

**CENTRAL ELECTRICITY REGULATORY COMMISSION**

**NEW DELHI**

**Explanatory Memorandum for the “Draft Central Electricity Regulatory Commission  
(Terms and Conditions for recognition and issuance of Renewable Energy Certificate for  
Renewable Energy Generation) (Second Amendment) Regulations, 2012”**

**Explanatory Memorandum**

**1.0 INTRODUCTION**

1.1 The Commission had notified the CERC (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 (hereinafter Principal REC Regulations) vide notification dated 14<sup>th</sup> January, 2010. As mentioned in the Statement of Reasons issued along with the regulations, the concept of renewable energy certificate seeks to address the mismatch between availability of renewable energy sources and the requirement of obligated entities to meet their renewable purchase obligations. The Commission had further clarified that the REC mechanism aimed at promoting additional investment in the renewable energy projects and to provide an alternative mode to the RE generators for recovery of their costs.

1.2 Subsequently, the Commission made amendment in the Regulation 5 of Principal REC Regulations vide notification dated 29<sup>th</sup> September, 2010 (hereinafter Amendment Regulations). The principal objective of the Amendment Regulations was to provide clarity on applicability of the regulations to eligible entities and bring in certain essential checks and balances in the REC related process.

1.3 Transactions in RECs over the past two years have provided valuable insights into the operation of the REC mechanism as envisaged in REC Regulations. Several important milestones have been reached in the trading sessions for non-solar and solar RECs. Renewable Energy generators with a total capacity of 3,552 MW have been accredited for RECs out of

which 3,237 MW of capacity have got registered as on 15<sup>th</sup> October 2012. Even though the registrations are substantial and the initial volume growth in RECs has been encouraging, the Commission has been made aware of several important issues that need to be addressed to accelerate the pace of deployment of REC based projects in a manner that is economically efficient and leads to the attainment of the goals set out for the REC mechanism. One principal concern is the need for creation of demand for RECs and consequent price discovery. Demand for REC today is largely driven by CPPs and Open Access consumers. Distribution companies are not participating in large number in the REC market. This has resulted in uncleared volumes of RECs which need to be analysed and addressed.

1.4 The principal responsibility of determining the level of compliance of renewable energy in the distribution licensees' area, and enforcement of the same lies with the State Commissions, in terms of Section 86 (1) (e) of the Electricity Act, 2003, which requires the State Commission to *“promote cogeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licence”*. The Central Commission, as a consequence of its roles for market development under section 66 of the Electricity Act, 2003 has created a market framework through the REC mechanism that would help compliance of the obligations set out by the State Commissions across the country. To the extent feasible and required, the Central Commission will continue to endeavour to strengthen the REC framework and address the design issues and remove ambiguities which are affecting its implementation. However the final implementation falls within the ambit of State Commissions in terms of ensuring compliance of RPOs by the obligated entities.

1.5 The Commission also appreciates that some of the issues identified are of great significance and would need to proceed along a logical path of progression. Addressing such issues would require very extensive consultation with State Commissions and the state level stakeholders. Timing would be of essence in many such issues. Introduction of such changes prematurely may affect the REC markets adversely, and may also create distortions that would

be difficult to undo subsequently. Accordingly, following issues are proposed to be addressed through the present amendment as per the details given below:

- (a) Eligibility criteria for issuance of Certificate for:
  - o Renewable energy contracted through competitive bidding;
  - o Self consumption by a seasonal RE generator;
  - o Self consumption by a renewable energy based captive generating plant (CGP) and by a renewable energy generator other than a CGP;
- (b) Clarity on minimum capacity requirement for eligibility for Certificate;
- (c) Procurement of electricity at Average Pooled Purchase Cost (APPC) rate as determined by appropriate Commission;
- (d) Extension of time period for applying for issuance of Certificate;
- (d) Retention of Certificates for compliance of renewable purchase obligation by a captive generating plant;
- (e) Extension of shelf life of the Certificate;
- (f) Clarity on whether Certificates should be issued to an eligible entity from date of commercial operation or from the date of registration;

1.6 The detailed amendments proposed through modifications in the present regulations are elaborated upon in the following section.

## **2.0 Issue regarding treatment of PPA entered through competitive bidding and not through cost plus tariff determined by the regulators**

2.1 REC Regulations at present do not allow issuance of Certificates to a renewable energy generator selling power at preferential tariffs. The term “preferential Tariff” has been defined in the REC Regulations as “the tariff fixed by the Appropriate Commission for sale of energy, from a generating station using renewable energy sources, to a distribution licensee”. This definition is stated to leave out the tariff adopted by the Appropriate Commission under section 63 of the Act. Consequently, this is stated to cause ambiguity in treatment of a renewable energy generator selling power through tariff based competitive bidding at a tariff adopted by

the appropriate Commission under section 63 of the Act. The Commission is of the view that any investor while participating under competitive bidding quotes tariff after considering all costs as well as risks involved during the life time of the operation of renewable energy generation project, and offers the green energy in its totality and not the electricity component and green attribute separately. Moreover, the distribution utility procures such renewable energy under competitive bidding for fulfillment of its renewable purchase obligation. Thus, such renewable energy generators (selected through competitive bidding under section 63 of the Act) cannot be given REC credit, as this would amount to double counting of the green attributes. Accordingly, it is proposed to clarify through suitable amendment in Regulation 5(1) (b) of the REC Regulations and substitute the definition of preferential tariff by the definition of tariff as “tariff determined under section 62 or adopted under section 63 of the Act by the Appropriate Commission”. The proposed amendments are as under:

*Amendment of Regulation 2 of Principal Regulations:*

*Sub-clause (k) of clause (1) of Regulation 2 of the Principal Regulations shall be deleted.*

*Sub-clause (b) of clause (1) of Regulation 5 of Principal Regulations shall be substituted as under:*

*"(b) it does not have any power purchase agreement for the capacity related to such generation to sell electricity at a tariff determined under section 62 or adopted under section 63 of the Act by the Appropriate Commission:"*

### **3.0 Issue of Seasonal PPA in cases of bagasse based cogeneration:**

3.1 It has been represented that there is a need to address the issues related to quantum of self consumption of a bagasse based cogeneration plant with co-located load of sugar mill, where the capacity available for PPA based sales to the utility as per tariffs determined by the State Commission varies from season to season and year to year, depending on the nature of the internal consumption requirements of such co-gen units. In such cases, sum of the total capacity under PPA and capacity registered under REC for self consumption may exceed the installed capacity which is an impediment under the present REC Regulations.

3.2 Bagasse based cogeneration power plants are generally established for meeting primarily the self load requirement of Sugar Mills and sale of surplus quantum if any. In order to promote setting up of such power plants, the state and respective commissions have passed relevant regulations/orders for export of surplus power available after meeting their captive requirement.

3.3 For example, in Uttar Pradesh, State Commission under clause 27 (2) of UPERC – CNCE Regulations 2009, Chapter 3; while deciding the Agreement to be signed with Distribution Licensee for sale of power has stated:

“....  
*(2) The Generating Plant shall enter into a Power Purchase Agreement with the Distribution Licensee of the area in which the plant is located for a period of 20 years from the date of its commissioning, in line with the Model Power Purchase Agreement (herein after called Model PPA) available at Annexure -4 to these Regulations. The parties to the agreement may make plant / site specific changes in the Model PPA not inconsistent with the Act, these Regulations and other relevant Regulations. Such changes shall however be subject to approval of the Commission ....” (emphasis added)*

3.4 It is abundantly clear that under PPA, that the bagasse based Co-generation plants have been established primarily to meet their own power requirement (self consumption). The PPA was signed with the sole intention only to sell Surplus power. The cogeneration plants have registered the plants for REC Scheme to avail RECs only on self load; which is highly dependent on “Cane Crushing”. This is an inherent characteristic of the industry and these seasonal variations should not be allowed to impact the eligibility of RECs on actual self-consumption by cogeneration plants.

3.5 The Commission vide its Order dated 26.12.2012 (Petition No.: 138/MP/2012 with I.A. 26/2012) in the above referred matter observed as under:

*“21. The Commission is aware of the seasonal variation in self-consumption in the co-generation plants like that of the petitioner. After considering the provisions of the UPERC Regulations and the PPAs entered into by the UPPCL with the RE Generators in the State of Uttar Pradesh, we are of the view that a separate dispensation is required to be provided for the cogeneration plants for the purpose of accreditation and registration of their capacity on account of captive consumption. We consider it an appropriate case to exercise our power to remove difficulty to facilitate accreditation and registration of the cogeneration plants for the purpose of REC. Accordingly, in exercise of the power under Regulation 14 of REC Regulations, we direct that in so far as eligibility under Regulation 5(1)(b) of REC Regulations is concerned, the connected load capacity of the co-generation plants as assessed/sanctioned by the concerned distribution licensee shall be considered as the capacity for captive consumption for the purpose of accreditation and registration irrespective of the capacity tied up under the preferential tariff. We also direct the staff to process the case for making appropriate provisions in the REC Regulations through amendment in the light of our decision above.”*

3.6 In view of the above, it is proposed that a sub-clause (b) of clause (1) of Regulation 5 of Principal Regulations may be substituted as under:

*"(b) it does not have any power purchase agreement for the capacity related to such generation to sell electricity at a tariff determined under section 62 or adopted under section 63 of the Act by the Appropriate Commission:*

*Provided that in case of bagasse based co-generation plants, the connected load capacity as assessed/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."*

#### **4.0 Procurement of electricity by a local distribution licensee at the rate of pooled cost of purchase as determined by appropriate Commission**

4.1 The term “Pooled Cost of Purchase” has been defined in the Principal REC Regulations as under:

*"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".*

4.2 The Floor price and Forbearance price for RECs are determined by the Commission with reference to the Pooled Cost of Purchase of various States. The cash flow for the projects under the REC Scheme thus depends on the REC price discovered in the Power Exchange(s) and the Pooled Cost of Purchase rate allowed to them by the local distribution licensees in a State. A concern has been raised that such a provision, especially purchase price of the “electricity component” being lower than the Pooled Cost of Purchase rate could lead to a viability gap for the projects, especially in cases where the price discovered in the Power Exchange(s) is close to Floor price.

4.3 The Forum of Regulators (FOR) in the 25<sup>th</sup> meeting held on 29.07.2011, also held that the expression "not exceeding APPC" should be substituted by the expression "at APPC" in the eligibility criteria under CERC REC Regulations. There was a general consensus on the following in the 25<sup>th</sup> FOR Meeting;

*“For the sake of regulatory certainty, there is a need for uniformity in approach to treatment of APPC. The definition of APPC as agreed earlier by the Forum and consequently as provided in the CERC Regulation may be adopted uniformly across States.*

*The developers should be allowed APPC as determined by the State Commission in its Tariff Order. CERC may consider amending the provision in its REC Regulations and substitute expression “not exceeding APPC” by the expression “at APPC”.*”

4.4 It is, therefore, proposed to amend the REC Regulations to address the above mentioned issue as per the details given below.

**Proposed amendment of Regulation 5 of Principal Regulations:**

*In sub-clause (c) of clause (1) of Regulation 5 of Principal Regulations, the words "at price not exceeding the pooled cost of the power purchase of such distribution licensee" shall be substituted with the words "at the pooled cost of power purchase of such distribution licensee as determined by the Appropriate Commission".*

## **5.0 Issue of eligibility for Certificates for CGPs availing Waiver of Electricity Duty**

5.1 The Electricity Duty is a State Government specific subject. Several State Governments have granted exemption from levy of Electricity Duty, for captive consumption, irrespective of whether such consumption is by way of generation from fossil fuel or renewable energy sources. Such concession is given by the State as a policy decision to promote Captive Power plants in order to reduce gap between the demand and supply in their state.

5.2 Further, licensees are providing benefits like concessional transmission/wheeling charges and banking facility, whereas, Electricity Duty is not a benefit given by the licensees. It is also argued that the benefit of waiver of Electricity Duty is minuscule as compared to even the Floor price of RECs.

5.3 The Commission therefore proposes to remove the same (that is, availing benefit of waiver of Electricity Duty) as disqualification criteria for issuance of RECs.

5.4 In the context of the captive power plants, the Commission also proposes to substitute the term “Captive Power Producer” or “CPP” by the term “Captive Generating Plant” or “CGP”. In the REC Regulations, the term “Captive Power Producer” or “CPP” has not been defined. Since, it has the same meaning as term “Captive Generating Plant” as defined in the Electricity Act, 2003, the Commission proposes to use the word “Captive Generating Plant” or “CGP” to refer to the captive plants in the regulations.

## **6.0 Issue of applicability of eligibility conditions for Certificates in the event of self consumption by a renewable energy generator other than CGP**

6.1 Regulation 5(1)(a) to (c) of REC Regulations deal with the eligibility of all generating companies engaged in generation of electricity from the renewable energy sources. The second and third provisos to the Regulation 5 deal with the eligibility of the CGP based on renewable sources of energy. These two provisos carve out an exception in case of CGP based on

renewable energy sources from the general eligibility of RE generators for grant of REC. These exceptions are in addition to the general eligibility conditions of a RE generator which have to be fulfilled by a CGP.

6.2 The Commission vide its Order dated 18.10.2012, in the matter of Petition Nos. 34/MP/2012 with I.A. Nos. 6/2012 and 9/2012, Petition Nos. 36/MP/2012, 37/MP/2012, 45/MP/2012 and 46/MP/2012, clarified 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 will not be subject to the conditions required to be fulfilled by a CGP. Such a plant not being a CGP will not be entitled to any of the benefits available to the CGP and in case, any co-generation plant is availing any concessional benefits or banking facility or waiver of electricity duty etc, it shall be required to forgo these benefits before availing the RECs for the entire generation from the plant including self consumption. The relevant portion of the Order is reproduced as under:

*23. It is however observed that the CGP status of a generating plant is not static in accordance with the Electricity Rules, 2005 and it may vary from year to year depending on the amount of captive consumption. Rule 3 (2) of the Electricity Rules 2005 in this connection is extracted overleaf.*

*"(2) It shall be the obligation of the captive users to ensure that the consumption by the captive users at the percentages mentioned in subclauses (a) and (b) of sub-rule (1) above is maintained and in case the minimum percentage of captive use is not complied with in any year, the entire electricity generated shall be treated as if it is a supply of electricity by a generating company."*

*It is evident from the above that where the minimum percentage of captive use is not complied with in any year, the entire electricity generated by such plant shall be deemed to be supply of electricity by the generating company. In other words, a captive generating plant will be treated on the same pedestal as any other generator if it fails to achieve minimum of 51% of consumption for self use and consequently will be deprived of all benefits admissible to a captive generating plant under the Act. Moreover, the entire electricity generated by it shall be treated as if it is a supply of electricity by a generating company. Section 10(2) of the Act provides that a generating company may supply electricity to any licensee in accordance with the Act and the rules and regulations made there under and supply electricity to any consumer subject to regulations made under sub-section (2) of section 42. Thus a CGP which fails to achieve 51% of captive consumption*

*in a year, its entire generation of electricity including captive consumption shall be deemed to have been supplied to the licensees or open access consumers. **In that case such a plant will have to fulfil the conditions laid down in Regulation 5(1)(a) to(c) to avail the benefits of RECs and will not be subject to the conditions required to be fulfilled by a CGP or CPP as required under the last two provisos.***

*24. There is not much difference between a co-generation plant having captive consumption of less than 50% of its generation of electricity and a CGP which has failed to use 51% of its generation for captive use. A cogeneration plant with more than 51% of its generation for captive use will be classified as a CGP under the Act and with less than 51% will be treated as any other generating station. It therefore follows that where a cogeneration plant has used less than 51% of its generation for captive consumption, its entire generation will be deemed to be treated as supply of electricity by a generating company. In other words, the captive consumption by a cogeneration plant shall be treated as supply of electricity by a generating station by operation of law and shall be eligible for RECs subject to fulfilment of the conditions specified in Regulation 5(1)(a) to (c) of the REC Regulations. Such a plant will not be subject to the conditions under last two provisos under Regulation 5(1) which are applicable to CGP/ CPP only.....*

*25. In the light of the above discussion, we are of the view that the self consumption of electricity by co-generation plants not meeting the requirement of a CGP under the Electricity Rules, 2005, shall be deemed to be supply of electricity by a generating company which can either be to a licensee or to an open access consumer. Once, a co-generation plant is considered as any other RE Generator and its captive consumption is deemed to be supply of electricity by a generating company, it follows that its captive consumption can be counted towards issuance of REC subject to fulfilment of the conditions laid down in Regulations 5 (1) (a) to (c) of the REC Regulations. **Such a plant not being a CPP will not be entitled to any of the benefits available to the CPP and in case, any co-generation plant is availing any concessional benefits or banking facility or waiver of electricity duty etc, it shall be required to forgo these benefits before availing the RECs for the entire generation from the plant including self consumption.***

6.3 The Commission in the above referred Order directed staff to examine the issues in detail and submit draft amendment to the REC Regulations for consideration of the Commission. The relevant portion of the Order is stated as under:

*“39. We observe that certain disputes including the present dispute relating to REC have arisen due to lack of clarity regarding the co-generation plants and Captive Power Plants and the benefits availed by them. We direct the staff to*

*examine the issues in detail in a holistic manner after taking into account the regulations and procedures made by the State Commissions for the purpose of ensuring clarity and submit draft amendment to the REC Regulations for consideration of the Commission.”*

6.4 Accordingly, the Commission through this amendment proposes to clarify 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:

**The provisos under sub-clause (c) of clause (1) of Regulation 5 shall be substituted as under:**

*“Provided that such a generating company having entered into a power purchase agreement for sale of electricity at a tariff determined under section 62 or adopted under section 63 of the Act by the Appropriate Commission shall not, in case of premature 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."*

## **7.0 Issue relating to time period for applying for issuance of REC against corresponding generation.**

7.1 Presently, the REC Regulation has provision that the eligible entities shall apply to Central Agency for REC within three months after corresponding generation from eligible RE Projects. In accordance with the approved detailed procedure, host SLDC shall provide Energy Injection Report to the Central Agency. Some of the stakeholders have suggested to extend the aforementioned three months period to six months as receipt of information to Central Agency from SLDC take more than 3 months time due to lack of coordination among SLDC, distribution licensee and RE Generator.

7.2 Considering the concern of RE Generators, the Commission proposes to extend the three months period to six months.

7.3 Further, the existing Regulation specifies that the application for issuance of REC may be made fortnightly on 1<sup>st</sup> and 15<sup>th</sup> of the month through web based portal. Therefore, only two and half months are available for generator to apply for issuance of Certificate after injection in to the grid in a particular month. Further, in case of any delay in getting the Energy Injection Report from SLDC will further reduce the available time for application for issuance of REC.

7.4 In view of the above it is proposed to substitute the clause 7(1) of Principal Regulation to address the above mentioned issue.

*Amendment of Regulation 7 of the Principal Regulations: Clause (1) of the Regulation 7 shall be substituted as under:*

*"(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."*

## **8.0 Minimum capacity eligibility criteria for REC registration**

8.1 The existing CERC REC Regulations do not specify any minimum capacity of renewable energy generation plant for eligibility under REC registration of renewable energy projects. However, as per Statement of Objects and Reasons issued for Principal Regulations, grid connected RE generation project with minimum capacity of 250 KW and approved by MNRE would be eligible for REC.

8.2 The Commission is of the opinion that to bring in smaller capacities under the ambit of REC any renewable energy generator, irrespective of installed capacity, should be eligible to apply for registration for issuance of and dealing in Certificates provided it fulfills eligibility criterion. It is clarified that grid connected RE generation project without cap on the minimum capacity will be eligible for registration for RECs.

**9.0 Retention of Certificates for compliance of renewable purchase obligation by a captive generating plant;**

9.1 It has been brought to the notice of the Commission that the Captive Generating Plants should be allowed to retain RECs for their own compliance. This will reduce avoidable transaction cost for them.

9.2 The Detailed procedure under REC mechanism states the following:

*“In case of CPP the entire generation from the CPP would be eligible for REC. However in case CPP wants to fulfil its own RPO, the CPP shall have to procure the REC from the CERC approved Power Exchanges only( REC can get extinguished either through the Power Exchanges or on expiry of one year).”*

9.3 Project developers have brought to the notice of the Commission that the mandatory requirement procuring RECs through power exchanges only will place an additional cost burden on the project developer.

9.4 The Commission therefore proposes to clarify that a CGP generating electricity from renewable energy sources can retain RECs required for fulfillment of his own RPO subject to verification and certification from State Agency. In such case where a renewable energy generator retains certificates for its compliance of obligations, such certificates shall be extinguished only after surrender of such certificates as per detailed procedures issued by the Central Agency.

***Amendment of Regulation 8 of the Principal Regulations***

*(1) Clause 1 of Regulation 8 of the Principal Regulations shall be substituted as under:-*

*"(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."*

*(2) A new clause shall be added after clause (2) of Regulation 8 of the Principal Regulations, namely*

*"(3) A 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 captive generating plant shall inform the Central Agency regarding the details of the certificates retained by it for meeting its renewable purchase obligations."*

## **10.0 Extension of shelf life of the Certificate;**

10.1 The Commission vide its Order dated 11.02.2013, in the matter of "Extension of validity of the Renewable Energy Certificates beyond the period specified in Regulation 10 (1) of the Central electricity Regulatory Commission (Terms & Conditions for issuance of Renewable Energy certificate for renewable Energy) regulation, 2010." (Suo-Motu Petition No. Petition No. 266/SM/2012) extended the validity of Certificate from Three hundred and sixty five days to Seven hundred and thirty days. The relevant portion of the Order is as under:

*"4. The proposal mooted in the present petition initiated suo motu by the Commission relates to the extension of the validity of the period of RECs to prevent them from lapsing in view of sluggish market demand. It is pertinent to observe that the success of the renewable energy capacity addition programme in general and REC mechanism in particular are largely dependent on enforcement of Renewable Purchase Obligation (RPO). This Commission does not have the jurisdiction to enforce the RPO on the obligated entities in the States. The responsibility of setting RPO targets and implementation thereof rests with the State Electricity Regulatory Commissions (SERCs). Therefore, SERCs would have to strictly monitor RPO compliance made by the obligated entities and enforce compliance as per their REC Regulations in order to make the REC programme successful. This Commission only hopes and expects that the SERCs will ensure and monitor compliance of RPO targets by obligated entities in their respective States. Since RECs are governed by the REC Regulations of this Commission, the maximum that this Commission can do is to extend the validity of RECs for a suitable period so that the RE generators get the opportunity to redeem the same. At the same time, the RE generators should try to trade at the earliest opportunity and should not hold back the RECs and allow them to lapse and then approach this Commission to extend the validity. In our view, the validity of the RECs should be extended for a period of one more year which will take care of the interest of RE generators. Accordingly, in exercise of our power under Regulation 16 of the REC Regulations, we relax the provisions of Regulation 10(1) of the said regulation and provide that the RECs issued on and after 1.11.2011 shall remain valid for a period of 730 days from the date of issuance. The relaxed period of validity shall be applicable to the RECs which have been issued or shall be issued till the date amendment to Regulation 10(1) of the REC Regulations is notified by*

*this Commission. The Central Agency is directed to modify/adjust the period of validity of the RECs in terms of our directions above.”*

10.2 The Commission therefore proposes to amend the relevant regulation accordingly.

**11.0 Clarity on whether Certificates to be issued to an eligible entity from date of commercial operation or from the date of registration;**

11.1 The existing regulation allows renewable energy generators the flexibility of accreditation of their projects under REC mechanism, six months prior to Commissioning of the projects and also allows them to register such projects with Central Agency, three months prior to Commissioning of project. Regarding the issuance of Certificate, the Commission would like to clarify through the Amendment that 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.

***Amendment to Regulation 10 of the Principal Regulations***

*(1) Clause (1) of the Regulation 10 of the Principal Regulations shall be substituted as under:*

*" (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 further 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."*