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NEW DELHI

Petition No. 152/MP/2024

Coram:

Shri Jishnu Barua, Chairperson
Shri Ramesh Babu. V, Member
Shri Harish Dudani, Member

Date of Order: 31st March, 2025

IN THE MATTER OF:

Petition under section 79, 66 and other applicable provisions of the Electricity Act, 2003 read with Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 seeking direction for issuance of Renewable Energy Certificates for the period FY 2019-20, FY 2020-21, and FY 2021-22.

AND IN THE MATTER OF:

Himachal Pradesh State Electricity Board Limited (HPSEBL)
Vidyut Bhawan, Shimla
Himachal Pradesh – 171004

...Petitioner

Versus

- National Load Despatch Centre**
Registered Office: B-9 (1st Floor),
Qutab Institutional Area, Katwaria Sarai,
New Delhi -110016
- Directorate of Energy, GoHP,**
MC Parking Building, 2nd Floor,
Near Tuttikandi crossing Shimla-171005

...Respondent

Parties Present: Shri Anand Ganesan, HPSEBL
Shri Amal Nair, HPSEBL

Ms. Shivani Verma, HPSEBL
Ms. Swapna Sheshadri, HPSEBL
Shri Alok Kumar Mishra, NLDC
Shri Gajendra Sinh, NLDC

ORDER

The Petitioner, Himachal Pradesh State Electricity Board Limited (HPSEBL), is a company existing under the provision of the Companies Act, 2013, and is a distribution licensee in the State of Himachal Pradesh and is the successor entity of the erstwhile Himachal Pradesh State Electricity Board.

2. Respondent No.1, National Load Dispatch Centre (NLDC), is designated as the Central Agency under the Central Electricity Regulatory Commission (Terms and Conditions for Renewable Energy Certificates for Renewable Energy Generation) 2022 and is entrusted with the functions of granting registration and issuance of RECs as per the said REC Regulations.
3. Respondent No. 2, Directorate of Energy, acts as the State Agency for the purposes mentioned in the Himachal Pradesh Electricity Regulatory Commission (Renewable Power Purchase Obligation and its Compliance) Regulations, 2010 (RPO Regulations, 2010). The State Agency performs the function of accreditation of eligible entities and grants an Accreditation Certificate to the eligible entities connected to the intra-state transmission system.
4. The Petitioner filed the present petition for seeking direction for the issuance of Renewable Energy Certificates (REC) for the period FY 2019-20, FY 2020-21, and FY 2021-22.
5. The Petitioner has made the following prayers:
 - (i) *Hold that HPSEBL is entitled for issuance of RECs for the period FY 2019-20, FY 2020-21, and FY 2021-22 as provided in Para 115 hereinabove;*
 - (ii) *Condone the procedural delay in applying for re-accreditation and registration, if any;*
 - (iii) *Direct the Respondents to issue RECs for the period FY 2019-20, FY 2020-21, and FY 2021-22; and*
 - (iv) *Pass any such order and further reliefs as this Hon'ble Commission deems just and proper in the nature and circumstances of the present case.*

Submission by the Petitioner, HPSEBL

6. The Petitioner submitted the following:
 - (a) The Petitioner was accredited by the Himachal Pradesh State Agency under the REC mechanism with Accreditation No. HPODSHPSEBLTDA050416 on 05.04.2016 which

- was valid till 04.04.2021 and was registered by the Central Agency on 11.07.2016 with registration number HP0DSHPSEBLTDR110716 which was valid till 10.07.2021 as per the Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 and subsequent amendments (hereinafter REC Regulations, 2010).
- (b) The Petitioner was also issued RECs for excess RE procured during the FY 2013-14 and 2014-15 in the year 2016-17 and 2019-20, respectively, by the Central Agency in line with the REC Regulations, 2010.
 - (c) Before expiry of the accreditation on 04.04.2021, the Petitioner applied for re-accreditation to the State Agency on 03.04.2021, i.e., one day before expiry of the accreditation, along with requisite fees. In response to a system-generated email from the Central Agency, the Petitioner submitted details of the RPO compliance (for both Solar and non-solar) for the period FY 2020-21 until February 2021.
 - (d) The State Agency delayed the processing of the application on account of incomplete data for FY 2020-21 i.e. being only up to February 2021 and pending Petition No. 03 of 2021 and Petition No. 04 of 2021 for seeking settlement of net shortfall/surplus in RPO for FY 2017-18, FY 2018-19, and FY 2019-20 before the State Commission, HPERC.
 - (e) Meanwhile, the Petitioner also filed Petition No. 29 of 2021 before the State Commission seeking authentication of RPO (Non-Solar and Solar) for the period FY 2020-21.
 - (f) On 09.07.2021, the Petitioner informed the Central Agency that its registration was to expire on 10.07.2021, but it was unable to complete the re-registration due to technical issues on the REC Web Portal.
 - (g) On 16.07.2021, the State Agency requested the Central Agency to make an online option available for the Petitioner at the REC web portal to enable the Petitioner to upload the requisite data so that the State Agency may examine the online application for re-accreditation and eligibility conditions. Further, the State Agency also requested the Petitioner to take up the matter with respect to updating of data for the period FY 2020-21 with the Central Agency as the State Agency from its end had forwarded the Petitioner's Application to the Central Agency for enabling the Petitioner to update data online for re-accreditation beyond 04.04.2021.
 - (h) The State Commission passed Orders in Petition No. 04 of 2021, Petition No. 03 of 2021 and in Petition No. 29 of 2021 on 19.08.2021, 14.09.2021 and 02.12.2021, respectively while authenticating renewable energy purchase by the Petitioner for FY 2017-18, FY 2018-19, and FY 2020-21.
 - (i) On 18.01.2022, the State Agency informed the Petitioner that the application for re-accreditation of the Petitioner could not be processed from the back date due to non-compliance with the mandatory RPO and suggested a fresh application for accreditation after offsetting its solar deficit of previous years.

- (j) On 20.04.2022, the State Commission sent a letter directing the Petitioner to take up the matter regarding the online application of fresh accreditation with the State Agency. Subsequently, in pursuance of the directions of the State Commission, the State Agency and the Central Agency informed that the accreditation/ registration could be done only after the authentication of solar energy purchase against the cumulative shortfall of Solar RPO for the period FY 2018-19 to FY 2020-21.
- (k) On 09.05.2022, this Commission notified the Central Electricity Regulatory Commission (Terms and Conditions for Renewable Energy Certificates for Renewable Energy Generation) Regulations, 2022 (hereinafter being referred to as “CERC REC Regulations, 2022”). The CERC REC Regulations, 2010, were accordingly repealed by this Commission. However, such repeal was only for applicability from the date of coming into force of the new Regulations, and for the prior period, the earlier regulations were still applicable.
- (l) On 27.07.2022, the State Commission, *vide* letter approved the set-off of the cumulative Solar RPO deficit of 146.19 MUs up to FY 2020-21, in compliance with the State Commission’s order dated 12.02.2021 passed in Petition No. 29 of 2021.
- (m) On 31.08.2022, the State Commission issued Format 3.1.1 stipulated in the REC Procedure for issuance of RECs corresponding to non-solar surplus of 1260.21 MU and 541.79 MU for FY 2019-20 and FY 2020-21, respectively. Accordingly, the Petitioner applied online for the issuance of non-solar RECs to the Central Agency on the same day.
- (n) On 09.09.2022, the Central Agency wrote an email requesting the Petitioner to provide details in a tabulated form for any shortfall in procurement against non-solar or solar power procurement obligation set by the State Commission in the previous three years including the shortfall waived or carried forward by the State Commission in the prescribed format.
- (o) On 13.09.2022, the Petitioner, *vide* email, submitted the proper breakup of the RPO compliance of the previous three years, i.e., FY 2016-17 to FY 2020-21, to the Central Agency in the prescribed format.
- (p) On 19.09.2022, the Central Agency again wrote an email requesting the Petitioner to submit RPO compliance details for FY 2019-20 and FY 2020-21 with a detailed breakup to actual energy procured, validated by Himachal Pradesh State Load Despatch Centre (hereinafter being referred to as “Himachal SLDC”) along with tariff order in support of the said documents.
- (q) On 21.09.2022, the Petitioner submitted the project-wise actual generation details of renewable projects procured during FY 2019-20 and FY 2020-21 to the Himachal SLDC for their validation.
- (r) On 30.09.2022, the Himachal SLDC wrote a letter to the State Agency (i.e. Directorate of Energy) stating that since the State Commission has designated the State Agency for

the purpose of validation for RPO as per REC Regulations, 2010, therefore, it is the State Agency who has the power to validate.

- (s) On 28.10.2022, the State Agency verified and submitted the detailed breakup of actual energy procured by the Petitioner during FY 2019-20 and FY 2020-21 to the Central Agency.
- (t) On 02.11.2022, the Petitioner also submitted the verified compliance along with the breakup to the Central Agency.
- (u) On 10.11.2022, the Central Agency raised another query regarding the RPO compliance status of the Petitioner for the period FY 2016-17, FY 2017-18, and FY 2018-19 and also requested to submit the same along with the detailed breakup of solar energy procurement during the FY 2019-20 and FY 2020-21 on Format 3.1.1 issued by the State Commission.
- (v) On 14.11.2022, the Petitioner wrote a letter to the State Commission requesting the State Commission to authenticate the solar as well as non-solar compliance for the period FY 2019-20 and FY 2020-21 along with the detailed breakup of compliance for the previous three years on Format 3.1.1 as desired by the Central Agency.
- (w) On 17.11.2022, the State Commission, *vide* its daily order passed in Petition No. 41 of 2022, directed the State Agency to ensure that the process of accreditation ought to be completed expeditiously, and on 22.11.2022, the State Commission revised Format 3.1.1 in response to the Petitioner's letter dated 14.11.2022.
- (x) On 28.11.2022, the State Commission passed an order in Petition No. 41 of 2022, authenticating the RPO compliance for the Petition for FY 2021-22.
- (y) On 29.11.2022, the State Agency approved the long pending application of the Petitioner for re-accreditation in terms of the REC Procedure, 2018.
- (z) On 30.11.2022, the State Agency, *vide* letter, submitted the verified detailed breakup of solar energy procured by the Petitioner during FY 2019-20 and FY 2020-21 to the Central Agency.
- (aa) On 30.11.2022, the Petitioner also submitted a copy of revised Format 3.1.1 as issued by the State Commission and a detailed breakup of solar energy procured during FY 2019-20 and FY 2020-21 as verified by the State Agency to Central Agency referring to Central Agency' email dated 10.11.2022.
- (bb) After the re-accreditation, the Petitioner made attempts to apply on the REC web portal for re-registration under the REC Procedure, 2018, but was unable to find any option on the web portal. Thereafter, the Petitioner took up the matter with concerned officers of the Central Agency, telephonically.
- (cc) On. 05.12.2022, CERC REC Regulations, 2022 came into force, and the Central Agency revised the REC Procedure, 2022 (hereinafter being referred to as "Revised REC Procedure, 2022").

- (dd) On 05.01.2023, the Central Agency enabled the provision for applying online for re-registration, and accordingly, the Petitioner was re-registered on the REC Web portal on 10.01.2023.
- (ee) On 08.02.2023, the Central Agency *vide* email requested the Petitioner to submit RPO compliance details again for the period FY 2019-20 and FY 2020-21, including a detailed breakup of actual energy procured, validated by Himachal SLDC, along with a Tariff order in support of the required documents.
- (ff) On 27.02.2023, the State Commission, at the request of the Petitioner, issued Format 1.4 under the REC Procedure for the period FY 2019-20 and FY 2020-21, and the Petitioner submitted the same, along with the re-accreditation certificate, to the Central Agency.
- (gg) On 13.03.2023, the Central Agency *vide* email informed the Petitioner that its application of re-registration was under process and asked to furnish certain documents, including an authorization letter to proceed further in the matter.
- (hh) On 10.04.2023, the Central Agency wrote an email requesting the Petitioner to furnish the details/ format in line with the Revised REC Procedure, 2022. It should be noted that the Revised REC Procedure, 2022, was implemented from 05.12.2022. However, the concerned authorities of the Central Agency did not inform the Petitioner to apply or submit documents for re-registration in line with the new procedure prior to the email received on 10.04.2023
- (ii) On 18.04.2023, the Petitioner requested the State Commission to issue requisite formats/ certificates for the period FY 2019-20, FY 2020-21, and FY 2021-22 as per model Format 3.5 of the Revised REC Procedure 2022 and also requested the State Agency to certify procurement of renewable energy month-wise, technology-wise, and REGS/CGP-wise for the period FY 2019-20, FY 2020-21, and FY 2021-22 as per the Format 3.6 of REC Procedure, 2022.
- (jj) On 24.06.2023, the State Commission issued Format 3.5 for the period FY 2019-20, FY 2020-21, and FY 2021-22 and recommended the issuance of Non-Solar REC of 526.302 MUs in favour of the Petitioner for the period FY 2021-22 in Format 3.5 as per Model REC Procedure, 2022. On 26.06.2023, the State Agency issued Format 3.6 for the period FY 2019-20, FY 2020-21, and FY 2021-22.
- (kk) On receipt of Format 3.5, the Petitioner, on 26.06.2023, tried to submit the online application for FY 2021-22 on the REC web portal for issuance of Non-Solar RECs, but due to a lack of options available on the portal, the Petitioner could not do so. Hence, the Petitioner wrote an email to the Central Agency informing of the difficulties arising in submitting the application for issuance of RECs.
- (ll) On 06.07.2023, the Central Agency responded with certain observations, which were addressed by the Petitioner immediately and informed the Central Agency the next day.

- (mm) Finally, on 11.07.2023, the Central Agency re-registered the Petitioner. However, the Central Registry informed the Petitioner on 17.07.2023 that in terms of Regulation 10(3) of the CERC REC Regulations, 2022, a distribution licensee has to make an application for issuance of REC to the Central Agency within three months from the end of the financial year. The application of the Petitioner for issuance of REC for FY 2021-22 was received belatedly by the Central Agency on 30.06.2023.
- (nn) On 25.07.2023, the Petitioner wrote to the Central Agency stating that the CERC REC Regulations, 2010 were in force till 05.12.2022, and since the certificates relate to the FY 2021-22, therefore, CERC REC Regulations, 2010 ought to be applicable, which cannot be disputed. As per the timelines defined under Regulation 7(1A) of the CERC REC Regulations, 2010, a distribution licensee shall apply to the Central Agency for certificates within three months from the date of obtaining the certification. The Petitioner obtained the certification from the State Commission on 24.06.2023 and approached the Central Agency for the issuance of REC through an application immediately on 30.06.2023, which is well within the stipulated time period.
- (oo) The Petitioner also submitted that the timelines and provisions under the CERC REC Regulations, 2022, should not apply retrospectively to its application for RECs for FY 2019-20, FY 2020-21, and FY 2021-22.
- (pp) On 27.09.2023, the Central Agency informed the Petitioner that their REC application for FY 2021-22 was received on 30.6.2023 after the deadline, as per the CERC REC Regulations, 2022. Consequently, they could not process the application.
- (qq) In December 2023, the application filed by the Petitioner for issuance of RECs for FY 2022-23 was approved by the Central Agency, and accordingly, the RECs were issued. However, the Central Agency has still not issued the RECs to the Petitioner for the period FY 2019-20, FY 2020-21, and FY 2021-22.
- (rr) Aggrieved by the inaction of the Central Agency, the Petitioner has approached the Commission by way of the present Petition.
- (ss) It contended that the delay in the re-accreditation and re-registration process was procedural and not due to any fault of its own. The Central Agency's refusal to process applications based on the new regulations was unjust, and the previous regulatory framework should still apply, particularly given the Petitioner's registration under the CERC REC Regulations, 2010.
- (tt) The Petitioner also submitted that the Commission has ample powers, including the "Power to Relax" under Regulation 15 of the CERC REC Regulations, 2010, and under Regulation 18 of the CERC REC Regulations, 2022, in order to achieve the objective of the regulations. Accordingly, it is requested that the Commission exercise the power to relax to enable the issuance of RECs to the Petitioner.
- (uu) Under Regulation 8(1) and (2) of the CERC REC Regulations, 2022, the entities that were already registered under the REC Regulations, 2010, were to be deemed to have

been granted registration under the CERC REC Regulations, 2022, for a period of twenty-five (25) years. Since the Petitioner was registered on 11.07.2016 under the regulatory framework of the CERC REC Regulations 2010, therefore, in terms of Regulation 8(1) and (2) of the CERC REC Regulations, 2022, the Petitioner is to be deemed to have been registered under the CERC REC Regulations, 2022 for a period of twenty-five (25) years.

(vv) In view of the above, the re-registration with the Central Agency was in effect a mere formality. However, it took longer than expected for the Petitioner to complete the same and got re-registered on the portal due to the inaction of the Central Agency. More so, the Central Agency did not even issue the RECs to the Petitioner for the period FY 2019-20, FY 2020-21, and FY 2021-22, citing the reason that the Petitioner was not re-registered on the portal. Therefore, on the one hand, the Central Agency delayed the process of re-registration and, on the other hand, it refused to issue RECs for the period FY 2019-20, 2020-21, and FY 2021-22.

(ww) Therefore, the Petitioner requested the Commission to condone the delay for issuance of REC and to direct the Central Agency to issue RECs to the Petitioner for the excess consumption of RE as certified by the relevant authority under the CERC REC Regulations, 2010 and CERC REC Regulations, 2022.

Hearing dated 19.09.2024

7. During the course of hearing the learned counsel for the Petitioner submitted that the present Petition was filed to seek direction against the Respondent No.1, NLDC to issue the REC to the Petitioner for surplus Non-Solar Renewable Energy procured by it in excess of its Non-Solar RPO for the FY 2019-20, 2020-21 and 2021-22. After hearing the learned counsel of the Petitioner, the Commission admitted the Petition and directed the Respondent to file the reply and the Petitioner to file the rejoinder.

Hearing dated 22.11.2024

8. During the course of the hearing, no one was present on behalf of the Respondents despite the notice. After hearing the learned counsel for the Petitioner, the Commission granted the last opportunity and permitted all Respondents to file their reply(s) and the Petitioner to file a rejoinder thereon, if any.

Submissions of the Respondent, NLDC dated 05.12.2024

9. In compliance with the ROP dated 19.9.2024 and 22.11.2024, the respondent submitted the following:

- (a) The Petitioner applied for re-accreditation to the State Agency on 03.04.2021 and got re-accredited on 29.11.2022. Thereafter, the application for issuance of the RECs for the FY 2019-20 and FY 2020-21 was submitted to the Central Agency on 31.08.2022. However, at that time, the registration of the Petitioner had expired.
- (b) The Petitioner was re-accredited on 29.11.2022, and after that, it applied for re-registration on the REC portal on 09.01.2023. As per the Eligibility and Registration for Certificates of the CERC REC Regulations 2010 and its amendment, the Central Agency vide email dated 27.01.2023, 08.02.2023, 13.03.2023, 10.04.2023 sought Format 1.4 (Recommendation by SERC for Accreditation /Registration / Issuance of RECs for Distribution Licensee under REC Mechanism) for the FY 2019-20, 2020-21 and 2021-22 along with other documents for processing the application of re-registration.
- (c) The Petitioner informed on 30.06.2023 that HPERC vide order dated 29.03.2023 in Review Petition No: 25 of 2023 allowed it for the fulfilment of Solar RPO from the Solar energy procured and REC purchased during 2022-23 and submitted the format 1.4 on 30.06.2023 to the Central Agency. Subsequently, Central Agency re-registered HPSEBL on 11.07.2023.
- (d) The CERC REC Regulations 2022 came into force w.e.f. 05.12.2022. As per provisions of the CERC REC Regulations 2022, a distribution licensee has to apply for issuance of REC to Central Agency within three months from the end of a financial year, along with a copy of certification from the concerned State Commission about purchase of electricity from renewable energy sources in excess of the renewable purchase obligations as determined by the concerned State Commission. In case the application is made beyond the period of three months from the end of the financial year, no Certificate shall be issued.
- (e) Since HPSEBL did not submit applications for issuance of RECs within the prescribed timeline, the Central Agency informed HPSEBL that RECs can only be issued if all requirements under the CERC Regulations and Detailed Procedures are complied. Further, NLDC has no objection to the CERC condoning the delay in the REC application.

Hearing dated 07.01.2025

10. During the course of the hearing, the Respondent submitted that it does not have any objection if the Commission decides to condone the delay in the Petitioner's REC application as a one-time exception. Subject to this, the matter was reserved for Order.

Analysis and Decision

11. The Commission has heard the learned counsels for the Petitioner and the Respondents and has carefully perused the records.
12. Brief facts of the case: The Petitioner, HPSEBL, filed the present Petition under CERC REC Regulations, 2010, for seeking direction against the Respondent No. 1, NLDC, to issue REC for the period FY 2019-20, FY 2020-21, and FY 2021-22. The Petitioner had procured surplus Non-Solar RE of 1260.21 MU for FY 2019-20, 541.79 MU for FY 2020-21, and 519.83 MU for FY 2021-22 in excess of the Non-Solar RPO specified by the State Commission. (The total surplus of non-solar is 2321.85 MU). It was accredited by the State Agency from 05.04.2016 to 04.04.2021 and was registered for the period 11.07.2016 to 10.06.2021. However, during the re-accreditation, the Petitioner faced significant procedural delay in submitting the required information as per the CERC REC Regulations, 2010, and the procedure thereunder. The Commission observes that the Petitioner faced difficulties in uploading the required data on the REC web portal due to pending petitions (Petition No. 03 and 04 of 2021) with the State Commission for seeking settlement of net shortfall/surplus in RPO for FY 2017-18, FY 2018-19 and FY 2019-20.
13. Further procedural delays occurred as the State and Central Agencies indicated that re-accreditation could only proceed after authenticating solar energy purchases. Upon direction by the State Commission, the State Agency, on 29.11.2022, approved the application of the Petitioner for re-accreditation.
14. Additionally, the Petitioner was unable to complete the re-registration due to technical issues while submitting the information on the REC web portal and submitting the required information in the requisite format.
15. The CERC REC Regulations, 2022, came into force on 05.12.2022, and the Central Agency revised the REC Procedure, 2022, accordingly. On 11.07.2023, the Respondent No.1 re-registered the Petitioner but denied the RECs for FY 2019-20 and FY 2020-21, stating that the Petitioner's application was received on 31.08.2022, when the registration of the Petitioner had expired. For denying the issuance of REC for FY 2021-22, Respondent No.1 has cited that the Petitioner did not submit the application within the prescribed limit of three months from the end of the financial year as per the REC Regulations, 2022. As informed by the Petitioner, Respondent No.1, however, processed

the application for issuance of RECs for the Period 2022-23, the Petitioner, having fulfilled all the required conditions.

Factual Matrix:

Events	Date	
Accreditation Granted	05.04.2016-04.04.2021	
Registration with the Central Agency (NLDC)	11.07.2016-10.07.2021	
Re-accreditation Granted	29.11.2022	
Re-registration with Central Agency	11.07.2023	
Quantum of surplus non-solar energy procured by HPSEBL after fulfilment of RPO in the respective year	FY	Quantum (MU)
	2019-20	1260.21
	2020-21	541.79
	2021-22	519.83
	Total	2321.83

16. The Commission observes that the Petitioner was accredited on 05.04.2016, which was valid till 04.04.2021, and was registered by Central Agency on 11.07.2016, which was valid till 10.07.2021 under REC Regulations, 2010. However, the re-accreditation and re-registration of the Petitioner were delayed under REC Regulations, 2010 in the absence of the requisite information on RPO compliance in the prescribed format as per the REC Regulations, 2010 on account of pending petitions before the State Commission and other procedural delay. The Petitioner was re-accredited on 29.11.2022 by the State Nodal Agency. However, the Petitioner could not complete the process of re-registration before the REC Regulations, 2022, came into force on 05.12.2022. The Petitioner was granted re-registration by Central Agency on 11.07.2023 after verification of the submitted information according to the REC Regulations, 2022.

17. The Commission also observes that Regulation 7 of the REC Regulations, 2010, provides as under:

“7. Denomination and issuance of Certificates:

.....

(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.”

18. The Commission observes that the REC Regulations 2022 came into force w.e.f. 05.12.2022. The new regulations have brought changes in the process of issuance of RECs for DISCOMs. Prior to this, the REC mechanism was governed by the CERC REC Regulations 2010, which have been repealed now. As per the provisions of the CERC REC Regulations 2022, a distribution licensee has to apply for issuance of REC to the Central Agency within three months from the end of a financial year, along with a copy of certification from the concerned State Commission about purchase of electricity from renewable energy sources in excess of the renewable purchase obligations as determined by the concerned State Commission. In case the application is made beyond the period of three months from the end of the financial year, no Certificate shall be issued. The relevant extract of Clause 10 (3) of CERC REC Regulation 2022 is quoted below:

“10. Issuance of Certificates

.....

(3) Application for issuance of Certificates shall be made by an eligible entity being a distribution licensee or an open access consumer within three months from the end of a financial year, along with a copy of certification from the concerned State Commission about purchase of electricity from renewable energy sources in excess of the renewable purchase obligations as determined by the concerned State Commission:

Provided that no Certificate shall be issued in case the application is made beyond the period of three months from the end of the financial year.

.....”

19. The Commission observes that because of the revised timeline under the REC Regulations 2022, the Petitioner was prevented from filing an application for the issuance of RECs for the FY 2019- 2020, FY 2020-2021, and FY 2021-22. The Petitioner had initiated the action for issuance of the certificate before the new REC Regulations, 2022, came into effect. NLDC incorporated necessary changes in the REC web portal w.e.f. 05.12.2022 and due to which the Petitioner could not apply for the issuance of RECs for the FY 2019-20, FY 2020-21 and FY 2021-22 as it was beyond the period of three (3) months from the end of the financial year for issuance of RECs for the FY 2019-20, FY 2020-21 and FY 2021-22.

20. The Commission is of the view that it is a case of delay in re-accreditation and re-registration, which is purely procedural in nature, and a procedural law may not be an impediment in achieving the real object of the law. The Commission observes that the main objective of the REC Regulations 2010 and 2022 is to promote the generation of

renewable energy. In the circumstances explained above, the Commission feels it is equitable to condone the procedural delay on the part of the Petitioner.

21. The Commission observes that the relevant provisions of the REC Regulations, 2010, stipulate as under:

“14. Power to give directions:

The Commission may from time to time issue such directions and orders as considered appropriate for the implementation of these regulations and for the development of market in power for Renewable Energy Sources.

15. Power to Relax:

The Commission may by general or special order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected may relax any of the provisions of these regulations on its own motion or on an application made before it by an interested person.”

22. The relevant provisions of REC Regulations, 2022 stipulate as under:

“17. Power to give directions

The Commission may, from time to time, issue such practice directions and orders as considered appropriate for the implementation of these regulations

18. Power to Relax

The Commission may by general or special order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected, may relax any of the provisions of these regulations on its own motion or on an application made before it by interested person(s).

19. Repeal and Savings

(1) Save as otherwise provided in these regulations, the REC Regulations, 2010 and all subsequent amendments thereto and Procedures thereof shall stand repealed from the date of coming into force of these regulations.

(2) Notwithstanding such repeal:

(a) anything done or any action taken or purported to have been done or taken or any accreditation or registration or permission granted or any document or instrument executed or any direction given under the repealed regulations shall, in so far as it is not inconsistent with the provisions of these regulations, be deemed to have been done or taken under the corresponding provisions of these regulations;”

23. From the above, the Commission notes that the REC Regulations 2010 have been repealed by the REC Regulations 2022. By virtue of the saving clause in terms of Regulation 19 (2) of the REC Regulations 2022, anything done or any action taken under the repealed REC Regulations 2010 shall be deemed to have been done or taken under the

REC Regulations 2022. It is also pertinent to note that both the REC Regulations, 2010 and the REC Regulations, 2022 have provisions for the power to relax and the Power to give directions.

24. As per the principle laid down for the grant of RECs, the Petitioner is an eligible entity being a distribution licensee, and it shall be entitled to RECs subject to the fulfilment of the criteria for the issuance of RECs to such entities. The main objective of the REC framework is to promote the generation of renewable energy. The Respondent NLDC has also stated that it has no objection to the Commission condoning the delay. Therefore, the Commission is inclined to exercise the “Power to relax” under Regulation 18 of REC Regulations, 2022, in order to achieve the object of the regulations.
25. The Commission is of the view that the delay in the application for issuance of REC is procedural in nature due to the reasons stated by the Petitioner and is not likely to prejudice any of the stakeholders, including the Respondent. Accordingly, the timelines stipulated under Regulation 10(3) of the REC Regulations 2022 are relaxed, and the Petitioner is permitted to file its application for the issuance of RECs before the Central Agency for FY 2019-20, FY 2020-21, and FY 2021-22.
26. Further, the Respondent No.1 is directed to issue RECs for FY 2019-20, FY 2020-21, and FY 2021-22 to the Petitioner after due verification and satisfying itself that the Petitioner meets all conditions and has submitted all the required documents for the issuance of RECs.
27. Petition No. 152/MP/2024 is disposed of in terms of the above.

Sd/-
Shri Harish Dudani
Member

Sd/-
Shri Ramesh Babu. V
Member

Sd/-
Jishnu Barua
Chairperson