

CENTRAL ELECTRICITY REGULATORY COMMISSION

NOTIFICATION

New Delhi, Dated: 14th January, 2010

No. L-1/12/2010-CERC - In exercise of powers conferred under sub-section (1) of Section 178 and Section 66 read with clause (y) of sub-section (2) of Section 178 of the Electricity Act, 2003 and all other powers enabling it in this behalf, and after previous publication, the Central Electricity Regulatory Commission hereby makes the following regulations for the development of market in power from Non Conventional Energy Sources by issuance of transferable and saleable credit certificates:

1. Short title, commencement and extent of application

- (1) These regulations may be called the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010.
- (2) These regulations shall come into force from the date of their notification in the Official Gazette.
- (3) These Regulations shall apply throughout India except the State of Jammu and Kashmir.

2. Definitions and Interpretation:

- (1) In these regulations, unless the context otherwise requires,
 - a) '**Act**' means the Electricity Act, 2003 (36 of 2003);
 - b) '**Central Agency**' means the agency as may be designated by the Commission under clause (1) of regulation 3;
 - c) '**Certificate**' means the renewable energy certificate issued by the Central Agency in accordance with the procedures laid down by it and under the provisions specified in these regulations;

- d) **'Commission'** means the Central Electricity Regulatory Commission referred to in sub-section (1) of section 76 of the Act;
- e) **'eligible entity'** means the entity eligible to receive the certificates under these regulations;
- f) **'floor price'** means the minimum price as determined by the Commission in accordance with these regulations at and above which the certificate can be dealt in the power exchange;
- g) **'forbearance price'** means the ceiling price as determined by the Commission in accordance with these regulations within which only the certificates can be dealt in the power exchange;
- h) **'MNRE'** means the Ministry of New and Renewable Energy;
- i) **'obligated entity'** means the entity mandated under clause (e) of sub-section (1) of section 86 of the Act to fulfill the renewable purchase obligation;
- j) **'Power Exchange'** means that power exchange which operates with the approval of the Commission;
- k) **'preferential tariff'** means the tariff fixed by the Appropriate Commission for sale of energy, from a generating station using renewable energy sources, to a distribution licensee;
- l) **'renewable energy sources'** means renewable sources such as small hydro, wind, solar including its integration with combined cycle, biomass, bio fuel cogeneration, urban or municipal waste and such other sources as recognized or approved by MNRE ;
- m) **'renewable purchase obligation'** means the requirement specified by the State Commissions under clause (e) of sub-section (1) of section 86 of the Act, for the obligated entity to purchase electricity from renewable energy sources;
- n) **'State Agency'** means the agency in the concerned state as may be designated by the State Commission to act as the agency for accreditation and recommending the renewable energy projects for registration and to undertake such functions as may be specified under clause (e) of sub-section (1) of section 86 of the Act;
- o) **'State Commission'** means the State Commission referred to in sub-section (64) of section 2 of the Act and includes a Joint Commission referred to in sub-section (1) of Section 83 of the Act;
- p) **'Year'** means a financial year.

- (2) Words and expressions used in these Regulations and not defined herein but defined in the Act or any other regulations issued by the Commission, shall have the same meaning assigned to them respectively in the Act, or such other regulations issued by the Commission.

3. Central Agency and its functions:

- (1) The Commission shall designate an agency as the Central Agency after satisfying itself that the said agency has the required capability of performing its functions as provided under these regulations.
- (2) The functions of the Central Agency will be to undertake:
- (i) registration of eligible entities,
 - (ii) issuance of certificates,
 - (iii) maintaining and settling accounts in respect of certificates,
 - (iv) repository of transactions in certificates, and
 - (v) such other functions incidental to the implementation of renewable energy certificate mechanism as may be assigned by the Commission from time to time.
- (3) Subject to provisions of these regulations, the Central Agency, with approval of the Commission and after inviting comments from the State Agency shall issue a detailed procedure for registration of eligible entities , verification of generation of electricity and its injection into the grid by the eligible entity, issuance of certificates and other relevant and residual matters:

Provided that the detailed procedure shall be prepared by the Central Agency and submitted to the Commission for approval within sixty days from the date of notification of these regulations:

Provided further that while preparing the detailed procedure the Central Agency shall give three weeks time to the State Agency and other stakeholders for comments:

Provided also that the Commission may at any time either on its own motion or on an application or representation made by any interested party direct the Central Agency to modify, add or delete any of the provisions of the detailed procedure as deemed appropriate and upon such directions by the Commission the detailed procedure shall be implemented with such modifications.

- (4) The Commission may issue directions to the Central Agency in regard to the discharge of its functions and the Central Agency shall always act in accordance with the directions issued by the Commission.

4. Categories of Certificates:

- (1) There shall be two categories of certificates, viz., solar certificates issued to eligible entities for generation of electricity based on solar as renewable energy source, and non-solar certificates issued to eligible entities for generation of electricity based on renewable energy sources other than solar:
- (2) The solar certificate shall be sold to the obligated entities to enable them to meet their renewable purchase obligation for solar, and non-solar certificate shall be sold to the obligated entities to enable them to meet their obligation for purchase from renewable energy sources other than solar.

5. Eligibility and Registration for Certificates:

- (1) A generating company engaged in generation of electricity from renewable energy sources shall be eligible to apply for registration for issuance of and dealing in Certificates if it fulfills the following conditions:

- a. it has obtained accreditation from the State Agency;

["(b) it does not have any power purchase agreement for the capacity related to such generation to sell electricity, with the obligated entity for the purpose of meeting its renewable purchase obligation, at a tariff determined under section 62 or adopted under section 63 of the Act by the Appropriate Commission:

Provided that in case of renewable energy sources based co-generation plants, the connected load capacity as assessed or sanctioned by the concerned distribution licensee, shall be considered as the capacity for captive consumption for the purpose of issue of certificates, irrespective of the capacity of such plants covered under the power purchase agreement."]¹

- c. it sells the electricity generated either (i) to the distribution licensee of the area in which the eligible entity is located, at a price not exceeding the pooled cost of power purchase of such distribution licensee, or (ii) to any other licensee or to an open access consumer at a mutually agreed price, or through power exchange at market determined price.

Explanation.- for the purpose of these regulations 'Pooled Cost of Purchase' means the weighted average pooled price at which the distribution licensee has purchased the electricity including cost of self generation, if any, in the previous year from all the energy suppliers long-term and short-term, but excluding those based on renewable energy sources, as the case may be.

¹ Substituted vide Second Amendment Regulations 2013 w.e.f 11.7.2013

[“Provided that such a generating company having entered into a power purchase agreement for sale of electricity, with the obligated entity for the purpose of meeting its renewable purchase obligation, at a tariff determined under section 62 or adopted under section 63 of the Act by the Appropriate Commission shall not, in case of pre-mature termination of the agreement, be eligible for participating in the Renewable Energy Certificate (REC) scheme for a period of three years from the date of termination of such agreement or till the scheduled date of expiry of power purchase agreement whichever is earlier ,if any order or ruling is found to have been passed by an Appropriate Commission or a competent court against the generating company for material breach of the terms and conditions of the said power purchase agreement:

Provided further that a Captive Generating Plant (CGP) based on renewable energy sources shall be eligible for the entire energy generated from such plant for self consumption for participating in the REC scheme subject to the condition that such CGP has not availed or does not propose to avail any benefit in the form of concessional/promotional transmission or wheeling charges and/or banking facility benefit:

Provided also that if such a CGP forgoes on its own, the benefits of concessional transmission or wheeling charges and/or banking facility benefit, it shall become eligible for participating in the REC scheme only after a period of three years has elapsed from the date of forgoing such benefits:

Provided also that the above mentioned condition for CGP for participating in the REC scheme shall not apply if the benefits given to such CGP in the form of concessional transmission or wheeling charges and/or banking facility benefit are withdrawn by the concerned State Electricity Regulatory Commission and/or the State Government:

Provided also that any renewable energy generating plant not fulfilling the conditions of CGP as prescribed in the Electricity Rules, 2005 and availing the concessional benefits in the form of transmission or wheeling charges and/or the banking facility benefit shall be required to forego such benefits for the purpose of availing renewable energy certificate for self-consumption of energy generated:

Provided also that if any dispute arises as to whether a CGP or any other renewable energy generator has availed such concessional/promotional benefits, the same shall be referred to the Appropriate Commission for decision.

Explanation:- For the purpose of this Regulation, the expression ‘banking facility benefit’ shall mean only such banking facility whereby the CGP or any other renewable energy generator gets the benefit of utilizing the

banked energy at any time (including peak hours) even when it has injected into grid during off-peak hours."²

["(d) It does not sell electricity generated from the plant, either directly or through trader, to an obligated entity for compliance of the renewable purchase obligation by such entity."³

- (2) The generating company after fulfilling the eligibility criteria as provided in clause (1) of this regulation may apply for registration with the Central Agency in such manner as may be provided in the detailed procedure:
- (3) The Central Agency shall accord registration to such applicant within fifteen days from the date of application for such registration.

Provided that an applicant shall be given a reasonable opportunity of being heard before his application is rejected with reasons to be recorded in writing.

- (4) A person aggrieved by the order of the Central Agency under proviso to clause (3) of this regulation may appeal before the Commission within fifteen days from the date of such order, and the Commission may pass order, as deemed appropriate on such appeal.

6. Revocation of Registration

- (1) If the Central Agency, after making an enquiry or based on the report of the Compliance Auditors, is satisfied that public interests so require, it may revoke registration of the eligible entity in any of the following cases, namely :-
 - (a) where the eligible entity, in the opinion of the Central Agency, makes willful and prolonged default in doing anything required of him by or under these regulations;
 - (b) where the eligible entity breaks any of the terms and conditions of its accreditation or registration, the breach of which is expressly declared by such accreditation or registration to render it liable to revocation;
 - (c) where the eligible entity fails within the period required in this behalf by the Central Agency – (i) to show, to the satisfaction of the Central Agency, that it is in a position fully and efficiently to discharge the duties and obligations imposed on it by its accreditation or registration; or (ii) to make the deposit or furnish the security, or pay the fees or other charges required by its accreditation or registration.

² Initially added vide Regulation 2 of Amendment Regulations, 2010, w.e.f. 1.10.2010 and later substituted vide second amendment regulations 2013 w.e.f. 11.07.2013

³ Added vide second amendment regulations 2013 w.e.f 11.07.2013

- (2) The Central Agency before revoking the registration under Clause (1) of this regulation shall give to the eligible entity reasonable opportunity for being heard.
- (3) Notwithstanding the provisions of sub-regulations (2) and (3) above, the Commission may from time to time direct the Central Agency to initiate enquiry and/or revocation process if the Commission deems it fit where any or all of the conditions as at clauses (a) to (c) of sub-regulation (1) exist.
- (4) A person aggrieved by the order of the Central Agency under proviso to clause (1) of this regulation may appeal before the Commission within fifteen days of such order being communicated, and the Commission may pass order, as deemed appropriate on such appeal.

7. Denomination and issuance of Certificates

- (1) ["The eligible entity shall apply to the Central Agency for certificates within six months from the corresponding generation from eligible renewable energy projects:

Provided that the application for issuance of certificates may be made on 10th, 20th and last day of the month."]⁴

- (2) The Certificates shall be issued to the eligible entity after the Central Agency duly satisfies itself that all the conditions for issuance of Certificate, as may be stipulated in the detailed procedure, are complied with by the eligible entity:
- (3) The Certificates shall be issued by the Central Agency within fifteen days from the date of application by the eligible entities.
- (4) The Certificates shall be issued to the eligible entity on the basis of the units of electricity generated from renewable energy sources and injected into the Grid [or deemed to be injected in case of self consumption by eligible [captive generating plant]⁵]⁶ and duly accounted in the Energy Accounting System as per the Indian Electricity Grid Code or the State Grid Code as the case may be, and the directions of the authorities constituted under the Act to oversee scheduling and dispatch and energy accounting, or based on written communication of distribution licensee to the concerned State Load Dispatch Centre with regard to the energy input by renewable energy generators which are not covered under the existing scheduling and dispatch procedures.

⁴ Substituted vide second amendment regulations 2013 w.e.f 11.07.2013

⁵ Substituted vide second amendment regulations 2013 w.e.f 11.07.2013

⁶ Added vide Regulation 3(i) of Amendment Regulations, 2010, w.e.f.1.10.2010.

(5) The process of certifying the energy injection shall be as stipulated in the detailed procedures to be issued by the Central agency.

["(6) Each Certificate issued shall represent one Megawatt hour of electricity generated from renewable energy source and injected or deemed to be injected (in case of self consumption by eligible [captive generating plant]⁷ into the grid."⁸]

8. Dealing in the certificates

(1) [Unless otherwise specifically permitted by the Commission by order, the certificate shall be dealt only through the power exchange and not in any other manner except as provided in clause (3) of this regulation."⁹]

(2) The Certificate issued to eligible entity by the Central Agency may be placed for dealing in any of the Power Exchanges as the Certificate holder may consider appropriate, and such Certificate shall be available for dealing in accordance with the rules and byelaws of such Power Exchange:

Provided that the Power Exchanges shall obtain prior approval of the Commission on the rules and byelaws including the mechanism for discovery of price of the Certificates in the Power Exchange.

⁷ Substituted vide second amendment regulations 2013 w.e.f 11.07.2013

⁸ Substituted vide Regulation 3(ii) of Amendment Regulations, 2010, w.e.f.1.10.2010.

⁹ Substituted vide second amendment regulations 2013 w.e.f 11.07.2013

["(3) A renewable energy generator including captive generating plant shall be permitted to retain the certificates for offsetting its renewable purchase obligation as a consumer subject to certification and verification by the concerned State Agency:

Provided that the renewable energy generator including captive generating plant shall inform the Central Agency regarding the details of the certificates retained by it for meeting its renewable purchase obligations.

Provided further that renewable energy generator shall not be permitted to retain the certificates for offsetting renewable purchase obligation of its group companies as a consumer."]¹⁰

9. Pricing of Certificate :

(1) The price of Certificate shall be as discovered in the Power Exchange:

Provided that the Commission may, in consultation with the Central Agency and Forum of Regulators from time to time provide for the floor price and forbearance price separately for solar and non-solar Certificates.

(2) The Commission while determining the floor price and forbearance price, shall be guided inter alia by the following principles:

(a) Variation in cost of generation of different renewable energy technologies falling under solar and non-solar category, across States in the country:

(b) Variation in the Pooled Cost of Purchase across States in the country;

(c) Expected electricity generation from renewable energy sources including:-

(i) expected renewable energy capacity under [tariff, for sale of electricity to an obligated entity for the purpose of meeting its renewable purchase obligations, determined under section 62 or adopted under section 63 of the Act by the Appropriate Commission".]¹¹

(ii) expected renewable energy capacity under mechanism of certificates;

(d) Renewable purchase obligation targets set by various State Commissions.

10. Validity and extinction of Certificates:

¹⁰ Added vide second amendment regulations 2013 w.e.f 11.07.2013

¹¹ Substituted vide second amendment regulations 2013 w.e.f 11.07.2013

- (1) "After registration, the renewable energy generation plant shall be eligible for issuance of Certificates under these Regulations from the date of commercial operation or from the date of registration of such plant by the Central Agency whichever is later:

Provided that the Certificate issued under these Regulations shall remain valid for seven hundred and thirty days from the date of issuance:

Provided that the Certificate issued to an eligible entity for the electricity generated at a time when such entity fulfilled the eligibility criteria for accreditation, shall remain valid for the said period of seven hundred and thirty days, even if accreditation of such entity is revoked at a later date:

Provided that where an eligible entity has obtained accreditation and registration on the basis of false information or by suppressing material information and the accreditation of such entity is revoked at a later date, the Certificates already issued to such entity but not redeemed shall stand revoked from the date of issue of such Certificates and in respect of Certificates already redeemed, such entity shall deposit the amount realized from sale of such Certificates along with the interest with the Central Agency at the rate of two (2) percent in excess of the applicable State Bank of India Base rate per annum."¹²

- (2) Subject to the time limit as provided in clause (1) of this regulation, a Certificate shall be deemed to have been extinguished after it has been exchanged by way of sale and purchase in the Power Exchange.

11. Fees and charges:

- (1) The Commission may from time to time, based on the proposal in this regard from the Central Agency, determine, by order, the fees and charges payable by the eligible entities for participation in the scheme for registration, eligibility of certificates, issuance of certificates and other matters connected therewith.
- (2) The fees and charges payable under these regulations may include one-time registration fee and charges, annual fee and charges, the transaction fee and charges for issue of certificate and charges for dealing in the certificate in accordance with these regulations, as the Commission may consider appropriate.
- (3) The fees and charges paid by the eligible entities shall be collected by the Central Agency and utilised for the purpose of meeting the cost and expense towards the remuneration payable to the compliance auditors, the officers, employees, consultants and representatives engaged to perform the functions under these regulations.

12. Funding for capacity building of State Agency:

¹² Substituted vide second amendment regulations 2013 w.e.f. 11.07.2013

- (1) The Commission may, by order, provide for a certain percentage of the proceeds from the sale of Certificates for the purpose of training and capacity building of the State Agencies and other facilitative mechanisms for the implementation and monitoring of the detailed procedures issued by the Central Agency.
- (2) The proceeds as provided under clause (1) of this regulation shall be collected by the power exchange and transferred to the Commission or such agency as may be directed by the Commission.

13. Appointment of compliance auditors:

- (1) The Commission may, in consultation with the Central Agency, appoint from time to time compliance auditors to inquire into and report on the compliance of these Regulations by the person applying for registration, or on the compliance by the renewable energy generators in regard to the eligibility of the Certificates and all matters connected thereto.
- (2) The compliance auditor shall have the qualifications and experience as contained in the **Schedule** to these Regulations:
Provided that the Commission may by order amend the Schedule from time to time.
- (3) The Commission may from time to time fix the remuneration and charges payable to such auditors and all such amount payable shall be met out of the funds which the Central Agency may collect from the eligible entities.

14. Power to give directions:

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

15. Power to Relax:

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

Sd /-
(Alok Kumar)
Secretary

Note:

The Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 were notified in Part III, Section 4 No. 26 of the Gazette of India (Extraordinary) dated 18.1.2010 and amended vide.

(a) Amendment regulations published in Part III, Section 4 No. 249 of the Gazette of India (Extraordinary) dated 01.10..2010

(b) second Amendment regulations published in Part III, Section 4 No. 192 of the Gazette of India (Extraordinary) dated 11.07..2013

Schedule

Qualification of Auditors

The auditor could be an individual person or a firm having persons with qualification and experience in the following areas:

- a. Finance or accounts or commerce, and
- b. having qualifications and experience in the field of engineering with specialisation in generation, transmission or distribution of electricity, experience that demonstrates an adequate understanding of the electricity sector, institutions involved including Regulatory Commission, utilities, government institutions, State agencies and their roles and responsibilities.

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