:

*Niraj Anand*



## II. SUBMISSIONS ON BEHALF OF TECHNO ELECTRIC & ENGINEERING COMPANY LIMITED

### 1. Eligible Entities – Captive Generating Plants based on Renewable Energy Sources: Regulation 4(1)(b) and 4(3)

As per Regulation 4(1)(b) and 4(3) of the draft REC Regulations 2022, **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.*

In this regard, it is submitted that prior to 4<sup>th</sup> amendment in CERC REC Regulations 2010 dated 30.03.2016, similar provisions existed, which had also been brought in through 2<sup>nd</sup> amendment of CERC REC Regulations 2010 dated 14.01.2010. However, after extensive deliberations / consultations with the stakeholders, the said provisions were deleted from the REC Regulations of 2010. With regard to the current proposal, it is submitted that one of the purposes of CGP is to ensure reliable, quality and cost effective power. Third party sale of power by CGP is merely an ancillary function which the CGPs may provide. The entire investment on the Captive Generating Station is for the primary business of the investor. **Thus, in a way, CGPs enjoy tremendous benefits and should not be eligible for issuance of the RECs .**

It is also pertinent to mention here that the CGPs have substantial benefits over other RE generators, such as:

- i. As brought out at para 2.7 of the "Explanatory Statement" for the 4<sup>th</sup> amendment in the CERC REC Regulations 2010, different pricing framework for the electricity component under different routes (APPC, CGP and OA) results in higher returns to CGP, when compared with other pricing frameworks.

Niraj Kulkarni





- ii. Relatively lower risk borne by the CGPs with respect to credit risk, early termination etc. (Para 2.10 of the Explanatory Statement); and
- iii. CGP projects would not have got the financing based on revenue sales from REC. (Para 2.13 of the Explanatory Statement).

It is also submitted that the current market already has high inventory of unsold RECs of 5,76,745 ( Solar ) and 30,61,530 ( Non Solar ), total 36,38,275 as on 22.3.2022 as per POSCO portal - <https://www.recregistryindia.nic.in/>

With the proposal allowing issuance of RECs to CGPs for the self-consumption to offset the RPO obligation of the entity and issuance of RECs for the surplus power (other than self-consumption) which can be redeemed in the market will further aggravate the adverse market conditions by supply of additional RECs to curb the market price of RECs to the detriment of the RE Generators opting for sale to DISCOM at APPC .

Thus, with said proposal, the previous decision taken in 2016 after wide consultation, is proposed to be negated.

2. **Clause 4(4):** Distribution licensee purchasing renewable energy in excess of the RPO are eligible for issuance of certificates for such excess electricity.


**Observation and our suggestion -**

RPO as fixed by MOP/MNRE, is State specific and the same is proposed to be achieved by compliance by a DISCOM/each DISCOM if State has multiple DISCOMS.

If a State having multiple DISCOMs, it is being observed that while one DISCOM may be eligible for REC but the other DISCOMs in the same very State are short of compliance of RPO norms. This may result in gaming as some of the States may create Green Power dominant DISCOMs separate than the conventional power dominant DISCOMs.

The provision as stated in 4(4) of the proposed draft must be qualified to the extent that the eligible DISCOM in a given State must also ensure that all other

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DISCOMs have also met their respective RPOs as prescribed, otherwise the eligible surplus from one Discom should first be utilised to meet the shortfall of other State Discoms and surplus if any, after adjustment for such RPO shortfall, should be eligible for issuance of the Certificates.

### **3. Clause 13: Pricing of Certificates: Determination of Floor and Forbearance price:**

**Clause 13 (1)** - The price of Certificate shall be as discovered in the Power Exchange (s) or as mutually agreed between the eligible entities and the electricity traders.

Impact of this clause is inferred as under:

**3.1 Doing away with Floor and Forbearance Price:** The proposed Clause does away with determination of Floor and forbearance price which is the fulcrum of REC mechanism/ Scheme and the whole Scheme becomes redundant with such arbitrary and whimsical proposal.

Regulation 9 of CERC REC regulations provided for determination Floor and Forbearance Price of RECs. Since RECs could be redeemed in this price band and failure to comply RPO obligations results in deposit of shortfall RPO at forbearance price, the interest of both eligible entities and obligated entities was protected and well regulated with certainty. In addition, the RPO Regulations of the States provided that in case of default by any obligated entity in meeting its RPO obligation, the defaulting entity would be required to deposit with the State Commission an amount computed at the rate of Forbearance Price for the shortfall in procuring the RECs during the year. However, the draft CERC REC Regulations 2022 does not provide determination of Floor and Forbearance price by the CERC. Instead, redemption of RECs is proposed to be discovered in the Power Exchanges (s) or as mutually agreed between eligible entities and the electricity traders.. In this context, it is submitted that CERC has observed at para N of the Statement of Objects and Reasons for the 1<sup>st</sup> amendment of CERC REC Regulations 2010 that '*... the floor price and forbearance price have also been computed with reference to the APPC. This implies especially in the context of the floor price that the stated objective of*

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**ensuring minimum viability requirements for RE projects through floor price can be achieved if the electricity component is sold at a price equivalent to APPC.** ...' The reasons given at that time still hold good, especially for the RE Projects set up 7 – 10 years ago, when the capital cost of such projects was very high. The developers, especially in the wind sector, opted for REC Scheme only on the basis of assurance of minimum floor price as a source of revenue, for sustaining the viability of the Project.. Now, with such drastic changes in the Regulations, especially proposed doing away with the periodic determination Floor and Forbearance price band, and the Distribution licensee purchasing Green energy at a price not exceeding 75% of preferential tariff irrespective of APPC ( TANGEDCO), the financial viability of such projects will be jeopardised as these RE projects having opted for REC scheme, gets the tweaked APPC, (**APPC has not been computed by the states as regulated by them (CERC)**) and further such APPC is also restricted to 75% of preferential tariff or negotiated tariff in case of Tamil Nadu. Sale of electricity component at a price below the APPC could leave viability gap widened. Besides this, the solitary deterrent provision in the Regulation of **imposing cost on the obligated entity for any shortfall in meeting its RPO, computed at the rate of Forbearance price will become redundant**, with no commitment to fulfil RPOs imposed by the CERC nor any fear of non compliance by way of penalties . To deter the defaulting Obligated entities for non compliance, even the Draft Amendment Bill ( 2020 ) to Electricity Act 2003, proposes a penalty which will lead to exponentially high demand for renewable energy. So doing away with Forbearance price will negate the object of promoting renewable energy projects as envisaged by MNRE and may prove fatal to the existing REC Generators.

### **3.2 Redemption of RECs through Traders and Price Discovery:**

As against the earlier rule of redemption of RECs only at the Power Exchanges, the draft REC Regulations 2022 provide for redemption through electricity traders outside the power exchanges. This will bring opacity in the REC market as price will be determined through bilateral arrangements which may be based on latent extraneous considerations. Moreover, large developers will be certainly in an advantageous position because of large volumes and may influence nascent REC

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market to the detriment of small developers. On the whole, it will be a discriminatory practice of treating unequals as equals.

### 3.3 RPO – Annual Obligation

Presently the RPO is an annual obligation on the obligated entities. This deters the orderly procurement of RECs around the years by the obligated entities. Further, the very RPO obligation is also not presently audited or verified in letter and spirit by SERC also resulting in non-compliance/under-compliance.

**It is suggested that the RPO obligation be changed to quarterly over annual and additionally, the compliance must be overviewed/reaffirmed** by any independent Renewable Energy engaged entities like IREDA, POSOCO, SECI or MNRE appointed independent auditors at the State level.


Additionally, this must be made mandatory for every State to pay APPC as determined by SERC year on year without any deduction of APPC for power purchased by DISCOMs under APPC+REC mechanism.

So it is suggested that the clause 13 amendment related to pricing of certificates should not be considered as it is detrimental to growth of renewable energy segment, envisaged by MNRE.

### 4. Reality of the REC

The suggested amendments are untimely or ahead of time i.e., before market stabilisation/maturing to carry out the trade with reforms as proposed. The total market size at present is no more than 5 million certificates in non-solar category per annum only. Further, only 5 GW capacity is registered under this mechanism and no new capacity has happened in last 5 years as this mechanism has remained non-rewarding to the participants. The REC Certificates are mostly sold at floor price only and also with a delay of around one year as experienced in this mechanism over last 10 years of its operations. After resumption of trading in the month of

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November 2021 after ban of 18 months, the REC Certificates have continued to be sold at floor price only. The Commission needs to carry out a study as how to strengthen this segment in case these reforms are meant to have more capacity in this proposition, so that new capacity can be part of this mechanism so as to achieve National Target of 450 GW carbon-free capacity by 2030 and not opt to sell power under Section-62 and 63 or in CGP mode.

It is quite likely that these reforms, if now implemented, will further discourage the new generators to be part of this mechanism and seriously impact the viability of the existing generators under REC scheme..

We humbly pray that the Central Electricity Regulatory Commission may consider the above submissions while pronouncing the final order. We crave the liberty to file further written submissions at the time of hearing.

We would also like to make oral submissions before the Central Commission during the course of public hearing.



*Niraj Kumar*  
Filed By:

**for Techno Electric & Engineering Company Limited**

Dated: 23 March 2022