

**CENTRAL ELECTRICITY REGULATORY COMMISSION (CERC)
NEW DELHI**

Petition No. 230 /2010 (Suo Motu)

Date: 21st September, 2010

Coram:

- 1. Dr. Pramod Deo, Chairperson**
- 2. Shri S.Jayaraman, Member**
- 3. Shri V.S.Verma, Member**
- 4. Shri M Deena Dayalan, Member**

IN THE MATTER OF

Determination of Fee and Charges payable under Regulation 11 of the Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010.

ORDER (SUO MOTU)

A. BACKGROUND

- 1.** 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 (36 of 2003) and all other powers enabling it in this behalf, and after previous publication, the Central Electricity Regulatory Commission has notified (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 (herein after referred to as 'CERC REC Regulations').
- 2.** The Commission vide Order dated January 29, 2010 has designated National Load Despatch Centre (NLDC) to undertake functions of the Central Agency under the CERC RC Regulations.
- 3.** The CERC REC Regulations envisage functions of the Central Agency as follows: Registration of Eligible Entities, Issuance of Certificates, Maintaining and Settling Accounts in respect of certificates, Repository of Transactions of Certificates and Such other function incidental to the implementation of Renewable Energy Certificate Mechanism as may be assigned by the Commission.
- 4.** Regulation 11 of the CERC REC Regulations empowers the Commission to determine by Order, based on the proposal in this regard from the Central Agency, 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.

5. The relevant portion of the Regulation is quoted below:

11. FEES & 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 onetime 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.

6. In accordance with the above Regulation, the fee and charges payable by the Eligible Entities to participate in the REC Mechanism include:

- (a) One-time Registration fee and charges,
- (b) Annual fee and charges,
- (c) Transaction fee and charges for issue of certificate and
- (d) Charges for dealing in the certificate

7. The Commission vide its *Suo-Motu* Petition No. 230/2010 issued an order dated 10th August, 2010 for 'Determination of Fee and Charges payable under Regulation 11 of the Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010' and invited comments from the various stakeholders by 31st August, 2010. Above referred Order is annexed as Annexure-1. M/s Reliance Power and M/s Power System Operation Corporation Limited have submitted their comments/suggestions in response to the Order dated 10th August, 2010.

8. Subsequently, a public hearing was held on 7th September, 2010. M/s Power System Operation Corporation Limited has submitted their comments/suggestions in person.

B. Consideration of the views of the stakeholders & analysis and findings of the Commission on important issues

9. The Commission considered the comments received from the abovementioned two stakeholders as well as suggestions of the M/s Power System Operation Corporation Limited presented during the public hearing. Analysis of the important issues and findings of the Commission thereon are discussed in the subsequent paragraphs.

Comments/Suggestions received and Commission's decision thereon

Clause 1.2 of the Proposal: Transaction fee and charges for dealing in the REC Certificate

10. M/s Reliance Power's suggestions regarding proposal on transaction fee and charges for dealing in the REC Certificate, are as under:

- i. Since the concept of REC mechanism being introduced for the first time, a certainty related to total cost to be incurred while transacting a REC from seller to buyer helps in better decision making by the RE developers as the clear cost structure only helps in better decision making by renewable energy project developers to decide between REC Mechanism and preferential tariff.
- ii. Fees for transaction on PXs should be fixed based on the cost plus model with certain fixed return on equity after estimating expenditure of the PXs related to trading of RECs and revenue shortfall of expenditure incurred by PXs should be recovered from the allocated grant provided by MNRE.
- iii. Fees for transaction may be fixed at bare minimum in the same range as suggested for accreditation, issuance and revalidation/extension.
- iv. Transaction cost on PXs should be shared by both the parties i.e. buyers and Sellers, which help in reducing the burden on sellers alone.

Commission's decision:

The Commission would like to reiterate that the Regulation 11 (2) of the REC Regulations empowers the Commission to determine Transaction fee and charges for dealing in the certificate which is to be payable by both the parties i.e. buyers and Sellers. In order to give flexibility to Power Exchanges, the fees and charges towards the transaction of the renewable energy certificate has not been specified. Since there are more than one exchanges approved by the Commission, the competition among them would result into reasonable fees for dealing in Power Exchanges. However, it is clarified that the fees and charges, to be levied by the Power Exchanges, towards the transaction of the renewable energy certificate, shall be within the ceiling on service charges for the members of the power exchange as specified in the Power Market Regulations.

Clause 1.2 of the Proposal: Transaction fee and charges for dealing in the REC Certificate and separate account to be opened by Power Exchanges

11. Power System Operation Corporation Limited (POSOCO) has referred the Regulation 12 of the CERC REC Regulation which is pertaining to CERC to provide 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. Considering the same, POSOCO suggested that:

- i. The Power Exchanges need to open and maintain a separate account wherein all money received on account of fees and charges towards the transaction of the renewable energy certificates be credited.
- ii. Provision for capacity building of personnel of SLDC may be considered.

Commission's decision:

12. The Commission would like to clarify that the Regulation 12 of the CERC REC Regulation clearly specifies that certain percentage of the proceeds from the sale of certificates and not from the transaction fees, shall be utilized 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. The Commission is in agreement with the suggestion given in this regard and directs the Power Exchanges to open and maintain a separate account for the proceeds relating to REC transactions so as to enable operationalization of Regulation 12 in future.

Clauses 4.2.3 and 6.2.3 of the Proposal: Payment of Annual charges for registration/accreditation

13. In the proposal it is mentioned that the Annual Charges shall be payable by April 10 of each year or anniversary date from date from the date of initial registration/accreditation.

POSOCO has suggested that in these Clauses, April 10 may be removed and only anniversary date may be specified.

Commission's decision:

The Commission has decided that the annual charges shall be payable by April 10 of each year.

Clauses 4.3.1 and 5.3.1 of the Proposal: Separate bank accounts called “Registration Fee & Charge Account” and “Issuance of Fee & Charge Account”

14. In the proposal it is mentioned that the Central Agency need to open and maintain a separate bank accounts called “Registration Fee & Charge Account” wherein all money received on account of registration of RE Generator as eligible entity with the Central Agency be credited and “Issuance of Fee & Charge Account” wherein all money received on account of issuance of REC to eligible entity shall be credited.

Against the same, the POSOCO suggested that the Central Agency may open only one account called “REC Fees & Charges” and accounting of each nature of payment like: fess for registration, issuance of REC, MNRE grant, and expenses incurred under REC mechanism shall be recorded separately in the same books of accounts.

Commission’s decision:

15. The Commission is in agreement with the suggestion of POSOCO to open only one account called “REC Fees & Charges” and all revenue and expenses incurred under REC mechanism should be recorded separately in the same books of accounts.

Clauses 4.4.2 and 5.4.2 of the Proposal: Utilization of fees and charges

16. In the proposal, it is mentioned that the fee and charges paid by the Eligible Entities towards registration and issuance of REC shall be utilised for the purpose of meeting the cost and expense towards the remuneration payable to the Compliance Auditors, officers, employees, consultants and representatives engaged to perform the functions under the CERC REC Regulations.

17. The POSOCO has suggested that the above clauses may be modified to include payments related to the cost and expenses of Central Agency towards capital items, operating expenses of man power, administrative and general expenses, repairs and maintenance of assets, up-gradation and applicable taxes and duties.

Commission’s decision:

18. Initially all the capital items related expanses of Central Agency are going to be funded through MNRE Grant. Any additional cost and expenses of Central Agency towards capital items, as well as operating expenses of man power, administrative and general expenses, repairs and maintenance of assets, up-gradation and applicable taxes and duties could be met from the fee and charges paid by the Eligible Entities towards registration and issuance of REC.

Clause 7.2 of proposal: Gap between the revenue and expenses

19. In the proposal it is mentioned that the gap between the revenue and expenses of the State Agencies during the first three years is expected to be bridged by the grant from MNRE.

The POSOCO has suggested to include “Central Agency and” prior to “State Agencies” in the abovementioned Clause.

Commission’s decision:

20. According to the detailed analysis of estimation of expenses and revenues of Central Agency and State Agencies, as mentioned in the proposal inviting comments, it is quite apparent that in the first three years of operation, Central Agency would be in surplus. However, for State Agencies it is estimated that there would be gap between revenue and expenses. In this context, the Commission has, in the proposal, mentioned that such gap shall be expected to be bridged by the grant from MNRE. However, in case of any gap between the revenue and expenses of the Central Agency, such gap could be bridged by the grant from MNRE.

Clause 2.6 of proposal

21. In the proposal, five (5) executive with average remuneration of Rs. 15 Lakh per annum per executive has been considered for three years for estimation of manpower related expense at Central Agency.

22. The POSOCO has submitted that the REC implementation shall also involve placing of contracts for capital (software & hardware) requirement as well as appointing consultants, auditor etc. As and when need arises, hence services from finance, contracts and legal department shall also be required.

Commission’s decision:

23. The Commission is in agreement with the POSOCO’s concern pertaining to the services required from the finance, contracts and legal department and the same could be met from the revenue received from the fees and charges.

C. DETERMINATION OF FEES AND CHARGES PAYABLE BY UNDER REC MECHANISM

24. After consideration of the comments/suggestions of stakeholders, the Commission by this order determines the fees and charges payable by the eligible entities to Central Agency for participation in the REC mechanism for registration and issuance of REC as well as for accreditation with State Agency are as under:

FEES AND CHARGES FOR REGISTRATION

- 25.** The Commission hereby specifies the following fees and charges for Registration:
- i. An application for Registration of Renewable Energy (RE) Generating Company as 'Eligible Entity' for its RE Generation Projects shall be made to the Central Agency.
 - ii. The application for Registration of RE Generating Company as 'Eligible Entity' shall be accompanied by a non-refundable 'One-time Application Processing Fees' at the rate of Rs. 1000/- per application.
 - iii. The Eligible Entity shall pay the 'One-time Registration Charge' at the rate of Rs.5000/- per application once the registration is granted by the Central Agency.
 - iv. The Eligible Entity shall also pay an 'Annual Charge' at the rate of Rs. 1000/- per application. The 'Annual Charges' shall be payable by April 10 of each year.
 - v. The Eligible Entity shall pay charges towards Revalidation/Extension of Validity at the rate of Rs. 5000/- per application at the time of revalidation/extension of validity of existing registration at the end of five (5) years, or any such period as determined by the Commission from time to time, from the date of initial registration unless otherwise revoked prior to such validity period.
 - vi. The taxes and duties on fee and charges shall be applicable as per prevailing norms.

FEES FOR ISSUANCE OF RENEWABLE ENERGY CERTIFICATE TO THE ELIGIBLE ENTITY

- 26.** The Commission specifies fees and charges for Issuance of Renewable Energy Certificate as under:
- i. An application for Issuance of Certificates shall be made by the Eligible Entity to the Central Agency. The application for issuance of Renewable Energy Certificate shall be accompanied by a fee payable at the rate of Rs.10 per Certificate only.
 - ii. The taxes and duties on fee and charges shall be applicable as per prevailing norms.

FEES AND CHARGES FOR ACCREDITATION OF RE GENERATION PROJECT

- 27.** The Commission determines the fees and charges for accreditation of RE project(s) which will apply till such fees and charges are specified by State Commissions for the State Agency:
- i. An application for Accreditation of RE Generation Projects shall be made to the State Agency by the Renewable Energy (RE) Generating Company. The application for Accreditation of RE Generation Projects shall be accompanied by a non-refundable 'One - time Application Processing Fees' at the rate of Rs.5000/- per application.

- ii. The Eligible Entity shall pay the 'One-time Accreditation Charge' at the rate of Rs.30000/- per application once the 'Certificate of Accreditation' is granted by the State Agency.
- iii. The Eligible Entity shall also pay an 'Annual Charge' at the rate of Rs.10000/- per application. The 'Annual Charges' shall be payable by April 10 of each year.
- iv. The Eligible Entity shall pay charges towards Revalidation/Extension of Validity at the rate of Rs.15000/- per application at the time of revalidation/extension of validity of existing Accreditation at the end of five (5) years, or any such period as determined by the Commission from time to time, from the date of initial Accreditation unless otherwise revoked prior to such validity period.
- v. The taxes and duties on fee and charges shall be applicable as per prevailing norms.

28. Applicability of the Order

- i. The fee and charges determined through this order shall be payable by the eligible entities participating in the REC Mechanism.
- ii. The Control Period or Review Period of the fee and charges determined through this Order shall be of three years of which the first year shall be the period from the date of publishing of this Order to March 31, 2011.

Sd/-	Sd/-	Sd/-	Sd/-
[M. DEENA DAYALAN]	[V.S.VERMA]	[S. JAYARAMAN]	[Dr. PRAMOD DEO]
MEMBER	MEMBER	MEMBER	CHAIRPERSON