

**CENTRAL ELECTRICITY REGULATORY COMMISSION**  
**NEW DELHI**

**Coram:**

**Shri P. K. Pujari, Chairperson**  
**Shri I. S. Jha, Member**  
**Shri Arun Goyal, Member**  
**Shri P. K. Singh, Member**

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

**Dated: 11<sup>th</sup> June, 2022**

**In the matter of**

**Central Electricity Regulatory Commission (Terms and Conditions for Renewable Energy Certificates for Renewable Energy Generation) Regulations, 2022– Statement of Objects & Reasons (SOR) thereof.**

**STATEMENT OF REASONS**

**1. Introduction**

1.1. In exercise of the powers conferred under sub-section (1) of Section 178 and Section 66 read with clauses (y) of sub-section (2) of Section 178 of the Electricity Act, 2003 (36 of 2003), and all other powers enabling it in this behalf, the Commission prepared the Draft Central Electricity Regulatory Commission (Terms and Conditions for Renewable Energy Certificates for Renewable Energy Generation) Regulations, 2022 (in short “the Draft Regulations”) and published the same on 15th February, 2022 for public consultation. Explanatory Memorandum for the same was uploaded on 02.03.2022.

1.2. **Comments/suggestions/objections** from the stakeholders and interested persons on the provisions of the Draft Regulations were sought by the Commission by 15<sup>th</sup> March, 2022 which was extended till 25<sup>th</sup> March, 2022 based on the request of stakeholders. In response, the Commission received submissions from Seventy-Two (72) stakeholders. The list of stakeholders is attached as **Annexure I** to this document. Subsequently, Public Hearing on the Draft Regulations was conducted on March 30, 2022 through video



conferencing. The list of stakeholders, who presented during the Public Hearing is attached as **Annexure II**.

1.3. The Commission, complying with the provisions of the Act and the Electricity (Procedure for Previous Publication) Rules, 2005 proceeded to finalize the CERC (Terms and Conditions for Renewable Energy Certificates for Renewable Energy Generation) Regulations, 2022 (in short “the final REC Regulations” or “the REC Regulations 2022”). The Commission considered the comments of the stakeholders on the Draft Regulations, views of the participants in the Public Hearing as well as their written submissions received during and after the Public Hearing. The Regulations have been finalized after due consideration of the various issues raised. The analysis of the issues and findings of the Commission thereon are discussed in the subsequent paragraphs.

1.4. On May 05, 2022, the Commission has notified the REC Regulations 2022 keeping in view the mandate of the Act and the submissions of the stakeholders. However, these Regulations shall come into force with effect from such date as may be notified by the Commission.

1.5. It may be noted that all the suggestions given by the stakeholders have been considered, and the Commission has attempted to elaborate all the suggestions as well as the Commission’s decisions on each suggestion in the Statement of Reasons. However, in case any suggestion is not specifically elaborated, it does not mean that the same has not been considered. Wherever possible, the comments and suggestions have been summarised clause-wise, along with the Commission’s analysis and ruling on the same. However, in some cases, due to overlapping of the issues/comments, two clauses have been combined in order to minimise repetition. The Commission has also made certain suo-motu consequential changes in order to ensure consistency among clauses.

1.6. The main issues raised during the public consultation process, and the Commission’s analysis and decisions on the issues, which underlie the Regulations as finally notified, are given in subsequent paragraphs.



## **2. Definition and Interpretation**

### Renewable Energy Sources

#### **Commission's Proposal**

2.1 Regulation 2 (1) (o) the Draft Regulations proposed the definition of renewable energy sources as under:

*“‘renewable energy sources’ means sources of renewable energy such as hydro, wind, solar including its integration with combined cycle, biomass, bio fuelcogeneration, urban or municipal waste and such other sources as recognized or approved by the Central Government;”*

#### **Comments Received**

2.2 **TSSLDC** sought clarification on the term ‘hydro’ included in the definition of renewable energy sources. **WIPPA** commented that definition of RE should include hybrid, RE with storage and large hydro. **PRAYAS** suggested that only large hydro commissioned after March 2019 may be included as RE source. **CEEW** commented that determination of RE miss out Hybrid.

2.3 **Bengal Energy, FICCI** requested to include Industrial Waste in the Definition.

2.4 **FICCI** requested to include co-generation also in renewable energy source referring Tariff Policy. **FOSET** commented that industrial waste and Co-generation also should be included in definition of RE.

2.5 **SECI** requested to include Off-shore wind & BESS in the definition of RE.

2.6 **RENEW Power** requested to include RE Hybrid Plants (Wind & Solar), storage (BESS and pumped hydro) for their role in grid stability for RE sources, and sought clarification that hydro would include all types (small, large, RoR) under this regulation.

2.7 **PCKL** commented to include sources as recognized or approved by the Central Government or State Government. **UPSMCA** requested that RE sources approved by the State Commission may also be included like Slop being included as renewable sources by UPERC. **CPPA** requested to include Biomass cofiring.

2.8 **CESC** proposed following definition of RE:

*“renewable energy sources” means sources of renewable energy such as hydro, wind, solar including its integration with combined cycle, biomass, bio fuel cogeneration, urban or*



*municipal waste or industrial waste including waste heat or waste flue gas and such other sources as recognized or approved by the Central Government;*

## **Analysis and Decision**

2.9 Many Stakeholders sought clarity on the definition of Renewable Energy sources regarding the inclusion of Large Hydro Projects, RE with Storage, Hybrid RE Projects and also Green Hydrogen, Off-shore wind, Industrial Waste, Biomass Cofiring and cogeneration.

2.10 On the issue of hydro project, the Commission would like to highlight that the Explanatory Memorandum (in short “the EM”) had explained that the definition of renewable energy sources has been modified in view of the notification of the Ministry of Power, dated 08.03.2019 declaring the large hydro projects with more than 25 MW installed capacity and commissioned after 08.03.2019 as renewable energy source. Accordingly, the term ‘hydro’ used in the definition of “renewable energy sources” would imply small hydro projects (up to 25 MW) as well large hydro projects with more than 25 MW installed capacity and commissioned after 08.03.2019.

2.11 Further, as regards the other sources of renewable energy, the Commission is of the view that reference of the Central Government as the nodal authority for recognition of any resource as renewable is well established. The definition of renewable energy sources is broad enough to include any other technology as and when approved by the Central Government as renewable energy source.

2.12 Accordingly, the Commission has decided to retain the definition as proposed in the Draft Regulations.

## **3. Central Agency and its Functions**

### **Commission’s Proposal**

3.1 The Central Agency and its Functions were proposed in Regulation 3 of the Draft Regulations as under:

#### **“3. Central Agency and its Functions**



(1) *The National Load Despatch Centre shall be the Central Agency for the purpose of these regulations:*

*Provided that the Commission may designate any other agency as the Central Agency after satisfying itself that such agency has the required capability of performing functions as provided under these regulations.*

(2) *The functions of the Central Agency shall be to:*

- (i) undertake registration of eligible entities,*
- (ii) undertake issuance of Certificates,*
- (iii) maintain and settle accounts in respect of Certificates,*
- (iv) act as repository of transactions in Certificates,*
- (v) maintain Registry of Certificates,*
- (vi) perform such other functions incidental to sub-clauses (i) to (v) of this clause, and*
- (vii) undertake any other function that may be assigned by the Commission."*

### **Comments Received**

3.2 **IWPA, Orient Green Pvt Ltd. (OGPL)** suggested to bring more transparency in accounting and settlement of REC. REC purchaser information should be made public by the Central Agency.

3.3 **MSEDCL** suggested that the following functions may also be included in the list:

- (a) Monitoring of REC related activities,*
- (b) Avoidance of fraudulent practices in REC mechanism*
- (c) Authenticity of REC certificate etc. or any*
- (d) other functions for smooth functioning of REC issuance and trading*

3.4 **BRPL** suggested that function of the Central Agency should include evaluation of REC related activities, authenticity of REC certificate etc. or any other function for smooth functioning of REC issuance and trading.

### **Analysis and Decision**

3.5 The Commission has noted the suggestions of the stakeholders, and is of the opinion that the functions specified in the for Central Agency are broad enough to take care of the



concerns expressed by various stakeholders. The National Load Despatch Centre (NLDC), as a Central Agency, has the required technical and operational capability for performing all the functions for transparent and smooth implementation of REC Mechanism. The required checks and balances for monitoring and evaluation of REC mechanism would be stipulated in the detailed procedure to be developed by the Central Agency based on the principles specified in these Regulations. Further to bring more clarity on accounting and settlement of Certificates, the Commission has specified additional function for Central Agency to develop appropriate mechanism for accounting of generation and sale in respect of Certificates. The Central Agency shall stipulate an appropriate mechanism in consultation with all stakeholders in its detailed procedure to make sure that the appropriate accounting and settlement mechanism is in place for effective implementation of the REC mechanism. Accordingly, Clause (2) of Regulation 3 has been appropriately modified.

#### **4. Eligibility for Issuance of Certificates**

##### **Commission's Proposal**

4.1 In the Draft Regulations, Eligibility for Issuance of Certificates was proposed in Regulation (4) as under:

*"(1) Following entities shall be eligible for issuance of Certificates:*

- (a) Renewable energy generating station,*
- (b) Captive generating station based on renewable energy sources,*
- (c) Distribution licensee, and*
- (d) Open access consumer*

*2) A renewable energy generating station shall be eligible for issuance of Certificates, if it meets the following conditions:*

- (a) the tariff of such renewable energy generating station has not been either determined or adopted under section 62 or section 63 of the Act, or the electricity generated is not sold either through an electricity trader or in the Power Exchange, for RPO compliance by an obligated entity;*
- (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.*



(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.*

(4) *An obligated entity being a distribution licensee or an open access consumer, which purchases electricity from renewable energy sources in excess of the renewable purchase obligation determined by the State Commission shall be eligible for issuance of Certificates to the extent of purchase of such excess electricity from renewable energy sources.”*

## Comments Received

### A. Renewable Energy Generating Station

4.2 **POSOCO** sought clarity on the eligibility of renewable energy generating station having multiple PPAs and proposed that Regulation 4(2) (a) may be rephrased as below:

*“The tariff of such renewable energy generating station has not been either determined or adopted under section 62 or section 63 of the Act, or the electricity generated **part or full capacity** is not sold **directly or** either through an electricity trader or in the Power Exchange, for RPO compliance by an obligated entity”.*

4.3 **HPERC** submitted that in Himachal Pradesh there are SHP projects whose tariff is determined under 86 (1) (b) instead of 62 of the Act. To bring more clarity the following explanation may be added:

*Explanation: The Renewable Energy Project(s), where PPA(s) on long term basis i.e. or useful life of the project has been signed, after approval of the Commission under Section 86 (1) (b) of the Act, before commencement of REC Regulation, 2010 i.e. 18.01.2010 by the project developer and distribution licensee at a mutually agreed tariff or tariff fixed notified by the State Government, shall not be eligible for issuance of Certificates.*



4.4 **IEX** sought clarity whether the RE Generators which have PPAs with the Discoms @ APPC are eligible for issuance of RECs or not. It is suggested that a proviso may be incorporated to save the existing PPAs on APPC with Discoms. IEX also requested to amend the provision suitablyto bring clarity that the RE power sold in DAM, TAM or RTM shall be eligible for issuance of RECs.

4.5 **RE Connect Energy** requested that the concept of APPC + REC may be retained for financial viability of the existing REC projects. Alternatively, a viable legal alternative is required to be provided to such projects for their financially viability. According to RE Connect, Regulation 4(2)(a) needs to be amended as it implies that even for a physical power sale, an eligible entity is required to sell energy only through a trader or power exchange. It was also suggested Rooftop Projects be allowed under REC with clearly defined guidelines and procedure.

4.6 **Greenko and SECI** requested to include Pumped Storage Projects as eligible entities for REC.

4.7 **IWPA and OGPL** submitted that the RE projects registered under the REC Regulations 2010 should continue to be eligible based on the eligibility criteria of 2010 Regulations notwithstanding any change in the eligibility criteria in the new Regulations.

4.8 **NHPC** requested that the untied capacity of a project sold through a trader or in Power Exchange should be issued Certificates.

4.9 **Greenko** commented that RE generators with part capacity in open access and part capacity under long term PPA need flexibility. A renewable energy generating station may sell the electricity generated for RPO compliance by an obligated entity, as aforesaid, at one point of time or for partial capacity; during such point of time or for such part of the capacity it shall not be eligible for issuance of Certificate. However, it may not sell the electricity generated for RPO compliance by an obligated entity at another point of time or for another part capacity; during such point of time or for such part capacity, it shall be eligible for issuance of Certificate.

4.10 **WIPPA** commented that there could be several instances where energy from renewable energy projects may not be for RPO purpose e.g. competitive bidding procurement under 63 for short-term or medium-term duration or excess energy generated in RTC projects, are not for RPO compliance and hence should be explicitly mentioned to ensure they receive RECs.



4.11 **Bajaj Finserv Ltd** commented that the banking facility provision may be explained. The proposed amendment 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.

4.12 **Mytrah Energy Pvt Ltd APPCL** requested that the RE projects which avail banking should also be considered for REC.

4.13 **WIPPA** commented that RE generator should be issued REC irrespective of the status of waiver and if not, then choice should be with RE generator and waiver provided by States for promotion of RE should not be counted against the RE developer.

4.14 **Shri Bajrang Power (SBPIL)** submitted that the projects with transmission waiver and banking benefits should also be allowed REC.

4.15 **BALCO-VEDANTA and Godawari Power and Ispat** submitted that Clause (b) of Regulation 4(2) regarding waiver and banking facility may be deleted as this will hamper new investment.

4.16 **SHAKTI Foundation** sought clarification with respect to RE Generators who already have PPAs with the Discoms @ APPC, and about RE cleared in DAM and not in GDAM. Further, Shakti has commented that waiver should be based on transaction.

4.17 **POSOCO** suggested that clarification on banking facility similar to earlier Regulation may be added in Regulation 4 (2) (b).

4.18 **IEX** sought clarity on Regulation 2 (b) that in case a RE generator avails concession for the transactions for GDAM but not for DAM, TAM or RTM transactions, whether RECs will be issued to such RE generators or not.

4.19 **PXIL** submitted that equitable treatment be extended to the entities that participate in the REC framework on matters related to waiver/concessions/banking. Equitable treatment will promote competition in the market-based transaction in REC.

4.20 **Greenko** highlighted that a renewable energy generating station may avail any of the concessions at one point of time or for partial capacity; during such point of time or for such part of the capacity it shall not be eligible for issuance of Certificate. However, it may not avail any of the aforesaid concessions at another point of time or for another part capacity; during such point of time or for such part capacity, it shall be eligible for issuance of Certificate.



4.21 **PTC India** commented that under Clause 4(2), negative covenant about waiver may be removed.

4.22 **IWTMA** commented that availing banking facility should not be a reason for dis-qualification under REC framework as this will make most captive projects ineligible for REC.

4.23 **SIMA** requested not to restrict issuance of certificates to renewable plants availing complete waiver or concessional transmission and wheeling charges; and not to impose any restriction on issuance of certificates to plants availing benefit of banking. Like other obligated entities, captive generators may also be made eligible for issuance of RECs for RE consumption in excess of the renewable purchase obligation determined by the State Commission.

4.24 **PMAI** requested not to impose any restriction on issuance of certificates to plants availing benefit of banking and requested to align the SERC regulations in line with CERC regulation.

4.25 **RENEW Power** requested to include exemption in Clause 4.2 (a) for energy generated under such circumstances to ensure they receive RECs, to include an option with the developer to select between waiver and REC and to include a clarification that technologies, even after availing waivers can still receive the multiplier portion of RECs and the generating stations should be eligible for RECs irrespective of the status of waivers, to consider sale of RECs from captive units.

4.26 **PCKL** commented that the renewable energy generator which supplies power to the distribution companies (Discoms) at an average power purchase cost or 75% of the generic tariff applicable for the year as determined by the State Commission whichever is less should be eligible for issuance of certificate.

## B. Captive Generating Station based on renewable energy sources

4.27 **Techno Electric and Engineering Com. Ltd.** submitted that CGPs enjoy tremendous benefits and should not be eligible for issuance of the RECs.

4.28 For Regulation 4 (3), **Adani Power** submitted that RPO compliance should be allowed at group captive level. RE Captive Generating Stations are of SPV in nature; therefore, the generated RECs to the extent of self-consumption should be permitted to offset the RPO of its group companies and 100% subsidiaries of the group companies.



4.29 **APSLDC** commented that REC obtained through self-consumption and those by energy injected into the grid need to be differentiated.

4.30 **TSSLDC** sought clarification for eligibility of captive plants commissioned after 31.03.2016 for REC.

4.31 **Greenco** requested that eligibility of CGS should be similar to Discoms. CGS should be allowed REC for RE generation beyond RPO.

4.32 **Bajaj Finserv Ltd** submitted that 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 compared to the third-party open access generator. Allowing CGP in REC may be reconsidered and reviewed.

4.33 **OGPL** requested that the term self-consumption may be clarified and defined in the Regulations so that the trading of RECs by group captive plants is not affected. Otherwise, only the group captive generating entity, would be affected.

4.34 **DCM-Shriram** commented that eligibility of captive generators only to sell indirectly forces compliance of RPO before selling REC.

4.35 **JSW** commented that Off-grid captive generators should be allowed REC.

4.36 **Grasim Industry** commented that “captive consumer” and “self-consumption” have two different legal meanings. Eligibility for sale as well for self-redemption should be permitted as such plants clearly displace the conventional energy through renewable energy production. Self-redemption of RECs for the purpose of meeting RPO compliance requirements across other manufacturing units of the same legal entity may be permitted. Projects such as floating solar or Rooftop should also be issuedRECs.

4.37 **Sembcorp** submitted that REC should be allowed to captive generating station for all generation like the existing framework.

4.38 **CPPA** submitted that provision with regard to captive generating station should be modified with Biomass cofiring and CGP should be allowed to sell REC.

4.39 **Shri Bajrang Power (SBPIL)** commented that the captive generating station based on RE does not have RPO and hence should be provided RECs for captive consumption also.

4.40 **UPSMCA** commented that cogeneration plants which are not falling under CGP should also be included for eligibility. Multiple RE sources through one common



transmission should also be eligible. Banking Facility explanation should be retained from the existing REC Regulations. Clause (3) of Regulation 4 may be modified to include RE based cogeneration project as provided in the extant REC Regulation.

4.41 **IWPA and ORPL** commented that all captive based RE projects or RE generators which have already established the plants and have already been registered under REC successfully, should be eligible to avail and trade in RECs under the proposed Regulations as any change in the criteria rendering them ineligible to avail or trade in REC would severely affect the viability of the project.

4.42 **IWPA and ORPL** submitted that the eligibility to claim RECs be made only to the RE generator and not to OA consumer. It was submitted that the proposal to make the OA consumer eligible shall not in any way affect the REC trading eligibility of Group Captive and other RE generators who have already registered and are availing RECs and supplying power to other captive OA consumers, which are different legal entities. The power consumption from such group captive WEGs cannot be called as self-consumption and the RE generators who are already registered under REC mechanism should continue to be eligible to avail and trade in RECs.

4.43 **Hygenco Pvt LTd.** commented that the entities buying Green Hydrogen/ Green Ammonia is buying renewable energy indirectly. Hence according to MoP notification dated 16.08.2021 green hydrogen also be inserted in the eligibility criteria Reg. 4 (3) as "*Provided that the Certificates issued to such captive generating stations to the extent of green hydrogen production, shall be eligible for sale.*"

4.44 **Kreate Energy** commented that self-consumption to offset group companies needs to be clarified.

4.45 **POSOCO** pointed out that CGPs based on RE don't have RPO. It would be difficult to maintain record of two types of RECs. Hence, CPPs may be allowed RECs only for the energy sold to third parties over and above their self-consumption.

4.46 **ASSOCHAM** commented that Group Captive consumer should also be included for eligibility of REC, REC towards self-consumption should also be allowed.

4.47 **ISMA** commented that Bagasee based plant meet 100% captive power requirement and hence they would be not eligible which will go against existing eligible CGP. It should not be applicable retrospectively. So the restriction on captive may be reconsidered so that



benefit could be passed on to the RE generator, especially bagasse or biomass based generators. Need strong RPO Compliance Mechanism.

4.48 **WIPPA**. Captive should be issued REC against all generation.

4.49 **SISMA** commented that restriction on self-consumption should be removed. Bagasse based plant meet 100% captive power requirement and hence they would be not eligible which will go against the existing eligible CGP. It should not be applicable retrospectively.

## C Distribution Licensee

4.50 **NHPC** submitted that to bring more clarity in the eligibility criteria for Discoms, the expression “*at the tariff determined under Section 62 or 63 of the Act*” may be added after “*by the state Commission*”. It was also suggested before issuance of RECs, previous years non-fulfilment may be adjusted first.

4.51 **IWPA and ORPL** commented that REC should not be availed by Discoms in respect of the power purchased under SECI bidding /GTAM /GDAM with waiver of ISTS charges.

4.52 **Continuum Energy** submitted that the Discom should not be allowed REC as it will result in double counting.

4.53 **POSOCO and Greenko** suggested that the trajectory notified by MoP or State Commission, whichever is higher may be added in Regulation 4 (4).

4.54 **POSOCO** suggested that Regulation 4(3) may be modified as under:

*“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 for energy generated from the plant excluding the self-consumption.”*

4.55 **IEX** commented that Discoms are major sellers of RE at Power Exchange GDAM & GTAM market therefore Discoms like RE Generators selling RE power in the DAM/TAM should be eligible for issuance of RECs. Such RECs may be issued on financial year basis to ensure that such RECs are issued against surplus RE i.e., after fulfilling respective RPO.

4.56 **Techno Electric and Engineering Com. Limited** suggested that the eligibility for Discom must be qualified to the extent that the eligible Discom in a given State must also ensure that all other 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 Discomsand surplus if any, after adjustment for such RPO shortfall, should beeligible for issuance of the Certificates.

4.57 **TSSLDC** raised concerns over allowing RECs to open access consumer above their RPO as this may lead to too much sellers and fewer buyer.

4.58 **REConnect** requested that the Commission may please make it mandatory for Discoms and OA Consumers seeking RECs to provide source wise details of RE procurement along with a certified energy audit report as a pre-condition for issuance of RECs. According to REConnect “captive consumer” and “self-consumption” have two different legal meanings. Eligibility for sale as well for self-redemption should be permitted as such plants clearly displace the conventional energy through renewable energy production. Self-redemption of RECs for the purpose of meeting RPO compliance requirements across other manufacturing units of the same legal entity may be permitted. Only the existing projects registered under the REC Mechanism may be permitted to continue claim RECs and carry out sale of such RECs.

4.59 **KSEB** commented that the RE contracts with Discoms should not be allowed.

4.60 **Tata Power** sought clarification about eligibility of off grid entities for issuance of Certificates.

4.61 **Orient Green Pvt Ltd (OGPL)**submitted that all captive based RE projects or RE Generators who have already established the plants and have already Registered under REC successfully, should be eligible to avail and trade in RECs under the proposed Regulations as any change in the criteria rendering them ineligible to avail or trade in REC would severely affect the viability of the project.

4.62 **OGPL** commented that REC should not be availed by DISCOMs in respect of power purchased under SECI bidding /GTAM /GDAM with waiver of ISTS charges.

4.63 **BYPL** commented that REC should not be allowed to OA Consumer.

4.64 **GRIDCO** commented that under Clause 4 (1), intermediary company be allowedin addition to DISCOM.

4.65 **Govt. of Himachal Pradesh** suggested that an Energy Department, authorized by the State Govt. for sale of its royalty/equity power share of State, should also be added in Eligibility condition. Govt. of Himachal Pradesh also suggested that an additional Clause may be added as follows:



*“The entire Royalty/Equity power from the Large Hydro Projects (LHP) commissioned after 8/3/2019 should be eligible for meeting Hydro Power Obligation (HPO) liability of the State.”*

4.66 **PRAYAS** commented that under Regulation 4(4), provisoshould be added that Discoms/OA consumers will be eligible for issuance of Certificates to the extent of purchase of excess electricity from renewable energy sources only if their RPO is in line with or higher than the MoP/MNRE RPO trajectory.

4.67 **WBSEDCL** commented that under Clause 4 (1), Co-generation plant based on RE sources should also be allowed.

4.68 **Torrent** Power commented that Discom should not be deprived from participation in REC mechanism only because of waiver of transmission charge.

4.69 **BRPL** commented that REC should not be allowed to OA Consumer and terms like waiver andbanking should be defined. Timelines for REC Issuance for Discom need to be reconsidered. Discom should be exempted from Accreditation & Registration.

4.70 **IWPA-NRC** commented that REC should be issued to only RE Generators. Eligibility to Discoms should not be allowed as they enjoy concessional benefits. It should be as proposed in the 3<sup>rd</sup> Amendment of the existing REC Regulations. Captive Projects are adequately compensated and it will create surge in REC market, so CGP should not be allowed under REC. The Explanation to Banking Facility as per existing REC Regulationsshould be retained.

4.71 **IWPA and OGPL** sought clarification on self-consumption to remove ambiguity so that the trading of RECs by group captive plants is not affected. It was submitted that when the generating plant is set by the CGP, the REC Registration is made in the name of the Group Captive Generating Plant and the consumers are not registered and are not eligible to register under the REC because they do not own the Captive generating plant in their own legal entity. Open Access is availed for wheeling power from generating station to consuming location for which normative charges are paid, foregoing the concessions, only based on the REC revenues. So, this should not be called self-consumption.

4.72 It was submitted that self-consumption be defined in the Regulations to mean only co located plants consuming within the premises where generation is taking place (behind the meter) and allow all captive projects that avail open access paying normative charges to claim and trade in RECs as is being done under the existing Regulations.



4.73 **SAINI** Power requested to permit the energy sold through an electricity trader or in the Power Exchange as being eligible for issuance of Certificate subject to the condition that the energy sold either through an electricity trader or in the Power Exchange is not used for fulfilment of RPO of obligated entity or sold on Green Markets (i.e., GDAM/GTAM). Benefit of REC should go to RE instead of the OE beyond RPO.

4.74 **MSEDCL** requested to consider the following factors in the Regulations:

- Whom shall the DISCOM approach for getting the REC?
- Time period for applying for REC from the date of closing of financial year.
- Time period for issuance of REC by the Central Agency after scrutiny of documents.
- Validity of such REC and time period allowed for trading of such REC's.

### **Analysis and Decision**

4.75 As regards the eligibility of renewable energy generating station, the Commission observes that some stakeholders have sought clarity on the eligibility of RE generator having multiple PPAs, while some others sought clarity on the eligibility of the existing REC projects under APPC route.

4.76 Some stakeholders sought clarity about the eligibility of RE Projects having procurement approved under MoU route. Some stakeholders requested to allow Solar rooftop projects, off-grid RE projects or Storage projects to be eligible under REC Mechanism. Some stakeholders suggested that all entities should be allowed irrespective of their status on Waiver and Banking benefits. Many stakeholders requested to reinstate the explanation of Banking Facility from the existing REC Regulations.

4.77 The Commission would like clarify that the primary criteria for a generating station to qualify for REC is that the power sold from such a generating station is not accounted for RPO compliance of the obligated entity. As such, any renewable generating station selling power to the obligated entities including distribution company under MoU Route directly or through traders would not be eligible under REC mechanism if such sale is being accounted for RPO compliance of the obligated entity. The same principle will apply even for a generating station with multiple PPAs. The final REC Regulations have also clarified that



the capacity of a generating station, in part or full, as long as such capacity is not tied up for sale to an obligated entity for RPO compliance, shall be eligible for REC.

4.78 To allay the apprehension in regard to proper accounting of generation qualifying for RPO compliance and for REC, the Commission has included the additional function for the Central Agency requiring it to develop a mechanism for accounting to make sure it does not lead to double accounting of green attributes.

4.79 As regards the promotional benefits under banking facility, the Commission noted the suggestions of the stakeholders to delink the banking facility as a disqualification for REC.

4.80 The Commission observes that many States have dispensed with the promotional banking benefits and the banking facility also varies from State to State depending upon time and season. In view of the changing nature of banking facility, the Commission has agreed with the stakeholders' suggestions to remove reference of promotional banking facility.

4.81 As regards the waiver or concession in transmission and wheeling charges, the Commission would like to clarify that this means levy of transmission or wheeling charge at a rate lower than the rate as applicable to a normal open access consumer. Waiver of inter-State transmission charges has been extended to the RE generators from time to time for promotion of renewable energy sources. Such a measure extends preferential treatment to RE generators over non-RE generators. Accordingly, the Commission has decided to continue with the provision that for any renewable energy generating station to be eligible for REC, it shall not avail or does not propose to avail any benefit in the form of concessional transmission and wheeling charges.

4.82 In regard to captive generating station based on renewable energy sources, the Commission observes that some stakeholders requested for clarity on the self-consumption and self-retention of RECs for fulfilment of renewable purchase obligations. Some asked for clarity on the eligibility of group captive consumers for REC while some others



requested to allow REC to captive generating station on complete generation including self-consumption.

4.83 As regard the difference between self-consumption and captive consumption, the Commission would like to reiterate that the terms are self-explanatory, and the provision specified in the regulation is adequate. Self-consumption by any captive or non-captive consumers replaces for such consumers the otherwise expensive grid power and hence they are adequately compensated for such self-consumption. Similarly, the cogeneration plants based on renewable energy sources are established to primarily meet their energy requirement through their own generation. In view of the fact that the cost of generation for the captive generating plants or co-generating plants is already recovered by way of replacement of grid power which is generally more expensive for them as consumers, there is no case for further compensation through REC Mechanism. However, in so far as the treatment of REC issued equivalent to self-consumption is concerned, the Commission would like to clarify that such REC may be used by the said captive generating plants for meeting their RPO, in accordance with the regulations or orders of the concerned SERCs as RPO compliance is in the domain of the SERCs.

## **5. The Processes**

### **Commission's Proposal**

The Draft Regulations provided for the process of REC in Regulation 5 as under: -

*"The process involves (i) accreditation and registration for Certificates and (ii) issuance, exchange and redemption of Certificates, as specified in these regulations."*

### **Comments Received**

5.1 **IWPA** commented that the process involving (i) accreditation and registration for Certificates and (ii) issuance, exchange and redemption of Certificates, seems alright but should not be as specified in these regulations.

### **Analysis and decision**



5.2 The Commission believes that the provision specified in Regulations 5 deals with the operational aspect and is adequate. Further, the Commission has modified the provision to bring more clarity on the same.

## **6. Grant of Accreditation for Certificates**

### **Commission's Proposal**

6.1 In the Draft Regulations, Grant of Accreditation for Certificates was proposed in Regulation 6 as below:

#### **“6. Grant of Accreditation for Certificates**

*(1) Accreditation for Certificates to the eligible entities connected to intra-State transmission system shall be granted by the State Agency:*

*Provided that the entities granted accreditation for Certificates under the REC Regulations, 2010 shall be deemed to have been granted accreditation for Certificates under these regulations till validity of their accreditation under the REC Regulations, 2010.*

*(2) Accreditation for Certificates to eligible entities connected to inter-State transmission system shall be granted by the RLDC of the region in which such eligible entities are located, in accordance with the Procedure for Accreditation for Certificate to be issued by the Central Agency as part of the Detailed Procedure:*

*Provided that the entities granted accreditation for Certificates under the REC Regulations, 2010 shall be deemed to have been granted accreditation for Certificates under these regulations and their accreditation shall remain valid till the date of validity of their accreditation under the REC Regulations, 2010.*

*(3) Eligible entities that have been granted accreditation for Certificates, referred to in clause (2) of this Regulation, which have undergone a change in name or change in legal status after the grant of accreditation for Certificates, shall inform, along with relevant documents from the appropriate authority such as Registrar of Companies or National Company Law Tribunal or any other Court, to the concerned RLDC which shall, upon verification of documents, update such change in its records within 30 days from the date of such information and inform the same to the Central Agency.”*



## **Comments Received**

- 6.2 **POSOCO** commented that in Regulation 6 (2), accreditation of inter-State Project may be done by State Agency in which the project is geographically located.
- 6.3 **TSSLDC** submitted that expression '*or deemed to have been granted accreditation for certificates*' shall be removed from various provision of the Regulation.
- 6.4 **REconnect** requested to consider 15 years period for validity of accreditation as well.
- 6.5 **ASSOCHAM** commented that accreditation of intra-State Project may be added.
- 6.6 **Bajaj Finserv Ltd** commented that while framing procedure, there should not be any process of undertaking either from State Agency or Central Agency for the existing accredited & registered projects.
- 6.7 **NHPC** commented that the Procedure for Accreditation of eligible entities connected at intra State system may be specified in the Regulations.
- 6.8 **Greenko** submitted that in the provision regarding Change in Name or Legal Status, RE projects at intra-State level may also be included.
- 6.9 **OGPL, IWPA** submitted that the date of commissioning should be the criterion for determination of eligibility for captive power plants and not the date of transfer of the plant to the new legal entity in case of a slump sale.
- 6.10 **Vardhman Textile Ltd** sought clarity about accreditation of captive RE generating stations whose generated electricity is directly consumed by the captive obligated entities without injection into intra-State or inter-State transmission system.
- 6.11 **WBSEDCL** commented that provision for updation of change in name e by the State Agency should be made in times of similar provisions by RLDC.
- 6.12 **IWPA-NRC, IWPA** commented that the period for grant of accreditation should also be in line with the period for grant of registration.
- 6.13 **IWPA** submitted that the date of commissioning should be the sole criterion for determination of eligibility for captive power plants and not the date of transfer of the plant to the new legal entity in case of a slump sale.

## **Analysis and Decision**

- 6.14 Some stakeholders requested to specify the procedure for accreditation of RE projects connected to intra-State transmission by the State Agency. Some stakeholders suggested to bring uniformity in accreditation for all the existing and new projects and the timeline for



accreditation may be in line with the period of Registration. Some stakeholders sought clarity on eligibility of captive generating plants in case of self-consumption without injecting into the grid while some sought clarification on accreditation of distribution licensee and Open Access consumers.

6.15 The Commission believes that the accreditation of renewable generating station connected to intra-state systemis under the purview of respective State Regulatory Commission and hence the same has not been included in these regulations.

6.16 In the context of the suggestions of POSOCO to allow accreditation of inter-State renewable energy station by the State Nodal Agency in which the project is geographically located, the Commission is of the view that the RLDC being responsible for energy accounting of such projects, is the appropriate agency for accreditation of such inter-state projects. As regards the timeline for accreditation, the Commission is of the view that the accreditation process is important to assess the eligibility of the entities for REC mechanism. For ease of doing business, no specific validity period has been specified. Accreditation is a pre-requisite for registration. As such, accreditation period will generally be co-terminus with registration period, unless surrendered by the eligible entity or revoked by the concerned agency. However, the Central Agency shall make appropriate provision in the detailed procedure for monitoring of eligibility to ensure that the concerned entity continues to remain eligible for REC.

6.17 As regards the accreditation of the distribution licensee and open access consumers, the final REC Regulations provide that such entities shall be deemed to have been accredited for the purpose of registration.

## **7. Revocation of Accreditation**

### **Commission's Proposal**

7.1 In the Draft Regulations, Revocation of Accreditation was proposed in Regulation 7 as under:

#### **“7 Revocation of Accreditation**



*The concerned RLDC, after making an enquiry and giving notice may revoke, recording reasons for such revocation, accreditation granted to an eligible entity referred to in clause (2) of Regulation 6 of these regulations in case the eligible entity breaches any of the terms and conditions of its accreditation, the breach of which is expressly declared by such accreditation to render it liable to revocation.”*

### **Comments Received**

7.2 **TSSLDC, NHPC, KSEB** requested that revocation of Accreditation for eligible entity connected to intra-State system by the State Nodal Agency or SLDC may be added in Regulation 7 for revocation of Certificates.

7.3 **Bajaj Finserv Ltd** commented that Draft is silent on revocation for intra-state project.

7.4 **BYPL** commented that DISCOM should be exempted from Accreditation & Registration.

7.5 **Kreate Energy** commented that there is a mismatch in periodicity between Accreditation & Registration.

7.6 **Manikaran Power Ltd** commented that Accreditation time also should be 15 years.

7.7 **IWPA-NRC** submitted that the period for grant of accreditation should also be in line with the period for grant of registration.

7.8 **PCKL** commented that the concerned RLDC or SLDC after making an enquiry and giving notice may revoke, recording reasons for such revocation, accreditation granted to an eligible entity.

7.9 **MSEDCL** commented that the provision may not be applicable to Distribution Licensee claiming REC for purchase of additional power than its RPO.

### **Decision and Analysis**

7.10 The Commission noted the suggestion of the stakeholders and would like to reiterate that the eligible entity connected to intra-state system is under the purview of respective State Regulatory Commission and hence the request to include provisions regarding revocation of eligible entity connected to intra-state system is beyond the scope of these regulations.



## **8. Grant of Registration for Certificates**

### **Commission's Proposal**

8.1 Regulation 8 of the draft Regulations provided for Grant of Registration for Certificate was proposed as under:

(1) *"An eligible entity which has been granted accreditation for Certificates or deemed to have been granted accreditation for Certificates under these regulations, shall be eligible for grant of registration for Certificates by the Central Agency in accordance with the Procedure for Registration for Certificate to be issued by the Central Agency as part of the Detailed Procedure:*

*Provided that the entities granted registration for Certificates under the REC Regulations, 2010 shall be deemed to have been granted registration for Certificates under these regulations.*

(2) *The registration for Certificates granted in terms of these regulations shall be valid for 15 years from the date of registration for Certificates:*

*Provided that the registration for Certificates granted under the REC Regulations, 2010 and deemed to have been granted registration for Certificates under these regulations shall be valid for a period of 15 years from the date of deemed registration for such Certificate.*

(3) *The entities having been granted registration for Certificates which have undergone change in name or change in legal status after the grant of registration for Certificates, shall inform, along with relevant documents from the appropriate authority such as Registrar of Companies or National Company Law Tribunal or any other Court, to the Central Agency which shall, upon verification of documents update such change in its records within 30 days from the date of such application"*

### **Comments Received**

8.2 **Ministry of Power (MoP)** recommended that a larger period (PPA tenure or 25 years) may be considered for regulatory certainty.

8.3 **TSSLDC** submitted that Registration should be valid for 10 years as per modified procedure.



8.4 **Ayana Renewable Pvt Ltd, Sembcorp,Greenko, CPPA,Torrent Powers** submitted that validity of Registration for Certificates should be upto 25 years (Project Life) instead of 15 years.

8.5 **Pudumjee Paper and Grasim Industry** submitted that in addition to Registration, Accreditation should also be valid for 15 years.

8.6 **WBSEDCL** submitted that provision of renewal of Registration after 15 years is not mentioned.

8.7 **Tata Power** commented that there is no Provision for Re-registration. Registration should be suspended for PPA pending with DISCOM. Tata Power sought clarification on use of REC for compliance of any RPO.

8.8 **Kreate Energy** submitted that for the sake of consistency, accreditation & registration should be upto PPA period.

8.9 **CEEW** commented that additional period constraint on Registration should be removed.

8.10 **SHAKTI Foundation** commented that DISCOMs should also be provided with the option of retaining RECs to utilize against any RPO short fall of previous years and for future years also.

8.11 **MSEDCL** commented that Discom being a Licensee should be exempted from the process of registration and be issued RECs directly through an application and thereafter necessary scrutiny by the Central Agency.

8.12 **HPERC** sought clarification about the provision for self -retention of Certificates by distribution companies in new REC Regulations.

### **Analysis and Decision**

8.13 Many stakeholders suggested to increase the period of Registration to 25 years to bring more certainty while some requested to bring uniformity in period of Registration for the existing and new RE projects eligible under REC. Some stakeholders sought clarification about re-registration while others sought clarification about self-retention of RECs by the distribution licensee. The Commission would like to clarify that RPO and its compliance are under the purview of the SERCs. As such, self-retention of Certificates by



the distribution licensee to fulfil any shortfall in Renewable purchase obligation can be granted by the concerned Regulatory Commission.

8.14 The Commission has accepted the suggestions of the stakeholders in regard to validity period of registration and has increased the period for grant of registration to 25 years for both the existing and the new projects. As regards re-registration, the Commission would like to clarify that a project shall no longer be eligible for REC after it has completed 25 years from the date of registration. As such, there is no provision for re-registration in the regulations.

## **9. Issuance of Certificates**

### **Commission's Proposal**

9.1 In the draft Regulations, issuance for Certificates was proposed in Regulation 10 as below:

*“(1) An eligible entity which has been granted registration for Certificates or deemed to have been granted registration for Certificates may apply for issuance of Certificates, to the Central Agency in accordance with the Procedure of Issuance of Certificate to be issued by the Central Agency as part of the Detailed Procedure.*

*(2) Application for issuance of Certificates shall be made to the Central Agency within sixmonths from the corresponding generation by the eligible entity:*

*Provided that no Certificate shall be issued for applications made beyond the period of six months from corresponding generation.*

*(3) The Central Agency shall, within fifteen days from the date of receipt of complete application for issuance of Certificate by the eligible entities, issue Certificate or reject the application recording reason for such rejection and intimate the same to the concerned entity.*

*(4) The Certificates shall be issued on the basis of the electricity generated and injected into the grid or deemed to be injected in case of self-consumption by the eligible captive generating stations based on renewable energy sources and duly accounted in the Energy Accounting System:*



- (i) as per the Grid Code or the State Grid Code, as the case may be, or
- (ii) based on written communication of distribution licensee to the concerned State Load Despatch Centre or Regional Load Despatch Centre with regard to the energy input by the renewable energy generating stations and captive generating stations based on renewable energy sources which are not covered under the existing scheduling and despatch procedures.
- (5) The entities granted registration for Certificates or deemed to have been granted registration for Certificates under these regulations shall be eligible for issuance of Certificates for the validity period of their registration for Certificates.”

### Comments Received

9.2 **Vardhman Textile Ltd** requested to permit bilateral trade of RECs between RE generator and thebligated entities towards RPO compliance.

9.3 **Ayana Renewable Pvt Ltd.** submitted that application period for issuance should be increased to 1 year instead of 6 months.

9.4 **RE Connect** submitted the procedure proposed in the regulations provides no choice to the generator other than trade through Power Exchange or through a trading licensee. The DISCOM, the Obligated Entities, the RE Generators and the voluntary buyers of RECs, need to be given a lot more choice - including transacting directly or through OTC Platform or through Advisory Members of Power Exchanges.

9.5 **NHPC** commented that Regulation 10(2) may be modified “as corresponding generation or purchase” to bring more clarity for eligibility of discoms.

9.6 **Greenko** submitted that reference month should be the months in which the electricity gets duly accounted in the energy accounting system instead of corresponding month of generation.

9.7 **JSW** commented that issuance of Certificate should be linked with accreditation instead of corresponding generation.

9.8 **Vardhman Textile Ltd** submitted that accounting of captive whose electricity is directly consumed can't be done by Discom and the agency for monitoring of fulfilment of RPO, would be in a better position to provide this information to SLDC or RLDC.

9.9 **UPSMCA** commented that the period to apply for issuance should be 1 year instead of 6 months joint meter reading through Discoms should be allowed.



9.10 **CPPA** commented that data verified by SNA/ Discom/ SLDC or Electrical Inspector should be considered for EIR.

9.11 **WIPPA** commented that the provision for delay beyond six months should be provided in Regulation.

9.12 **BYPL** commented that the timeline for issuance of REC for DISCOM should be 6 months after expiry of Financial Year.

9.13 **BRPL** commented that the period of validity in case of DISCOM should be specified.

9.14 **PTC India** commented that timeline for State Nodal Agency should be specified.

9.15 **PRAYAS** commented that it is difficult for DISCOM to apply within 6 months, for REC. MERC approach of introducing Green Consumer Tariff should be used.

9.16 **PMAI** commented that there should not be any limit for applying for issuance of certificate. Else, it should be minimum 5 years from the corresponding generation.

9.17 **ReNEW Power** commented that the provision should be made to issue certificates beyond six months with an additional charge along with reason for delay.

## **Analysis and Decision**

9.18 Some stakeholders suggested to review the time line for application in case of Discoms as RPO compliance takes place after one year. It was suggested that for Discom the time line to apply for issuance could be within six months from the date of Order of the Commission regarding excess RPO compliance. Some Stakeholders suggested strict time line for the State Agency to provide EIR. Some stakeholders suggested the timeline for applying should be one year. Some suggested there should not be any time limit for applying for issuance or it should be 5 years. Some stakeholders suggested reference month should be the months in which the electricity gets duly accounted for in the energy accounting system instead of corresponding month of generation. Some stakeholders also suggested that Discoms should not be allowed RECs for excess RPO, and that such RECs should be transferred to RE generator. Some raised concerns over Discoms enjoying benefits of waiver and banking facility but still eligible for issuance of REC but not others. Some stakeholders requested for clarification on deemed to be injected phrase used in Regulation 10 (4) by pointing out that some captive generating station does not inject into the grid.



9.19 The Commission has noted the suggestions of the stakeholders and modified the provision regarding the timeline for application by distribution licensee or open access consumers and accordingly has specified that the discoms and open access consumers shall apply for issuance of Certificates within three months from the date of the end of Financial Year.

9.20 As regard the suggestions of increasing the timeline for RE generating station or Captive generating station, the Commission is of the view that the existing provision of six months from the corresponding generation is adequate and hence no change is warranted in the clause (2) of the Regulation.

9.21 With regard to the suggestions on energy accounting system, the Commission would like to clarify that this is as per the existing practice of energy accounting and is adequate to take care of all the possible generation eligible for Certificates. Any further details regarding the accounting of self-consumption if required shall be provided in the detailed procedure to be issued by the Central Agency after due consultation with all stakeholders.

9.22 As regard the eligibility of Certificates to distribution licensee, the Commission believes that there has to be adequate incentive for performance which will facilitate the RE procurement and the eligibility to distribution licensee for issuance of certificates towards excess procurement of RE power beyond RPO is certainly an inducement for suchprocurement by distribution licensee. The Commission would like to clarify that the issuance of certificates to distribution licensee will be applicable for the excess procurement in the preceding financial year and adjustment of carry forward of the RPO or self-retention for any shortfall shall be as approved by the concerned State Regulatory Commission.

## **10. Exchange and Redemption of Certificates**

### **Commission's Proposal**

10.1 In the Draft Regulations, Exchange and Redemption of Certificates was proposed as below:



- (1) "The Central Agency shall maintain a Registry of Certificates.
- (2) The Certificates shall be exchanged through power exchanges or through electricity traders in such periodicity as may be stipulated by the Central Agency in the Detailed Procedure.
- (3) The Power Exchange(s) shall seek approval of the Commission, if required under the Central Electricity Regulatory Commission (Power Market) Regulations, 2021 to the respective Bylaws and Rules for exchange of Certificates in the Power Exchange(s).
- (4) Exchange of Certificates through electricity traders shall be subject to the following:
- (a) The eligible entities shall inform, in advance, to the Central Agency about the number of Certificates intended to be sold through electricity traders;
  - (b) The Central Agency shall block the Certificates in the Registry as informed by eligible entity in terms of sub-clause (a) of this clause;
  - (c) The Certificates blocked under sub-clause (b) of this clause shall not be allowed to be exchanged through Power Exchange(s);
  - (d) The electricity trader shall intimate to the Central Agency consequent upon sale of the Certificates blocked under sub-clause (b) of this clause;
  - (e) The trading margin to electricity traders for trade of Certificates shall be governed by the Trading Licence Regulations, 2020, treating one Certificate representing one Megawatt hour of electricity.
- (5) The Certificates once exchanged through Power Exchange(s) or through electricity traders and used for compliance of RPO by the obligated entities, shall stand redeemed.
- (6) Upon redemption, the Central Agency shall extinguish the said Certificates from the Registry and update its records.
- (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:

Provided that the State Agency shall inform the Central Agency about such redemption of Certificates, upon which the Central Agency shall extinguish such Certificates and update its records."



## **Comments Received**

10.2 **HPERC** submitted that as decided in the 76th Meeting of the FOR, self-retention of Certificates should also be allowed to the distribution companies. Accordingly, clause (8) may be added in Regulation (11) in this regard as suggested.

*"(8) The Certificates issued to the distribution licensees under sub-Regulation (4) of Regulation 4 may be used for meeting RPO short fall, if any, in the ensuing years and such equivalent quantum of certificates shall stand redeemed:*

*Provided that the state agency shall inform the Central Agency about such redemption of Certificates, upon which the Central Agency shall extinguish such Certificates and update its records."*

10.3 **IEX** commented that bilateral trade of REC may not be allowed as it will lead to inefficiency in price determination. On Regulation 11 (4), IEX commented that the proposed provision may lead to hoarding and suggested that in case of bilateral trade, the eligible entity/trader should inform to Central Agency when it wants to transfer/exchange such RECs i.e. single information to Central Agency

10.4 **POSOCO** suggested that Traders are playing active role in the existing framework, exchange of REC through trader may be disallowed. REC should be traded on PXs only, transaction fee on exchange may be reviewed instead.

10.5 **POSOCO** suggested that Self-retention clause of existing Regulation may be retained.

10.6 **POSOCO** suggested that Regulation 11(7) may be deleted, and Regulation 4(3) may be modified.

10.7 **PXIL** welcomed the provision related to sale of RECs by eligible entities to Trading licensees, the same would provide an added avenue of cash flow and avoid piling up of inventory at Seller's end.

10.8 **PXIL** submitted that check and balances need to be in place for implementation of the above provisions to avoid un-due piling of inventory / hoarding of RECs by Traders. The RECs purchased by Trading licensees is expected to mostly be with an intent to resale the same to an Obligated entity at a future period, hence, such RECs need to be identified as '*Transferable Certificate*' and are to be distinguished from '*Original Certificate (RECs)*' issued to eligible entities.



10.9 **PXIL** submitted that Obligated entities should purchase Original Certificate from Eligible entity or 'Transferable Certificate' from Trading licensees for fulfilling RPO requirements and suggested that Regulation 11 may add one clause (and some consequential modifications) as follows:

(2A) *The Certificates exchanged through electricity traders shall be recognised as 'Transferable Certificates' that shall be permitted for re-trading with other electricity traders. Provided further that the Registry maintained by Central Agency under provision of Regulation 3 (2) shall trace the 'Transferable Certificate' to the 'Original Certificate' till they get transacted in Extinguishable Auction Contracts that operate under Clause (3) Provided that the 'Transferable Certificates' shall be*

- i. *Valid for re-trading with any other electricity trader within a period of 1-year from the 'date of transfer', or*
- ii. *Valid for purchase by Obligated entity, through Extinguishable Auction Contracts operated by Power exchanges, to meet RPO requirement*

10.10 **Adani Power** submitted that CERC should permit/come up with REC future contacts sale via power exchange. Here, buyer will agree to purchase REC certificate from the seller at a 'pre-agreed price', also known as the 'strike price' against defined monthly contract that will expire on last week Wednesday of next month. Adani Power also submitted that Roles and Responsibility of Trader may be clarified further. Bilateral Transactions may be allowed, as per MoP directions.

10.11 **Techno Electric and Engineering Com. Ltd. (Techno)** commented that Redemption of RECs through Traders will be a discriminatory practice of treating unequal as equals.

10.12 **Greenko** submitted that REC exchange by way of bilateral sale may also be allowed in addition to through PX and Traders.

10.13 **Hindalco** commented that Certificates issued to self-consumption should be allowed to be redeemed for compliance of RPO for any other unit within the Country within the same legal entity.

10.14 **Pudumjee Paper** submitted that exchange of Certificate should also allow through bilaterally with or without trader.



10.15 **Vardhman Textile Ltd** submitted that the Clause 11(7) may be modified to give clarity that Certificates will be redeemed only upto self-consumption. Offset should be allowed for other units of the same Company covered under same PAN number or to 100% owned subsidiary of the Company. It was requested to clarify in the Regulations that RPO of captive obligated entity can be fulfilled either by consumption of captive RE power or by redemption of RECs issued against self-consumption of RE power from CGPs.

10.16 **UPSMCA** commented that flexibility in choosing options between PXs or Trader should be available with REC seller

10.17 **WIPPA** requested to amend the clause to allow sale of RECs without any intermediaries and purchase of RECs without redemption. Bilateral Transactions should be allowed. The details to be furnished shall be limited to volumes and type of buyer & seller. Trade price may be reported in case of direct transactions.

10.18 **IWPA-NRC** requested to continue with the existing mechanism of sale and purchase of REC through closed auctions conducted through CERC-approved Power Exchanges.

10.19 **IWPA** submitted that the present mechanism of trading through the exchange between the RE generator and the obligated entities can continue where there is no scope for intermediaries and gaming in prices.

10.20 **KSEB** commented that allowing REC transaction through traders at mutual price would affect competitive price discovery and Forbearance Price also be there.

10.21 **Tata Power** commented that Bilateral trade should be allowed. Need to have strong RPO Compliance. Mechanism for Bilateral Trade should be specified.

10.22 **BYPL** suggested to allow bilateral contract between DISCOM without trader.

10.23 **BRPL** commented that Trade between DISCOM should be allowed.

10.24 **PTC India** welcomed OTC trade of REC. Suggested to allow trader to take title of REC to sell it onward to OE akin to a bilateral trade.

10.25 **Manikaran Power Ltd** commented that surplus REC in excess of RPO should be allowed for sale.

10.26 **APPCL** commented that penal provision should be added to avoid placing same REC in both Power Exchanges & trader. Trading Margin should not be applicable.

10.27 **PRAYAS** commented that REC should be traded twice a month.



10.28 **STATKRAFT** commented that flexibility to eligible entity to maximize revenue from REC to transfer unsold REC between PX's & trader. So proviso about informing in advance may be re-considered to Central Agency. Trading Margin Cap should not be imposed.

10.29 **IWTMA** commented that ease the process of procuring RECs in a more cost effective and efficient manner, REC Trading should be allowed through OTC marketplace and more options should be provided to sellers/buyers to buy/sell RECs in the country.

10.30 **RENEW Power** requested to amend the clause to allow sale of RECs without any intermediaries and purchase of RECs without redemption. Periodicity may be stipulated by the Central Agency in the Detailed Procedure. The details to be furnished shall be limited to volumes and type of buyer & seller. Trade price may be reported particularly in case of direct transactions between RE seller and obligated/voluntary entities or during retirement/exhaustion.

### **Analysis and Decision**

10.31 The Commission has noted the suggestions of the stakeholders. The Commission has proposed that going forward RECs can be exchanged through traders in addition to the Power Exchange in view of the experience gained in REC transactions in the last one decade and believes that REC mechanism has matured enough to allow such additional mode of transactions through traders with required checks and balances in place. The principles specified in the Regulations and the detailed procedure to be issued by the Central Agency after due consultation with all stakeholders would further put in place the required checks and balances in the system to make sure that proper accounting and transparency is achieved in the process. As regards the suggestion on trading margin for REC transactions, the Commission believes that the same is not under the purview of these regulations. On the suggestions regarding allowing trade through DEEP portal, the Commission is of the view that the eligible entities have been given the flexibility to transact through traders. So long as this condition is met, they can choose to opt for any platform for REC transactions. The Commission does not consider it necessary to specify any particular platform for REC transactions.



10.32 As regards the suggestion of differentiating the REC transacted in Power Exchanges from those being transacted through traders, the Commission feels that there is no need to differentiate such REC transactions as denomination of RECs would be the same. Further, in order to ensure accountability and transparency, the detailed procedure to be issued by the Central Agency would further make adequate accounting procedure so that there is no double counting of Certificate. On the question of futures contracts for RECs the Commission is of the view that the same is beyond the scope of these Regulations. As regards the ownership of the titles for RECs being transacted through the traders, the Commission is of the view that this is a procedural issue and does not warrant any change in the Regulation. The Regulations provide that the Certificates once used for compliance of RPO shall stand redeemed and extinguished. As such, transfer of ownership of RECs shall be subject to this stipulation. The Central Agency shall make suitable provision in the detailed procedure to keep record of such transactions until the RECs are extinguished from the Registry.

10.33 As regards the suggestions of self-retention of REC for RPO compliance, the Commission is of the view that RPO compliance is in the domain of SERCs and as such would be treated as per the direction of the SERCs. As regards the issue of HPO and HEC, the Commission is of the view that with the introduction of multiplier, there is no need for separate REC for hydro or solar. As clarified, the Central Agency shall indicate origin of RE source while issuing the Certificates, which the obligated entities can use to meet source wise RPO, if so specified by the SERCs.

## **11. Denomination of Certificate**

### **Commission's Proposal**

11.1 In the Draft Regulations, Denomination of Certificates was proposed as below:

*“(1) Each Certificate issued under these regulations shall represent one Megawatt hour of electricity generated from renewable energy sources and injected or deemed to be injected (in case of self-consumption by eligible captive generating station based on renewable energy sources) into the grid:*



*Provided that Certificate Multiplier may be determined by the Commission as per clause (2) of this Regulation:*

*Provided further that Certificates shall be issued in multiple of the assigned CertificateMultiplier as per clause (2) of this Regulation for one Megawatt hour of electricity generated and injected or deemed to be injected into the grid.*

*(2) The Certificate Multiplier for the period of three years from the date of effect of these regulations or such other period as may be decided by the Commission, as determined in Appendix-1 shall be as under:*

| <b>Renewable Energy Technologies</b>                                      | <b>Certificate Multiplier</b> |
|---|-------------------------------|
| <i>On-shore Wind and Solar I</i>  | <i>1</i>                      |
| <i>Hydro</i>  | <i>1.5</i>                    |
| <i>Municipal Solid Waste (MSW) and non-fossil fuel-based cogeneration</i> | <i>2</i>                      |
| <i>Biomass and Biofuel</i>  | <i>2.5</i>                    |

*Provided that the Certificate Multiplier for other renewable energy technologies, not covered in the above table, shall be notified by the Commission on a case-to-case basis based on the principles stipulated in Appendix-1:*

*Provided further that the Commission may, from time to time, based on review of the maturity level and cost of various renewable energy technologies, revise the Certificate Multiplier.*

*(3) Applicable Certificate multiplier as per clause (2) of this Regulation shall be assigned to the renewable energy generating stations and captive generating stations based on renewable energy sources, commissioned after the date of effect of these regulations.*

*(4) The Certificate Multiplier once assigned to a renewable energy generating station, shall remain valid for a period of fifteen years from the date of commissioning of such renewable energy generating station or captive generating station based on renewable energy sources. ”*



## Comments Received

11.2 **KERC** suggested that Renewable certificate multiplier should be applicable to all the eligible entities as defined under 4(1) of the draft regulations for issuance of certificates

11.3 **KERC** sought clarification that whether Certificate multiplier of 1.5 as specified for 'Hydro' is applicable to both small hydro power plants and Large hydro power plants uniformly without any consideration towards the problems (R&R, delay in project due to environment clearances, etc.) associated with establishment of large hydro power plants and also specify mechanism for meeting HPO through HEC.

11.4 **MERC** suggested that multiplier table may be modified as follows:

|   | <b>Draft Regulations</b>      | <b>Proposed</b>               |
|---|-------------------------------|-------------------------------|
| <b>Renewable Energy Technologies</b>                              | <b>Certificate Multiplier</b> | <b>Certificate Multiplier</b> |
| On-shore Wind and Solar   | 1                             | 1                             |
| Hydro   | 1.5                           | 2                             |
| Municipal Solid Waste (MSW)and non-fossil fuel-based cogeneration | 2                             | 3                             |
| Biomass and Biofuel   | 2.5                           | 4                             |

11.5 **MERC** also suggested to add provision as follows:

*"Distribution Licensee procuring power from RE technologies eligible for certificate multiplier shall get RECs equivalent to the 'certificate multiplier - 1' for procuring electricity at generic tariff / project specific tariff/ competitive discovered tariff from such RE sources beside such energy shall be considered towards fulfilment of RPO of Distribution Licensee"*

11.6 As per the MERC, above provision will help promoting other high cost RE sources as it will compensate Distribution Licensee to some extent for high tariff of such RE technologies.

11.7 **POSOCO** suggested that Certificate Multiplier may lead to legal issue and hence may be deleted.



11.8 **APSLDC** commented that Wind projects with Tariff more than Rs 4/kWh (old projects) or RE projects commissioned before 2017 should get Certificate Multiplier of 2.

11.9 **IEX** commented that provision of dispense with solar non-solar is welcomed. However, it is suggested that the proposed regulations may be made effective when all SERCs align their RPO Regulations with the proposed REC Regulations otherwise the obligated entities would not be able to purchase technology agnostic RECs as proposed in the draft Regulations.

11.10 **Enrich Energy** commented that vintage multiplier may be introduced for old projects.

11.11 **REconnect** submitted that projects which are commissioned prior to this regulation should also be taken under the ambit of REC multiplier.

11.12 **NHPC** commented that Framework for HPO and HEC may be included in the Regulation as per the direction of the MoP. Certificates purchased by Discoms should be of 1,5 multiples.

11.13 **Greenko** submitted that Large Hydro should be specified separately in the table and should be assigned multiplier as ‘2’. RE with Storage should assign Multiplier as ‘3’. Vintage multiplier may also be provided to take care of old projects.

11.14 **OGPL** and **Continuum Energy** requested to provide multipliers to existing projects as well.

11.15 **Hygenco Pvt LTd.** requested to introduce certificate multiplier for computing REC's equivalent to green hydrogen production/consumption from RE resources and multiplier of 3 should be assigned to Green Hydrogen.

11.16 **Grasim Industry** commented that Multiplier should also be assigned to existing REC projects. Multiplier with floor price should be introduced.

11.17 **UPSMCA** commented that review period for Multiplier should be 5 and Biomass and biofuel cannot be segregated with non-fossil fuel-based co-generation. Benefit of Multiplier should also be available to existing projects.

11.18 **CPPA** commented that multiplier should also be applicable to existing REC projects. Multiplier should also be available for OA consumer. Multiplier for new technology should be added.



11.19 **WIPPA** commented that period of review should be shorter for fast changing technologies like ESS. Annexure-1: Alternative multiplier considering the cost of technologies (tariff), environmental attribute, end of life cost, system stability and the maturity of the corresponding technology has been proposed as Annexure. Solar and wind should be separated in multiplier. Vintage multiplier should be considered.

11.20 **IWPA-NRC** commented that Term ‘deemed to be injected’ need clarification. There should not be multiplier.

11.21 **IWPA** commented that the term self-consumption mentioned as “Deemed to be injected” means the power generated and consumed (behind the meter) from RE sources within the premises without availing OA. This may please be clarified. It was requested request to provide multipliers to existing projects as well. To support the arguments issues such as lowest CUF, Poor implementation of REC Mechanisms, Poor revenue realization, reduction of floor and forbearance price, reduction in wind power installation etc. were explained. It was commented that project tariff based on competitive bidding should not be considered for REC multiplier.

11.22 **InWEA** commented on Annexure-1: Alternative multiplier considering the cost of technologies (tariff), environmental attribute, end of life cost, system stability and the maturity of the corresponding technology has been proposed as Annexure. Solar and wind should be separated in multiplier. Vintage multiplier should be considered.

11.23 **GRIDCO** commented that Higher Multiplier for floating solar and SHP. Multiplier should be reduced every three years in graded way instead of 15 years.

11.24 **Tata Power** commented that RE+Storage should have multiplier. Purchase of an equivalent quantum of RECs can offset the conventional power being used for production of hydrogen. Off-setting for OA is missing for Group Companies. Co-generation should be allowed.

11.25 **BRPL** suggested for Multiplier for offshore wind, SHP.

11.26 **Torrent Power** suggested that Technology Efficiency & Adaptation should be considered for multiplier.

11.27 **SECI** commented that Multiplier table should be modified for BESS & offshore.

11.28 **PTC India** commented that Multiplier should be whole number rather than fractional like 1.5.



11.29 **STATKRAFT** commented that Multiplier to Hydro should be 2.5 & not 1.5. Allow multiplier for eligible Hydro commissioned between Regulation Reinstate Forbearance & Floor Price.

11.30 **CEEW** commented that Multiplier for BESS, Hybrid, Rooftop be specified. Multiplier should be applicable till redemption of REC.

11.31 **PRAYAS** commented that **Multiplier** is welcomed but exclusion of already commissioned project would need more stringent tracking. Easier way to promote new tech is VGF & not multiplier. Small & Big Hydro should not be clubbed.

11.32 **SHAKTI Foundation** commented that Multiplier should be slightly increased, include solar thermal; and sought clarity on HPO, Multiplier for LHP.

11.33 **IWTMA** commented that projects which are commissioned prior to this regulation should also be taken under the ambit of REC multiplier.

11.34 **RENEW Power** requested to include clause for reduction in multiplier determination period for fast changing technologies, to consider the additional factors while determining the multiplier factor, to consider solar and wind separately for RECs and multipliers, to consider a vintage multiplier for old projects commensurate to the REC floor price during the time of implementation for a duration of 15 years.

11.35 **WBSEDCL** commented that Multiplier should be reviewed yearly.

11.36 **MSEDCL** commented that a higher multiplier can be specified for Hydro, MSW and Biomass and Biofuel. The validity of the certificate multiplier assigned to Hydro projects should be longer than 15 years as useful life of Hydro projects is more than 30 years.

## **Analysis and Decision**

11.37 Many stakeholders appreciated the proposal of doing away with the categorisation of solar and non-solar RECs. However, some stakeholders suggested that the State Regulations should also be aligned with the new REC framework. Some suggested to allow Multiplier to Discoms or OA consumers. Some stakeholders raised concerns regarding legal issues associated with. Some stakeholders suggested that HPO and HEC should be included as per MoP Notification.



11.38 Some stakeholders suggested grandfathering of the existing projects by assigning Multiplier for such projects while some suggested additional technologies like Green Hydrogen, Solar Thermal, Stand-alone ESS, Hybrid, Off-shore Wind, Solar Rooftop should also be assigned Multiplier. Some suggested alternative approaches considering the cost of technology (tariff), environmental attribute, end of life cost, system stability and the maturity of the corresponding technology. Some suggested separating out a few technologies which are clubbed in the Multiplier like Wind and Solar, MSW and Cogeneration, Biomass and Biofuel etc. Some suggested review period should be one year while some suggested it should be more than 3 years. Some suggested the Multiplier should be graded and reduced after every 3 years instead of constant for 15 years.

11.39 The Commission has carefully considered the comments received in the context of multiplier. The Commission would like to clarify that the multiplier would be applicable to the eligible RE generating station and captive generating station commissioned after the date of coming into force of these regulations.

11.40 As regards the legal concerns raised by the POSOCO on introducing the multiplier, the Commission is of the view that it does not suffer any legal infirmity. The objective of introducing multiplier is to ensure that REC market is not fragmented while making sure at the same time that all technologies are equitably compensated. The Commission had introduced the concept of multiplier in the past well for solar projects.

11.41 As explained in the explanatory memorandum, over the period costs of wind and solar projects have reduced significantly and stakeholders have argued that a separate carve out for solar and the present provision of putting together all other RE resources as non - solar, need a revisit. The Commission has continued with the existing provision of denomination of Certificates, that is, one Certificate representing one MWh of energy generated and injected or deemed to have been injected into the grid, but with a special provision of Certificate multiplier keeping in view the cost of various RE technologies. Further, the Certificates issued to the eligible entity would also represent the origin of source for such Certificates which then would be appropriately accounted by



complimentary mechanism at the State level to ensure that the compliance of RPO as per SERC Regulations.

11.42 As regards the multiplier for new RE technologies like Green Hydrogen, Solar Thermal, Stand-alone ESS, Hybrid, Off-shore Wind etc. the Commission is of the view that sufficient data is not available to fix multiplier for these technologies and hence would be dealt on case-to-case basis.

11.43 The Commission would like to clarify that the hydro technology specified in the Regulations include the small hydro projects, as also the large hydro projects commissioned after 08.03.2019 as per the MoP notification.

11.44 As regards the other suggestions on different timelines for the multiplier the Commission believes that the proposed provision of specifying the multiplier for three years is adequate for desired certainty. Further, to bring more regulatory certainty the Commission has modified the provision such that the multiplier once assigned to a technology would remain valid for a period of fifteen-five years from the date of commissioning of such project.

## **12. Pricing of Certificates**

### **Commission's Proposal**

12.1 In the Draft Regulations, Pricing of Certificates was proposed as below:

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

*Provided that the Power Exchange(s) and the electricity traders shall report all transactions with details including but not limited to volume, price, buyers and sellers to the Central Agency on a monthly basis.*

*(2) The Commission, on being satisfied that any of the following circumstances exist or is likely to occur, may by an order give such directions as may be considered necessary:*

*(a) Abnormal increase or decrease in prices of Certificates;*



- (b) Sudden volatility in the prices of Certificates;
- (c) Sudden high or low transaction volumes of Certificates on a Power Exchange.”

### Comments Received

12.2 **POSOCO** welcomed the proposal for removal of floor and forbearance price of REC(s). According to POSOCO it is a fact that any ceiling in the form of floor price or forbearance price distorts the market, and as a result discovery of true price is not achieved. In the absence of externalities, both the price floor and ceiling cause deadweight loss since they change the market quantity from what would occur in equilibrium. This is accompanied by a transfer of surplus from one player to another.

12.3 **GRIDCO** commented that removal of Floor Price will create competition in the Market, which will be beneficial for the Buyers in terms of lower price and for the Sellers also as the REC Market will be revived.

12.4 **PTC India** in its comment stated that the removal of floor and forbearance prices and letting prices to be discovered either on the power exchanges or as mutually agreed between eligible entities and the electricity traders is a significant modification. This is a significant enablement of market forces of supply and demand with some oversight by the regulator on managing any extraordinary volatility in the market prices if it emerges.

12.5 **Ministry of Power** in its comment stated that floor and forbearance price are not required to be specified. As RECs are perpetually valid then the floor and forbearance prices are not required to be specified as RECs holders would have the complete freedom to decide the timings to sell.

12.6 **Mytrah Energy Pvt Ltd** requested the Commission to determine the floor price of REC to protect the RE projects and make them financially viable.

12.7 **Techno Electric and Engineering Com. Ltd. (Techno)** commented that 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. Minimum support price for REC should be there. It was suggested that the RPO obligation be changed to quarterly over annual and additionally, the compliance must be overviewed/reaffirmed by any independent agency like IREDA, POSOCO, SECI or MNRE appointed independent auditors at the State level.



12.8 **Pudumjee Paper** submitted that the price of Certificates should be as mutually agreed between the buyer and the seller and accordingly the clauses may be modified by deleting trader.

12.9 **U.P. Sugar Mills Cogen Association** suggested to define methodology /rules for determination of floor price and forbearance price separately.RPO to be adopted by all States as per MoP Guidelines / Trajectory.Provision for Floor and Forbearance Price should be retained.

12.10 **ISMA** commented that Floor Price of REC should be fixed at Rs 1000/REC.

12.11 **CPPA, IWPA-NRC, GRIDCO, BYPL BRPL, Torrent Power** commented that Floor and Forbearance Price should be retained.

12.12 **KSEB** commented that trading in Exchange will affect competitive price discovery and suggested that forbearance price should also be there.

12.13 **PTC India** commented that Forbearance & Floor Price removal is welcome.

12.14 **IWPA** submitted that floor price is needed to provide revenue certainty and to keep the projects viable through its life time. OGPL submitted that the floor and forbearance price should continue to be in place for RECs for the life of the project and in the event of any reduction in floor price, a multiplier in respect of projects commissioned prior to the date of the reduction in floor prices came into effect, representing the difference in floor price prevailed on the date of commissioning and the revised floor prices prevailing from time to time be determined and RECs issued accordingly.

12.15 **NVVN** commented that Trader should be allowed to discover its rate through tendering process. Allow REC for end use to offset for selling DSM penalties. Provide HPO & HCC.

12.16 **PRAYAS** requested to provide clarity on ownership of REC, taxation of GST, trader allowed to hold REC? will it be tagged differently. Order for intervention in REC price should be reviewed & after consultation.

12.17 **SHAKTI Foundation** commented that REC should be only traded on PX's.

12.18 **MSEDCL** commented that the price of REC shall be determined only through market discovery and not by mutual agreement.

## **Analysis and Decision**



12.19 The Commission has analysed the comments and observations submitted by the Stakeholders. Some stakeholders have welcomed the removal of floor and forbearance price while some stakeholders have requested to retain floor and forbearance price as this will ensure minimum level of support/price to the generators for their RECs. Some stakeholders have submitted that the Regulations may only be enforced on the projects registered post notification of this regulation. The projects previously registered under this mechanism, may be allowed to continue trade of RECs as per the previous norms. Some stakeholders have suggested that the price should be discovered in DEEP Portal through transparent process. Some suggested that REC should be tagged differently. Some stakeholders emphasised on strong monitoring and surveillance to ensure transparency and avoid any malpractices. Any intervention by the Commission should be reasoned and after due consultation with all stakeholders.

12.20 The Commission would like to reiterate that the rationale for removal of floor and forbearance price was already explained in the explanatory memorandum to the Draft Regulations. The relevant extract from the explanatory memorandum is quoted below for ready reference:

*11.1 ..... In view of the fact that RE market has adequately matured and prices of renewable technologies, especially wind and solar have reduced drastically, the Commission reviewed the need for floor and forbearance price for the REC market. The Commission from time to time had also directed the staff to review the need of floor and forbearance price in view of the fact that REC market has been in operation for more than ten years now. The Regulatory Impact Assessment study conducted by the Commission also recommended that it is imperative to do away with floor and forbearance price of REC. The communication received from the Ministry of Power also recommended removal of floor and forbearance price. Accordingly, the Commission has decided to do away with the requirement of determining floor and forbearance price for REC. The price of REC would be discovered based on the demand and supply situation in the REC market with complete freedom to buyers and sellers. The Commission believes that this will help realize true market value of REC.*



12.21 The Commission had undertaken regulatory impact assessment of REC mechanism. The relevant extract from the report is as under:

*“ 6.1 Removal of Floor and Forbearance prices: while RECs are being bought by all types of consumers, discoms remain the largest stakeholders. The success of the REC mechanism lies greatly on the participation of discoms in the scheme. Discussions with discoms and generators have indicated that there is a lack of motivation for discoms which are under financial distress to purchase RECs.*

*RECs were an additional source of revenue for projects which could not meet their revenue requirements just by sale of RE power. Accordingly, RECs were sold at high rates in the initial years of the mechanism. However, with the falling prices of RE power over the years, the floor and forbearance prices have been reduced significantly. Given the fall in the RE prices to levels similar to conventional tariff, the floor price of RECs becomes questionable. Most of the obligated entities are wanting to buy RECs at lower than the current floor price.*

*While the floor and forbearance prices have been reduced, removal of these would help in realising the true market value of RECs. RE technologies don't need price support now. It has been learnt from some discoms that SERCs often are averse to allowing the pass through of REC prices above the floor price. Notwithstanding the resistance of most eligible entities, removal of floor and forbearance price may be treated as an imperative.”*

12.22 The Commission also accepts the argument of POSOCO that any ceiling in the form of floor price or forbearance price distorts the market, and as a result discovery of true price is not achieved. That both the floor and ceiling prices cause deadweight loss since they change the market quantity from what would occur in equilibrium, eventually resulting in a transfer of surplus from one player to another. The Commission reiterates that the REC market now has matured enough and there is no need for floor and forbearance price. In any case, the Commission has the powers to intervene in the event of price volatility.

12.23 As regards the suggestion for applicability of the provision regarding pricing of Certificates only to the new projects and not to the existing REC projects, the Commission would like to clarify that most of the Regulations issued by the Commission are applicable on the existing projects. For example, Tariff Regulations have control period of five years



where after tariff regulations are revised as in 2009-14 to 2014-19 to 2019-24 period. Investors are well aware that the Regulations are subject to revision and take their business decisions accordingly. Therefore, the question of retrospectivity is not relevant. There is, at the same time no vested right of promissory estoppel in favor of the investors in having floor and forbearance price. The Commission has to do a balancing act considering the views of the stakeholders from both the sides. Further, the Commission is of the view that principle of promissory estoppel does not apply against the legislative action and the same cannot override the provisions of a statute or law, where a statute imposes a duty by positive action.

12.24 As regards monitoring and surveillance mechanism, the Commission would like to reiterate that the detailed procedure to be issued by the Central Agency would develop an appropriate mechanism in this regard to ensure the required checks and balances.

### **13. Validity of Certificates**

#### **Commission's Proposal**

13.1 In the Draft Regulations, Validity of Certificates was proposed in Regulation 14 as below:

*“(1) The Certificates issued shall remain valid until they are redeemed:*

*Provided that where an eligible entity has obtained accreditation or registration on the basis of false information or by suppressing material information and the accreditation for Certificates or registration for Certificates of such entity is revoked at a later date, the Certificates already issued to such entity, but not redeemed, shall stand extinguished from the date of issue of such Certificates and in respect of Certificates already redeemed, such entity shall deposit to the Central Agency, the amount realized from sale of such Certificates along with the interest at the rate of two hundred (200) basis points above the State Bank of India Marginal Cost of Funds based Lending Rate (MCLR) of one year tenor.”*

#### **Comments Received**

13.2 **Ministry of Power** suggested that an effective mechanism for monitoring and surveillance be provided in the Regulations to avoid hoarding of RECs.



13.3 **POSOCO** welcomed the proposal of removal of the REC Validity period.

13.4 **KERC** submitted that Infinite validity of certificates until redemption, may result in hoarding of REC certificates. The 5-year validity period may be retained.

13.5 **PXIL** submitted that the validity of Certificates needs to be segregated based on their ownership i.e. validity of Certificates issued to the eligible entity and to the trading licensee should be different. Further, the Certificates issued to the eligible entities should remain valid till they are redeemed and the ‘Transferable Certificate’ possessed by the trading licensee should remain valid for a period of one (1) year from the date of transfer.

13.6 **REConnect** submitted that the limited validity acts as safeguard against hoarding. Removal of validity should be done in conjunction with keeping another safeguard in place like forbearance price. Floor price should be retained.

13.7 **OGPL and IWPA** commented that the State regulators need to ensure that perpetual validity of REC is not used as a tool or reason for rollover of the shortfall in the compliance of Renewable Purchase Obligation (RPO) in the event of non-availability of physical renewable energy during a financial year.

13.8 **GRIDCO, BYPL** submitted that validity of REC should be 5 or 3 years and not perpetual.

13.9 **BYPL** requested for continuation of the existing provision of Accreditation, Registration & Issuance for DISCOM. It was also suggested that SERC regulations may need to be aligned with new REC Regulations to remove categorization of REC.

13.10 **PTC India** sought clarification whether penal interest is annualized.

13.11 **MSEDCL** submitted that the entities that have obtained accreditation or registration on the basis of false information or by suppressing material information and the accreditation for Certificates should be not only penalized for such practices but also be debarred from trading of REC's in the future. DISCOM being a licensee should not be charged any fees for accreditation, registration of issuance of Certificates.

## **Analysis and Decision**

13.12 The proposal of extending the validity of REC till it is redeemed has been welcomed by many stakeholders. However, some stakeholders suggested to provide a mechanism to



avoid hoarding. Some stakeholders sought clarification about the interest rate applicable for penal provision.

13.13 The Commission would like to clarify that the Regulations do have provisions for the Commission to intervene in case of market distortion and price volatility. Further, the detailed procedure to be framed by the Nodal Agency shall provide appropriate mechanism of monitoring and surveillance to ensure probity of REC market. In view of the above, the provision as proposed does not warrant any change.

## **14. Fees and Charges**

### **Commission's Proposal**

14.1 The draft Regulations on Fees and Charges was proposed in Regulation 15 as below:

*“The Commission may, based on the proposal from the Central Agency, determine the fees and charges payable by the eligible entities for accreditation, registration, issuance of Certificates and other matters connected therewith.”*

### **Comments Received**

14.2 **Manikaran Power Ltd** and **NVVN** commented that the Fees and Charges should be reviewed and reduced.

### **Analysis and Decision**

14.3 The Commission would like to state that in view of the significant changes in the REC mechanism, the fees and charges would be revisited for which the Central Agency is expected to submit a separate proposal for consideration of the Commission.

## **15. Detailed Procedure**

### **Commission's Proposal**

15.1 In the Draft Regulations, Detailed Procedure was proposed in Regulation 16 as below:

*“(1) The Central Agency shall issue the Detailed Procedure after stakeholders' consultation*



*within a period of 3 months of notification of these regulations and submit the same for information to the Commission.*

- (2) The Detailed Procedure shall contain procedures including, but not limited to:*
- (a) Procedure for Accreditation for Certificate as referred in clause (2) of Regulation 6 of these regulations;*
  - (b) Procedure for Registration for Certificate as referred to in clause (1) of Regulation 8 of these regulations;*
  - (c) Procedure for Issuance for Certificate as referred to in clause (1) of Regulation 10 of these regulations;*
  - (d) Periodicity for exchange of Certificate through power exchange or through electricity traders as referred to in clause (2) of Regulation 11 of these regulations;*
  - (e) other related and incidental matters.”*

## **Comments Received**

15.2 **PXIL** commented that the Detailed Procedure may include provision for Transferable Certificate and Standard Certificate.

15.3 **UPSMCA** commented that the Central Agency Portal is difficult to access and it should include complaint registration and resolution mechanism.

## **Analysis and Decision**

15.4 The Detailed Procedure to be issued by the Central Agency would be based on the stakeholder's consultation and would address the required remedial, procedural and operational aspects for effective and smooth implementation of REC Mechanism. The Commission is of the view that the provision specified in the Regulation is adequate and warrants no further change.

## **16. Repeal & Savings**

### **Commission's Proposal:**

16.1 On Repeal and Savings the Commission proposed in Regulation 19 of the draft Regulations as follows:

*“(1) Save as otherwise provided in these regulations, the REC Regulations, 2010 and all*



*subsequent amendments and Procedures thereof shall stand repealed from the date of effect 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.*

*(b) any order or direction issued or approval granted, or any appointment made in pursuance of the repealed regulations shall, if in force at the commencement of these regulations, continue to be in force, and shall have effect as if made, directed or issued under or in pursuance of these regulations, unless otherwise specifically required under these regulations.”*

### **Comments Received**

16.2 **IWPA** commented that a clause may be added to provide protection to the projects already registered to remain eligible for availing and trading in REC as per the provisions of 2010 Regulations and the eligibility of those projects should not be affected by the new Regulations. This clause may specifically provide for this exception.

### **Analysis & Decision**

16.3 The Commission would like to clarify that the Certificates issued prior to these regulations have been saved. However, on these new regulations coming into force, all Certificates irrespective of their date of issuance would be traded as per these new regulations. By these regulations any substantive rights of the stakeholders are not getting infringed. The Regulations are subject to periodic change and the investors are expected to factor in these realities before making any investment. The new REC Regulations adequately take care of the interests of the buyers and the sellers.

16.4 The Commission has introduced additional provision to protect the REC issued before 01.04.2017 as per the direction of the hon’ble Supreme Court has been added in the final Regulations as follows:



*"(b) the Certificates issued under the REC Regulations, 2010 (except the Non-Solar Certificates issued prior to 1.4.2017) and not redeemed prior to the date of coming into force of these regulations shall remain valid until they are redeemed and shall be eligible for exchange as per these regulations;*  
*(c) the exchange of the Non-Solar Certificates issued prior to 1.4.2017 shall continue to be governed by the Commission's letter dated 28.5.2018 read with corrigendum dated 4.6.2018 in Petition No.14/SM/2017 till they are redeemed as per their validity under the REC Regulations 2010, subject to any further directions of the Hon'ble Supreme Court in Civil Appeal No.4801 of 2018."*

|                            |                             |                            |                              |
|----------------------------|-----------------------------|----------------------------|------------------------------|
| Sd/-<br><b>(P.K.Singh)</b> | Sd/-<br><b>(Arun Goyal)</b> | Sd/-<br><b>(I. S. Jha)</b> | Sd/-<br><b>(P.K. Pujari)</b> |
| <b>Member</b>              | <b>Member</b>               | <b>Member</b>              | <b>Chairperson</b>           |



**Annexure I – List of Stakeholders who submitted the written comments/suggestions/objections**

- 1) Ministry of Power
- 2) Govt. of Himachal Pradesh
- 3) Karnataka Electricity Regulatory Commission (KERC)
- 4) Himachal Pradesh Electricity Regulatory Commission (HPERC)
- 5) Maharashtra Electricity Regulatory Commission (MERC)
- 6) Power System Operation Corporation Limited (POSOCO)
- 7) Andhra Pradesh State Load Despatch Centre (APSLDC)
- 8) Telangana State Load Despatch Centre (TSSLDC)
- 9) Indian Energy Exchange (IEX)
- 10) Power Exchange India Limited (PXIL)
- 11) Ayana Renewable Pvt Ltd
- 12) Enrich Energy Pvt. Ltd.
- 13) Adani Green Energy Ltd.
- 14) Bajaj Finserv Ltd.
- 15) Mytrah Energy Pvt. Ltd.
- 16) Techno Electric & Engg Pvt Ltd.
- 17) RE Connect Energy Solution
- 18) NHPC Ltd
- 19) Greenko Energy Pvt Ltd (Greenko)
- 20) Orient Green Power Company Ltd. (OGPL)
- 21) Coninuum Energy Pvt Ltd.
- 22) Sembcorp Energy India Ltd (Sembcorp)
- 23) Azure Power Pvt Ltd
- 24) Hygenco India Pvt. Ltd.
- 25) SJVN LTD.
- 26) Shell Energy India Pvt. Ltd.
- 27) Bengal Energy Ltd.
- 28) DCM-Shriram Industries Ltd.



- 29) JSW Energy Ltd.
- 30) Hindalco Industry Ltd.
- 31) Pudumjee Paper Products Ltd.
- 32) Shree Bajrang Power and Ispat Ltd. (SBPIL)
- 33) Vardhman Textiles Ltd.
- 34) BALCO (Vedanta)
- 35) Godawari Power and Ispat Ltd.
- 36) Grasim Industries Ltd.
- 37) InWEA
- 38) IWPA
- 39) IWPA- NRC
- 40) WIPPA
- 41) FICCI
- 42) Captive Power Producers Association (CPPA)
- 43) The South Indian Sugar Mills Association (SISMA)
- 44) Indian Sugar Mills Association (ISMA)
- 45) U.P. Sugar Mills Cogen Association
- 46) ASSOCHAM
- 47) WBSEDCL
- 48) CESC Ltd.
- 49) GRIDCO
- 50) KSEB
- 51) Tata Power
- 52) BYPL
- 53) BRPL
- 54) Torrent Power Ltd (TPL)
- 55) Solar Energy Corp of India (SECI)
- 56) Kreate Energy Pvt. Ltd.
- 57) PTC India
- 58) Manikaran Power Ltd (50 Hz)
- 59) Arunachal Pradesh Power Corp.Pvt. Ltd.
- 60) Saini power Transactor



- 61) Statkraft
- 62) NNVN
- 63) Council on Energy, Environment and Water (CEEW)
- 64) Forum of Scientist, Engineer & Technologist (FOSET)
- 65) Prayas Energy Group
- 66) Shakti Foundation (SSEF)
- 67) MSEDCL (MahaVitaran)
- 68) Power Company of Karnataka Ltd. (PCKL)
- 69) Sponge Iron Manufacturers Association (SIMA)
- 70) Pellet Manufacturers Association (PMAI)
- 71) IWTMA
- 72) Renew Power Pvt Ltd.



**Annexure II – List of Stakeholders who presented their comments/suggestions/objections during Public Hearing**

- 1) Techno Electric and Engg Co.
- 2) GRIDCO Ltd.
- 3) PTC India Ltd.
- 4) ReNew Power Pvt Ltd.
- 5) Hygenco India Pvt Ltd.
- 6) Greenko Energy Pvt Ltd.
- 7) Indian Energy Exchange Ltd (IEX)
- 8) Power Exchange India Ltd (PXIL)
- 9) Reconnect Energy Solution
- 10) Orient Green Power Company
- 11) CER, IIT Kanpur
- 12) NHPC
- 13) UP Sugar Mill Association.
- 14) Shri Shravan Kumar Goyal

