

CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

Petition No. 266/SM/2012

Coram:

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

Date of Hearing: 15.1.2013

Date of Order : 11.2.2013

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.

And in the matter of:

1. National Load Despatch Centre (NLDC), New Delhi
2. Indian Energy Exchange (IEX), New Delhi
3. Power Exchange of India Ltd., Mumbai

Respondents

Parties Present:

Ms Minaxi Garg, NLDC
Shri Niraj Gulati, SWP
Shri Vishal Pandya, Re Connect
Shri Khjawjose, INDSIL
Shri Vikas Kumar, Renew Power
Shri Rahul Srivastava, Enercon India
Shri R.S.Negi, Torrent Power
Shri Kapeesh Rustagi
Shri Rahul Tygi, RECO
Shri Anish Pasrija, ACME
Shri Mayank Shekhar, PXIL
Shri Mayank, O. Powergreen
Shri Ranjan Kumar, Orient Green Power

ORDER

The Commission in order dated 19.12.2012 took cognizance of the lapsing of Renewable Energy Certificates (RECs) arising out of the non-redemption within the permissible timeline, apparently due to reluctance/apathy of the distribution licensees to purchase the RECs to meet their Renewable Purchase Obligations(RPO). Keeping in view the objective of promotion of energy through renewable sources, the Commission considered it necessary to extend the validity period of RECs in order to give opportunity and time to the RE generators to trade RECs at the Power Exchanges. Accordingly the Commission proposed to grant relief to the affected RE Generators, whose RECs had lapsed with effect from 1.11.2012 or was likely to lapse in near future, after hearing the affected RE generators, NLDC and Power Exchanges, in exercise of the 'power to relax' under Regulation 15 of the REC Regulations.

2. Responses have been received from 15 stakeholders including one Power Exchange. The Commission also heard the matter on 15.1.2013 in which Moser Baer and Simran Wind Projects Ltd made their submissions. The submissions of the stakeholders have been discussed in brief as under:

(a) IL&FS Wind Power Limited has submitted that there is no justification to put a cap on the validity of RECs till such time mechanism is in place to ensure purchase of RECs.

(b) U.P. Sugar Mills Cogen Association has submitted that since RECs would get expired due to non fulfillment of RPO by obligated entities, RE generators should not be made to suffer on this account and therefore, time line of 365 days for lapsing of RECs should be totally removed.

(c) Indian Wind Energy Association (InWEA) and Indian Wind Turbine Manufacturers Association (IWTMA) has suggested to increase the shelf life of the REC till such time when SERCs enforce the RPO and REC Regulations. If such an open ended extension is not viable, then the RECs may be made valid for 2 years as an interim measure.

(d) Torrent Power Limited (TPL) has suggested that validity period of RECs should be at least two years from the date of issuance on account of skewed demand-supply due to lack of enforcement of RPO and also keeping in view the practice in developed countries like UK and Japan where the validity period has been prescribed as 2 years.

(e) Wind Independent Power Producers Association (WIPPA) and Mytrah Energy (India) Limited have submitted that the present validity of RECs should be continued till the time CERC introduces enforcement mechanism on the obligated entities and upon introduction of such mechanism, the existing RECs available in the market should be provided with extended validity of one year from the date of introduction of enforcement mechanism. They have further suggested that apart from the power exchange, bilateral trade of RECs between the generators and obligated entities should be permitted.

(f) Power Exchange India Limited (PXIL) has submitted that the RECs whose timelines have expired after 365 days should be allowed to remain available for trade till such time these get extinguished after trading or a new timeline is identified by amendment to the REC Regulations.

(g) M& B Switchgears Limited has suggested to extend the validity of RECs to a period of 4 years in the first phase which can be reduced gradually till it reaches a period of 2 years.

(h) Orient Green Power Company Limited (OGPL) has submitted that the validity of RECs should be extended to 5 years or more or be kept open. Otherwise, the RECs would lapse causing a huge financial losses to the RE generators. OGPL has also suggested that SERCs should initiate the measures for enforcement of RPOs.

(i) Waaree Energies Pvt. Limited has suggested that RECs must remain valid for 5 years from the date of issuance.

(j) RE Connect Energy Solution Pvt. Limited has submitted that extending validity is a temporary relief and not the solution and suggested to increase the validity of RECs for the foreseeable near future of 5 years from the date of issuance or at least till March 2017 for which REC prices have already been determined or till the validity of registration of the RE projects.

(k) Simran Wind Project Private Limited has submitted that the proposal for extending the REC validity period alone will not help in lifting the sagging REC

market. This requires effective compliance monitoring and enforcement of RPO by all the obligated entities.

(l) Orange Powergen Pvt. Limited has submitted that the validity clause should be removed till the time REC demand becomes significant in order to allow flexibility to the RE developers to sell RECs as per market demand. It has also been suggested that a national level body to be known as “Market maker or REC price Guarantor” should be established to act as “Buyer of last resort” to guarantee minimum floor price for RECs which remain unsold due to lack of demand and “seller of last resort” for selling RECs at forbearance price to the defaulted obligated entities.

(m) Tamil Nadu Newsprint and Papers Limited has submitted that the existing validity of 365 days for RECs from the date of issue puts the REC generator under pressure to sell them in low demand REC Market. It has been suggested that till the REC market attains an equilibrium status, the validity period of RECs should be extended considerably.

(n) Khatau Narbheram & Co. has submitted that REC Regulations should be amended to allow the extended validity period beyond 365 days which would help the RE generators to avoid losses in view of huge inventory, over supply and lapse of RECs.

(o) Power System Operation Corporation Limited (POSOCO) has submitted that about 3071 RECs pertaining to three RE Generators expired without being traded till 31st December, 2012. In addition, the number of RECs which are about to

expire till March, 2013, if not sold, are 4629. POSOCO has furnished the details of the RE Generators wise details of RECs that have expired and are about to expire at Annexure-I to the reply. POSOCO has further submitted that from the bidding patterns adopted by RE generators, it is observed that at the time of sale bid, even the RE generators whose RECs have expired have not offered all their available RECs for sale in each trading session. POSOCO has suggested that the validity of RECs may be considered to be extended to a optimum period which will provide certainty in the REC market and at the same time discourage holding of RECs by RE generators.

3. From the submissions as discussed in the preceding para, it emerges that there is a consensus in favour of extending the period of validity of the RECs, though the duration of the period varies from one year to five years or till the RECs are extinguished after trading. One of the suggestions is that the Commission should introduce and implement enforcement mechanism for RECs. Another suggestion is that the Commission should introduce a national level body known as Market Maker or REC Price Guarantor to act as the buyer of last resort and seller of last resort. POSOCO has cautioned that as per the bidding pattern observed in the past, some of the RE generators do not offer their RECs for trade even if it results in lapsing of RECs. POSOCO has suggested for a balanced approach in the matter of extension of the period of validity in order to provide certainty in REC market and to discourage speculation by some of the RE generators.

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.

5. Petition No.266/SM/2012 is disposed of accordingly.

Sd/-
(M. Deena Dayalan)
Member

sd/-
(V. S. Verma)
Member

sd/-
(S. Jayaraman)
Member

sd/-
(Dr. Pramod Deo)
Chairperson