

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 260/2010

**Coram: Dr. Pramod Deo, Chairperson
Shri S.Jayaraman, Member
Shri V.S.Verma, Member
Shri M.Deena Dayalan, Member**

Date of Hearing: 6.10.2010

Date of Order :17.9.2012

In the matter of:

Review and amendment of the norms of the Central Electricity Regulatory Commission Renewable Energy Tariff Regulations 2009 related to Biomass fuel for the biomass based Power Projects in Rajasthan, Madhya Pradesh, Punjab, Tamil Nadu and Maharashtra

And

In the matter of:

M/s. Orient Green Power Company Ltd

.....Petitioner

The following were present:

Shri P.Krishna Kumar, OGPCL
Shri R. Ranjan Kumar, OGPCL
Shri Vikas Kumar, CRISIL
Shri Atishay Jain, CRISIL

ORDER

The petitioner, who claims to be the largest independent operator and developer of renewable power plants in India, seeks through this petition to review and amend the norms of the Central Electricity Regulatory Commission (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2009 (hereinafter referred to as "the renewable energy regulations") in so far as it relates to biomass based Power Projects in

Rajasthan, Madhya Pradesh, Punjab, Tamil Nadu and Maharashtra. More specifically, the petitioner has prayed that the Commission may:

(a) Urgently review and amend the norms of the renewable energy regulations related to biomass fuel for biomass based power plants in various States as the same is imperative for the viability, survival and sustainability of the biomass power plants.

(b) Pending review of the biomass price, specify the provisional price of biomass fuel for different States

(c) Determine the biomass price for future years for different States and the corresponding tariff based on a price deriving mechanism on actual basis

(d) Revise the GCV of biomass fuel for different States

(e) Consider the NPC report which highlights that the average SHR is in the range of 4000-4250 kCal /kWh and revise the SHR

(f) Carryout SHR and GCV assessment in different States agencies like NPC to estimate the realistic value which has a significant bearing on the variable tariff

2. The petitioner has urged that section 61 of the Electricity Act, 2003 (the Act) provides that while specifying tariff, the Commission shall be guided, inter alia, by "*the promotion of co-generation and generation of electricity from renewable sources of energy*". The petitioner has also submitted that para 5.2

of the National Electricity Policy also provides that “*considering the fact that it will take some time before non-conventional technologies compete, in terms of cost, with conventional sources, the Commission may determine an appropriate differential in prices to promote these technologies*”. In this regard the petitioner has pointed out that the Commission has powers under regulation 66 of the renewable energy regulations to relax the provisions of the regulations,

3. Highlighting the importance of renewable sources in general and especially biomass, for generation of electricity, the petitioner has submitted data to substantiate that the fuel charges considered under the regulations are significantly lower than actually prevailing market prices. The petitioner has also submitted data in support of its contention that actual GCV of biomass for different States are much lower than the applicable GCV as per the State and Central Regulations.

4. Before considering the merit of the submissions made by the petitioner in support of its prayers, we are required to decide the maintainability of the same, which we advert to hereunder,

5. This petition has been filed under Section 94 of the Act invoking the judicial powers of the Commission. The petition is essentially a review application seeking review of the provisions of the renewable energy regulations notified by the Commission under its legislative powers. It is trite law that any subordinate legislation formulated under a parent Act becomes part of the statute and partakes the character of legislation. Any change in the

regulations can be made through amendment after following the procedure laid down in law.

6. We would like to place on record the fact the Commission adopts a transparent and consultative approach while finalizing the regulations, as was done in this case as well. Stakeholders are expected to submit all relevant information at the stage of formulation of the regulations. The Commission has now notified the Central Electricity Regulatory Commission (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2012 applicable for the period of five years with effect from 1.4.2012 after following the due practice/procedure. The issues raised have been duly considered and addressed. We also notice that the petitioner has participated in the consultative process while making the said regulations.

7. In view of the above, Petition No 260/2010 is disposed of.

Sd/-

(M.Deena Dayalan)
Member

Sd/-

(V.S.Verma)
Member

Sd/-

(S.Jayaraman)
Member

Sd/-

(Dr. Pramod Deo)
Chairperson