



नई दिल्ली  
NEW DELHI

याचिका संख्या./ Petition No. 233/MP/2022

कोरम/ Coram:

श्री अरुण गोयल, सदस्य/ Shri Arun Goyal, Member  
श्री पी. के. सिंह, सदस्य / Shri P. K. Singh, Member

आदेश दिनांक/ Date of Order: 02<sup>nd</sup> of January, 2023

**IN THE MATTER OF:**

Petition under Section 79(1)(k) of the Electricity Act, 2003 and Regulations 3, 10 & 17 and 18 of Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2022, seeking condonation of delay in complying with the procedure for issuance of renewable energy certificates, and to thereafter direct the Respondent to issue the certificates due to the Petitioner.

**AND IN THE MATTER OF:**

**HPCL Biofuels Limited**

House No.9,  
Shree Sadan, 1st Floor,  
Patliputra Colony,  
Patna – 800013

...Petitioner

**Versus**

**1. National Load Despatch Centre**

1st Floor NLDC Office  
B-9, Qutab Institutional Area, Katwaria Sarai,

New Delhi – 110016

**2. Tata Power Trading Company limited**

Corporate Center, A block 34,  
Sant Tukaram Road,  
Carnac Bunder,  
Mumbai, 400009

...Respondents

**Parties Present:** Shri Matrugupta Mishra, Advocate, HBL  
Shri Nipun Dave, Advocate, HBL  
Shri Abhishek Topno, HBL  
Shri Chitrajan Tiwari, HBL  
Shri Ranjeet Kumar, HBL  
Shri Kailash Chand Saini, NLDC  
Shri Gajendra Singh, NLDC  
Shri Venkatesh, Advocate, TPTCL  
Shri Jatin Ghuliani, Advocate, TPTCL  
Shri Anant Ubeja, Advocate, TPTCL  
Shri Kartikay Trivedi, Advocate, TPTCL

**आदेश/ ORDER**

The Petitioner, HPCL Biofuels Limited, is engaged in the business of manufacturing sugar, and it owns the Integrated Sugar Ethanol Co-gen Plants at Sugauli & Lauriya. It is a generating company and has a capacity of 20 MW out of which it is availing 5.3 MW under Renewable Energy Certificate (REC) mechanism by utilizing bio-fuel co-generation (Non-Solar). The Petitioner is seeking condonation of delay in complying with the procedure for issuance of RECs and to direct National Load Dispatch Centre, NLDC to issue the certificates due to the Petitioner.

2. The Respondent No. 1, National Load Dispatch Centre (NLDC) is designated as the Central Agency under Regulation 3 of the REC Regulations, 2010 and is entrusted with the functions inter alia of granting registration and issuance of RECs as per Central Electricity Regulatory

Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2022 (REC Regulations, 2022).

3. The Respondent No. 2, is TATA Power Trading Company Limited (TPTCL), is engaged in the business of Power Trading in the State of Bihar. TPTCL is registered as a member with the Indian Energy Exchange Ltd. (IEX).
4. The Petitioner has made the following prayers:
  - a) *Condone the delay of 32 days and 2 days, respectively, in making application for issuance of Renewable Energy Certificates to the NLDC for the month of November, 2021 and December, 2021, respectively, in respect of the units consumed by the Petitioner from its RE Generating stations at Lauriya and Sugauli, towards captive consumption;*
  - b) *Upon condonation of delay in making application, direct the NLDC to issue Renewable Energy Certificates to the tune of 6076 MWh of eligible energy units for the month of November and December 2021, for its plants situated at Village Lauriya and Village Sugauli; and*
  - c) *To pass such other or further orders as this Hon'ble Commission may deem appropriate*

**Brief Background:**

5. The Petition was filed on 03.08.2022 seeking condonation of delay in complying with the procedure for issuance of renewable energy certificates, and to direct NLDC to issue the certificates due to the Petitioner. The Petitioner delayed in applying for the issuance of RECs by 2 days for the month of December 2021 and delay of 32 days for the month of November 2021. Due to merger of various banks, a new account no. of Bihar Renewable Energy Development Agency (BREDA) was generated and therefore, the payment of portal accreditation annual fees was delayed as BREDA did not inform about change in account number to the Petitioner. There was further delay on account of certain variations in REC opening/closing balance and REC issued on the NLDC portal for online EIR, which was generated by TPTCL. As per the EIR submitted by State Load Despatch Centre (SLDC), the RECs to be issued for the month of November, 2021 and December, 2021 w.r.t HBL Lauriya Unit comes to 3237, whereas in case of HBL Sugauli Unit it comes to 2839 (Total 6076).As per the online EIR generated from the portal

of NLDC, the number of RECs to be issued w.r.t HBL Lauriya Unit comes to 5227 whereas in case of HBL Sugauli Unit, it comes to 2840. Hence, the present Petition.

**Submissions of the Petitioner:**

6. The Petitioner has submitted as under:
  - a) Energy Injection Report (EIR) was generated w.r.t Lauriya and Sugauli units of the Petitioner for the month of November, 2021 and December, 2021 in accordance with the joint meter reading by the officials of Bihar State Power Transmission Co. Ltd, SLDC and the Petitioner.
  - b) The EIR report dated 21.01.2022 along with joint meter reading w.r.t Lauriya Unit was submitted to SLDC vide letter dated 21.01.2022, whereas EIR report along with joint meter reading w.r.t Sugauli Unit was submitted to SLDC vide letter dated 07.03.2022, for the issuance of RECs.
  - c) SLDC vide letter dated 28.01.2022 and 25.04.2022 had sent copy of the EIR related to Lauriya Unit and Sugauli Unit respectively to NLDC for the issuance of RECs. The above said letter and the EIR were also sent to the Petitioner through e-mail dated 01.02.2022 and 26.04.2022 respectively.
  - d) Merger of various banks led to generation of new account number for BREDA, so the payment of portal accreditation annual fees was delayed as BREDA did not inform about change in account number to the Petitioner. The mentioned portal which was provided by BREDA, enables TPTCL to generate online EIR. After acknowledging about such change, the petitioner sought confirmation of account details from BREDA and thereafter on 29.04.2022, BREDA provided an updated E mandate along with the bank details.
  - e) Payment was made for the NLDC accreditation portal by the Petitioner on 03.05.2022 and the payment receipt was received by the Petitioner on 07.05.2022. Accordingly, the details of payment were uploaded on the NLDC accreditation portal which reactivated the portal for uploading the documents to generate online EIR.
  - f) As per the instructions of TPTCL, the Petitioner, vide e-mail dated 11.05.2022, provided copies of EIRs w.r.t Sugauli and Lauriya Units (which were earlier provided to SLDC) to TPTCL, to generate online EIR by uploading the same on NLDC website.

- g) The online EIR reports were generated by TPTCL on 20.05.2022 and were sent to the Petitioner by TPTCL vide e-mail dated 23.05.2022, with a request to sign and send the said EIR to NLDC and it was also instructed to share scanned copy of the same with courier receipt to TPTCL and NLDC. All original copies of the said documents (except online EIR) were already submitted to SLDC on 21.01.2022 and 07.03.2022 and the same were forwarded by SLDC to NLDC.
- h) There were certain variations in REC opening/closing balance and REC issued on the NLDC portal for online EIR, which was generated by TPTCL. As per the EIR submitted by SLDC, the RECs to be issued for the month of November, 2021 and December, 2021 w.r.t HBL Lauriya Unit comes to 3237, whereas in case of HBL Sugauli Unit it comes to 2839(Total 6076). As per the online EIR generated from the portal of the NLDC, the number of RECs to be issued w.r.t HBL Lauriya Unit comes to 5227 whereas in case of HBL Sugauli Unit, it comes to 2840.
- i) Energy Injection Reports (EIRs) for the Petitioner's plant, for the month of November and December 2021, were certified by SLDC and were sent to NLDC on 01.02.2022 for Lauriya Units and on 26.04.2022 for Sugauli Units.
- j) NLDC processed these documents, which were awaiting final verification. This verification was delayed as the online EIR sent to the Petitioner by TPTCL on 23.05.2022, had some variation in the Opening/Closing REC balance affecting the final RECs to be issued.
- k) The Petitioner vide an e-mail dated 01.06.2022 informed TPTCL about such variation and sought rectification before the final documents could be sent to NLDC. The matter was then taken up by TPTCL with NLDC.
- l) Only after the receipt of e-mail dated 30.06.2022, from TPTCL, the Petitioner despatched the final documents to NLDC on 30.06.2022 and 01.07.2022 through DTDC courier and the same was sent to NLDC through email dated 02.07.2022
- m) On 30.06.2022, TPTCL had informed the Petitioner that the variation/discrepancy in the online EIR is observed due to an error in NLDC's portal and the rectification had been done at NLDC's end. Thus, TPTCL, advised the Petitioner to submit the documents to NLDC for the issuance of RECs.

- n) Accordingly, the Petitioner had sent the final documents vide letter dated 25.06.2022 (dispatched on 01.07.2022) intimating NLDC by an e-mail dated 02.07.2022.
- o) The Petitioner received an email from NLDC on 11.07.2022 wherein, NLDC stated non-acceptance of application due to delay in receipt which is beyond timeline of six months as per the REC Regulations.
- p) The Petitioner made a representation vide e-mail dated 12.07.2022 before NLDC explaining that the delay was occasioned due to oversight on the part of TPTCL and that the Petitioner had otherwise complied with all procedures under the REC mechanism, but that only due to delay by TPTCL, the applications for issuing the certificates could not be made on time. However, NLDC refused to consider the delay and did not issue the RECs.
- q) There was thus a delay of 2 days for the month of December 2021 and a delay of 32 days for the month of November 2021, in sending the applications for the issuance of RECs to NLDC. As per the Regulation 10(2) of the REC Regulations, 2022 the process should have been initiated within six months, but due to the delay in presentation of the applications beyond the statutorily prescribed time limit, NLDC has refused to issue RECs to the Petitioner.
- r) The delay in filing the EIRs along with applications for issuance of RECs were caused due to inadvertent inaction/oversight on the part of TPTCL in rectifying the discrepancy in online EIRs, and the same is beyond the control of the Petitioner generator.
- s) Due to the delay in applying for the issuance of RECs by 2 days for the month of December 2021 and the delay of 32 days for the month of November 2021, NLDC, refused to process the applications, thus leading to non-issuance of eligible RECs and the subsequent lapse.
- t) The Petitioner had a total of 6076 MWh of eligible energy for the month of November and December 2021 for its plants situated at Village Lauriya and Village Sugauli. For such quantum, the Petitioner is entitled to an equivalent number of certificates (i.e. one certificate for one MWh energy) and each certificate was to be traded for Rs. 1000/- in the relevant period of November and December 2021, when the certificates could have been first traded. Thus, the Petitioner would suffer financially.

**Hearing on 13.10.2022:**

7. The Petition came up for hearing on 13.10.2022. During the hearing, the Petitioner has submitted that the said delay was caused due to inadvertent oversight on the part of TPTCL, acting as a facilitator for the purpose of processing the application through concerned SLDCs, in rectifying the discrepancy in online Energy Injection Report (EIR) and the TPTCL, in turn, has stated that the variation/discrepancy in the online EIR was observed due to an error in NLDC's portal. NLDC submitted that it has no objection towards the prayer of the Petitioner for condonation of delay. Since NLDC does not have power to condone such delay, the prayer of the Petitioner regarding condonation of delay in complying with the RECs Procedure may be allowed. TPTCL submitted that delay as occurred in the present case may be condoned and that the error in NLDC's portal is an admitted aspect.
8. Considering the submissions of the learned counsels and the representative of the parties, the Commission reserved the matter for Orders.

**Analysis and Decision:**

9. We have heard the Petitioner and the Respondent and have carefully perused the records.
10. The only issue that arises for our consideration is *whether the delay in application for issuance of RECs for the months of November 2021 and December may be condoned and accordingly can the Respondent be directed to issue equivalent RECs for the energy injected?*
11. In the instant petition, the Petitioner has submitted that the CERC (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2022 is yet to be implemented, and hence, the present petition has been considered as per CERC (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 and the amendment thereof.
12. We observe that Procedure for Issuance of Renewable Energy Certificates to the Eligible Entity by Central Agency (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 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.  
.....”*

13. 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 (1A) 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.”*

14. From the above, it is observed that as per mandate of the REC Regulations, 2010 and the REC Issuance Procedures, the eligible entity has to make Web Based Application for issuance of REC as per the details given in the Energy Injection Report and has to 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 SLDC.

15. Further, this Commission observes that the Petitioner has accepted the delay in submitting the application for issuance of RECs for delay of 2 days for the month of December 2021 and delay of 32 days for the month of November 2021. As submitted by the counsels of the Petitioner, the delay was caused for two reasons viz. *firstly*, the merger of various banks lead to generation of new account number of BREDA so, the payment of portal accreditation annual fees was delayed as BREDA did not inform about change in account number to the Petitioner and *secondly*, there were certain variations in REC opening/closing balance and REC issued on NLDC's portal for online EIR, which was generated by TPTCL. The Petitioner has prayed for condoning the delay with regards to issuance of RECs for the month of November, 2021 and December, 2021. NLDC has stated that it does not have any objection towards the petition filed by the Petitioner and that the Commission may pass an appropriate Order in the matter.
16. In our view, the delay in the application for issuance of REC is procedural in nature due to the reasons stated by the petitioner and condoning the delay causes no harm to any of the stakeholders, including the Respondents. Accordingly, we hereby condone the delay in submitting the application for issuance of RECs. Further, NLDC is directed to issue the RECs after due verification and satisfying itself that the projects meet all eligibility conditions and the Petitioner has submitted all required documents for issuance of RECs.
17. The Petition No. 233/MP/2022 is disposed in terms of the above.

Sd/-  
(पी. के. सिंह)  
सदस्य

Sd/-  
(अरुण गोयल)  
सदस्य