

# CENTRAL ELECTRICITY REGULATORY COMMISSION

## NEW DELHI

New Delhi, May 31, 2016

**Coram: Shri Gireesh B. Pradhan, Chairperson  
Shri A. K. Singhal, Member  
Shri A. S. Bakshi, Member  
Dr. M.K.Iyer , Member**

### **STATEMENT OF REASONS**

#### **The Central Electricity Regulatory Commission (Terms and Conditions for Dealing in Energy Savings Certificates) Regulations, 2016.**

##### **I. Introduction**

1. Vide Public Notice No. L-1/97/2016 dated February 03, 2016; the Commission had invited written comments/suggestions from stakeholders on the Draft Central Electricity Regulatory Commission (Terms and Conditions for Exchange of Energy Savings Certificates) Regulations, 2016. In response, written comments/suggestions/objections were received from the following stakeholders:

- (i) Statkraft Markets Pvt. Ltd.
- (ii) E-CUBE Energy Trading Pvt. Ltd. (EETPL)
- (iii) Indian Paper Manufacturers Association
- (iv) The Fertiliser Association of India
- (v) Hindalco Industries Ltd.
- (vi) Penna Cement Industries Ltd.
- (vii) NTPC Ltd.
- (viii) Trident Ltd.

- (ix) REConnect Energy Solutions Pvt. Ltd.
- (x) Power System Operation Corporation Ltd. (POSOCO)
- (xi) Torrent Power
- (xii) Power Exchange of India Ltd. (PXIL)
- (xiii) Indian Energy Exchange (IEX)
- (xiv) Dr. Anoop Singh, Associate Professor, Indian Institute of Technology, Kanpur

2 A Public Hearing on the Draft Central Electricity Regulatory Commission (Terms and Conditions for Exchange of Energy Savings Certificates) Regulations, 2016 was held on March 04, 2016. List of Participants is at **Annexure -1**.

3 The following stakeholders made presentations during the Public Hearing:

- (i) Trident Ltd. and Indian Paper Manufacturers Association
- (ii) Birla White
- (iii) Bureau of Energy Efficiency (BEE)

1.4 Further, the following stakeholders made oral submissions during the Public Hearing:

- (i) Torrent Power
- (ii) UltraTech Cement
- (iii) Indian Energy Exchange (IEX)
- (iv) NTPC Ltd.
- (v) REConnect Energy Solutions Pvt. Ltd.

II. The following section presents the issues raised by the stakeholders along with their comments and the analysis of the Commission :

### **1. Title of Regulations**

#### **1.1. Commission's Proposal**

*"1.1 These regulations may be called the Central Electricity Regulatory Commission (Terms and Conditions for Exchange of Energy Savings Certificates) Regulations, 2016."*

#### **1.2. Comments Received**

i) POSOCO suggested the following:

*"1.1 These regulations may be called the Central Electricity Regulatory Commission (Terms and Conditions for **Dealing in** Energy Savings Certificates) Regulations, 2016."*

ii) BEE agreed with the Commission's proposal on title of Regulations.

#### **1.3. Analysis of the Commission**

The Commission has considered the submissions made and **agrees to the submission** of POSOCO, in view of the specific meaning assigned to the words like 'trading', 'exchange' under the Electricity Act,2003, Policy and CERC Regulations. Consequently, the title of the regulations is modified as Central Electricity Regulatory Commission (Terms and Conditions for Dealing in Energy Savings Certificates) Regulations, 2016.

## **2. Clause 2: Definitions**

### **2.1 Clause 2.1 (h)- Definition of Eligible entity**

#### **2.1.1 Commission's Proposal**

*"2.1 (h) 'Eligible entity' means any designated consumer registered with Registry who has been issued or deemed to have been issued ESCerts and desire to sell or purchase such ESCerts for compliance with the energy consumption norms and standards specified under clause (g) of section 14 of the EC Act."*

### **2.1.2 Comments Received**

i) REConnect Energy Solutions Pvt. Ltd. submitted that Designated Consumers (DCs) who have not met their targets should be separately defined. Defining the entities that are at default makes it easier for the monitoring agency to identify and penalise them for non-compliance, as specified in the CERC REC Regulations, 2010; wherein entities that need to procure green power/RECs to meet their RPO compliance are defined as Obligated Entities.

### **2.1.3 Analysis of the Commission**

i) Clause 2.1 (f) of the Draft Regulations defines “Designated Consumer” as under:

*“f) ‘Designated Consumer’ means any consumer notified by the Central government under clause (e) of section 14 of the Energy Conservation Act, 2001 and for which a target is notified under the Statutory Orders issued by the Government of India from time to time ;“*

ii) In the Commission’s view, the definition of ‘designated consumer’ cannot be based on the consideration whether such consumer has met the targets or not. Designated Consumer is a term defined in the EC Act. Accordingly, the definition proposed in the Draft Regulations is retained.

iii) BEE agreed with the definition of Eligible Entity proposed by the Commission, as it already covers eligible entity to whom ESCerts are issued or entitle to purchase ESCerts. No other comment has been received. Accordingly, the definition of eligible entity has been retained as proposed in the Draft Regulations.

## **2.2 Clause 2.1 (j)- Definition of ESCerts**

### **2.2.1 Commission’s Proposal**

*“2.1(j) ‘ESCerts’ means the Energy Savings Certificates issued by the Central Government in the Ministry of Power to the designated consumer under subsection (1) of section 14(A) of EC Act, 2001;”*

### **2.2.2. Comments Received**

i) POSOCO submitted that reference of PAT Rules regarding denomination, validity, etc., maybe specified in the Regulations. They also suggested that the Regulations may provide specific details of the terms used in the draft Regulations. Therefore, POSOCO suggested modification to the regulation as follows :

*“ESCerts’ means the Energy Savings Certificates, in electronic form, issued by the Central Government in the Ministry of Power to the designated consumer under sub- section (1) of section 14(A) of EC Act, 2001. The value of one energy savings certificates shall be equal to one metric ton of oil equivalent of energy consumed. The energy savings certificates issued in a cycle period shall remain valid till the end of the compliance period of the next cycle.”*

ii) BEE submitted that the comments of POSOCO are already addressed in the PAT Rules determined by the Government of India (GoI). However, they do have any objection if the same is incorporated .

### **2.2.3. Analysis of the Commission**

The Commission notes that Clause 8.1 of the Draft Regulations already specifies that the denomination and validity of ESCerts shall be as specified in the Energy Conservation Rules. As such, the Commission feels that there is **no need for any change** in the definition of ESCerts.

## **2.3 Clause 2.1 (k)- Definition of Exchange or trade of ESCerts**

### **2.3.1. Commission’s Proposal**

*“2.1 (k) ‘Exchange or trade of ESCerts’ means sell or purchase of ESCerts under the Perform, Achieve and Trade (PAT) scheme on Power Exchanges, and includes delivery of ESCerts.”*

### **2.3.2. Comments Received**

i) IEX submitted that the word exchange cannot be used as a synonym to trade, as it refers to exchange/transfer of similar goods between participants. Since the transaction on power exchange involves monies, the word exchange should be substituted with transaction. IEX suggested the following amended definition:

*‘Transaction of ESCerts’ means sale or purchase of ESCerts under the Perform, Achieve and Trade (PAT) scheme through Power Exchanges.”*

ii) POSOCO suggested that the definition be modified to “Trade of ESCerts” instead of “Exchange or trade of ESCerts” and accordingly, POSOCO proposed the following definition:

*“Trade of ESCerts’ means sale or purchase of ESCerts under the Perform, Achieve and Trade (PAT) scheme on Power Exchanges till delivery of ESCerts.”*

iii) BEE agreed with the definition of Exchange or trade of ESCerts as proposed by the Commission in the Draft Regulations.

### 2.3.3 Analysis of the Commission

i) It is observed that while IEX sought amendment of the proposed definition as “transaction of ESCerts”, POSOCO suggested that the proposed definition be modified as “trade of ESCerts”.

ii) The Commission has reviewed the provision and has decided **to modify the words ‘Exchange or trade of ESCerts’ in the proposed Draft to ‘Transaction of ESCerts’, as under:**

#### *“2. Definitions*

...

*r) ‘Transaction of ESCerts’ means sale or purchase of ESCerts under the Perform, Achieve and Trade (PAT) scheme on Power Exchanges, and includes delivery of ESCerts.*

... “

## **2.4 Clause 2.1 (l)- Definition of Market**

### 2.4.1 Commission’s Proposal

*“2.1 (l) ‘Market’ means a forum / platform where buyers and sellers, buy or sell ESCerts through a Power Exchange.”*

### 2.4.2. Comments Received

i) POSOCO suggested that the definition be modified as under:

*“‘Market’ means the Power Exchange platform where buyers and sellers deal in ESCerts.”*

ii) Dr. Anoop Singh suggested that the definition be modified as under:

*“‘Market’ means a forum/platform where buyers (sellers) buy (sell) ESCerts through a Power Exchange.”*

iii) BEE has submitted that considering the premise that the Commission may introduce Bilateral Trading in the future, ESCerts may be traded on a forum/platform other than power exchange too. In view of this, Commission may retain the current definition.

### 2.4.3. Analysis of the Commission

The Commission has considered the submissions of the stakeholders. The Commission is of the view that the definition of market is self-explanatory and therefore, **needs no change**.

## **2.5 Clause 2.1 (p) - Definition of POSOCO**

### 2.5.1 Commission's Proposal

*“2.1 (p) ‘POSOCO’ means Power System Operation Corporation Limited as constituted by the Ministry of Power ( Notification No. 11/20/2005-PG Dated 4th July 2008 ) and who is authorized to function as a Registry for ESCerts.”*

### 2.5.2 Comments Received

- a) POSOCO submitted that Ministry of Power has designated POSOCO as Registry for trading of ESCerts. The function of registry may be performed by NLDC which may be included in the Regulation. Therefore, POSOCO suggested that the definition be modified as under:

*“‘Registry’ means agency designated by MOP to perform such functions as defined in these regulations with respect to ESCerts. “*

- b) BEE agreed with the definition of POSOCO proposed by the Commission in the Draft Regulations.

### 2.5.3 Analysis of the Commission

The Commission has taken note of the suggestions made by the stakeholders. For greater clarity, the Commission **substitutes the definition of “POSOCO” proposed in the Draft Regulations with “Registry”**, as given under:

#### *“2. Definitions*

...

*p) ‘Registry’ means the agency designated by Government of India in the Ministry of Power to perform such functions as defined in these regulations with respect to ESCerts.*

*Provided that NLDC, operating under Power System Operation Corporation Limited (POSOCO), shall function as registry for ESCerts, as notified by Government of India in the Ministry of*

*Power vide Notification No. 10/4/2015 dated January 05, 2016 , unless the Ministry of Power decides otherwise.*

## **2.6 New Definitions Proposed for Banking & Extinguishment of ESCerts**

### **2.6.1. Comments Received**

- i) POSOCO submitted that Regulation 7 (f) inter-alia refers to "exchange, transfer and banking". For more clarity, these terms may be defined in the Regulations. Further, Paragraphs 3.2.4 (b) (v) stipulates "Record keeping of banking of ESCerts", the term banking may be elaborated in the Explanatory Memorandum In view of the same, POSOCO suggested that "Banking" be defined as the following:

*“Banking’ means the Energy Saving Certificates(ESCerts) issued by Ministry of Power(MoP) or purchased through Power Exchange(s) during the current cycle may be used by Designated Consumer for the purpose of compliance in next cycle.”*

- ii) POSOCO submitted that Extinguishment of ESCerts from Registry in order of first in first out may be detailed in the Regulations. Therefore, POSOCO suggested that "Extinguishment of ESCerts" be defined as the following:

*“Extinguishment of ESCerts’ as defined in PAT Rules 2012”.*

- iii) Prof Anoop Singh, IIT, Kanpur submitted that Banking of ESCerts seems to be implicitly permitted as life of ESCerts extends beyond the next compliance period. However, it is not clear if rollover could be allowed. In case rollover is allowed (perhaps for the first compliance period, the shortage of ESCerts should be multiplied by a factor that should be have an economic impact less than the penalty for non-compliance but more than the current level of shortage. For e.g. such entities then need to generate/procure 20-25% extra ESCerts during the next compliance period.
- iv) BEE stated that as per the PAT Rules 12 & 13, procedure of banking and extinguishment of ESCerts comes under the purview of BEE. Therefore, the term "banking and extinguishment of ESCerts" may be deleted from the Regulation 7 (f). They also stated that in the trading phase, on successful exchange on Power Exchange, the Registry Accounts of the Eligible entities have to be updated by the Registry whereby the sellers' accounts have to be debited and the buyers' accounts have to be credited. As regards submission by Dr. Anoop Singh, BEE submitted that as per the current provisions, longevity of ESCerts is until the compliance period of the next cycle.



### 2.6.2. Analysis of the Commission

- i) The Commission has noted the suggestion to define ‘Banking and Extinguishment of ESCerts’. Consequently, **‘banking and extinguishment of ESCerts’ is defined as under:**

***“2. Definitions***

*c) ‘Banking and extinguishment of ESCerts’ means banking and extinguishment of ESCerts as provided in the PAT Rules, 2012, as amended from time to time.”*

### **3. Clause 3.1 of the Draft Regulations: Objective**

#### **3.1. Commission’s Proposal**

*“3.1 The objective of these regulations is to define a framework for exchange of Energy Savings Certificate on Power Exchanges.”*

#### **3.2. Comments Received**

- i) POSOCO suggested that the Clause be modified as under:

*“3.1 The objective of these regulations is to define a framework for dealing in Energy Savings Certificate through Power Exchanges.”*

- ii) BEE agreed with the Objective of the Regulations as proposed by the Commission in the Draft Regulations.

#### **3.3. Analysis of the Commission**

The Commission has considered the submissions and is of the view that the objective can be modified, in line with the Title of the Regulations as under:

***“3. Objective***

*The objective of these regulations is to define a framework for **dealing in** Energy Savings Certificate **through** Power Exchanges”*

## **4. Clause 4.1 of the Draft Regulations: Scope**

### **4.1. Commission's Proposal**

*"4.1 These regulations shall be applicable to ESCerts offered for transaction on Power Exchange(s) including contracts in ESCerts as approved by the Commission in accordance with the provisions of Power Market Regulations."*

### **4.2. Comments Received**

i) POSOCO suggested that the Clause be modified as under:

*"4.1 These regulations shall be applicable to all entities dealing in ESCerts including Power Exchange(s), Designated consumers, Eligible Entity, Registry and administrator."*

ii) BEE agreed with the Scope proposed by the Commission in the Draft Regulations.

### **4.3. Analysis of the Commission**

The Commission has considered the submission of the stakeholder and is of the view that the proposed Clause in the Draft Regulations provides for adequate clarity which will invariably include all the participants of the ESCerts transactions. Hence, **the proposed regulation is retained.**

## **5. Clause 5 of the Draft Regulations: Registry**

### **5.1 Commission's Proposal**

*"5. Registry – For the purpose of these Regulations, POSOCO shall function as Registry for trading /exchange of ESCerts and shall establish the necessary framework for this purpose."*

### **5.2 Comments Received**

i) IEX submitted that as per the directions of Ministry of Power vide letter dated 05.01.2006, POSOCO is designated to discharge the functions of Registry. As the functions were not elaborated elsewhere except in Clause 3.2.4 of Explanatory Memorandum, these functions should be incorporated in the Regulation as the Registry is an important institution in the ESCerts trading mechanism.

ii) POSOCO requested that functions/role of registry may be clearly specified on the same lines as has been done for the other stakeholders. Ministry of Power has designated POSOCO as Registry for trading of ESCerts. The function of registry may be performed by NLDC which may be included in the Regulation. POSOCO added that while BEE may be the web administrator for PATNET portal, POSOCO shall be the administrator for web application of Registry.

iii) With reference to the Explanatory Memorandum, POSOCO submitted that Paragraphs 3.2.4(c) (i), (iii) & (iv) respectively stipulate POSOCO to communicate the obligation status of DCs to Power Exchanges; to maintain records of price discovered for ESCerts at power exchanges and annual energy savings details and periodic reporting to DCs. However, obligation status of DCs and annual energy savings details are in the purview of BEE and the price discovery for ESCerts is in the purview of respective exchanges. Therefore, suitable modifications may be done in the Explanatory Memorandum.

iv) In view of the above submissions, POSOCO suggested that the Clause be modified as under:

*“5. Registry –*

*For the purpose of these Regulations, N L D C, POSOCO shall function as Registry for the following:*

- *Registration of Eligible Entity*
- *Maintaining records of ESCerts issued, traded and extinguished*
- *Information dissemination*

*Registry shall carry out assigned functions through the PATNET web application developed and maintained by the Administrator. The Administrator shall provide the access of the PATNET web application to the Registry.”*

v) BEE agreed with the views of IEX and POSOCO and stated that the functions of Registry can be elaborated in the Regulations.

vi) As regards submission of POSOCO referring to the Explanatory Memorandum, BEE stated that they are in agreement with the proposal of the Commission. The functions stated in the Explanatory Memorandum are related to the coordination and information dissemination related to trading.

### **5.3. Analysis of the Commission**

i) The Commission has considered the suggestions made by the stakeholders and has decided to specify the functions of the Registry in the Regulations.

ii) With regard to the submission of POSOCO on dissemination of information being one of the functions of the Registry, the Commission agrees with POSOCO and accordingly includes dissemination of information as one of the functions of the Registry.

iii) As regards POSOCO's submission on IT Platform and its details, the Commission has included assistance in development of IT Platform as one of the functions of the Registry

iv) As the functions of the Administrator involve signing the Non Disclosure agreement with the Registry, the Commission has also separately provided for the same under the functions of the Registry

v) **In view of the above, Clause 5 is modified as under:**

***"5. Registry***

*The functions of the Registry shall be to undertake:*

- (1) Registration of Eligible Entity;*
- (2) Maintaining records of transaction of ESCerts viz., issuance, dealing, etc;*
- (3) Dissemination of information in coordination with the Bureau;*
- (4) Assistance in development of IT platform for maintaining database of ESCerts;*
- (5) Signing of Non-Disclosure Agreement with the Administrator; and*
- (6) Any other function, as assigned by the Commission in consultation with the Bureau, after assessment of the prevailing market conditions."*

**6. Clause 6 of the Draft Regulations- Role of Commission**

**6.1. Commission's Proposal**

*"6. The Commission shall*

- a) approve the procedure(s) for interface activities between Power Exchanges and Registry, Administrator and Registry, and Registry and Designated Consumer(s) in pursuance of the Energy Conservation Rules ;*
- b) monitor the operations and performance of Power Exchanges with regard to exchange of ESCerts ;*
- c) issue directions to the Bureau in regard to the discharge of its functions related to exchange of ESCerts."*

## 6.2. Comments Received

- i) POSOCO submitted that Draft Procedures to be prepared by BEE may be put up for comments of the stakeholders before being approved by the Commission. They added that the functions of power exchange (s) should include dissemination of information on the volumes exchanged/traded by eligible entities with the Registry after every trading session and issuance of purchase certificate to the buyers.
- ii) POSOCO suggested that the aforesaid Clause be deleted without mentioning any reasons.
- iii) Dr. Anoop Singh, Associate Professor, Indian Institute of Technology, Kanpur stated that interface activities between various entities need further elaboration, especially those between the Power Exchanges. The Registry and the two power exchanges should ensure that same numbered ESCerts are not being placed for trading simultaneously on the two power exchanges. This may result in short-selling. Hence, interface between the three entities becomes more relevant.
- iv) BEE did not agree with the suggestion of POSOCO to delete this Clause as the Clause defines the function of the Commission and interface activities should be approved by the Commission. As regards the submission by Dr. Anoop Singh, BEE submitted that a separate procedure(s) is being prepared for interface activities between the entities, which addresses the observation made by Dr. Anoop Singh.

## 6.3. Analysis of the Commission

- i) As regards suggestion of POSOCO on public consultation of the Draft Procedure to be prepared by BEE, the Commission **has modified Clause 7 (a), as given under:**

“

### ***7. Functions of Administrator –***

*For the purpose of transaction of ESCerts issued under the EC Act, the Bureau shall act as the Administrator and subject to provisions of these regulations, it shall-*

*(a) Define detailed procedure for the following, in pursuance of the Energy Conservation Rules in consultation with the Registry:*

- (i) Interface activities between Power Exchanges and Registry, Administrator and Registry and Registry and Designated Consumer (s);*
- (ii) Registration of eligible entities; and*
- (iii) Dealing, transfer and other residual matters.*

*Provided that the Bureau shall undertake public consultation on the proposed procedure, seek the approval of the same from the Commission and issue detailed procedure after the approval of the Commission.*

...”

- ii) As regards issues pertaining to procedure for interface activities and monitoring of operations and performance of Power Exchanges with regard to transaction of ESCerts, the Commission is of the view that these issues have been duly provided for in various provisions of these Regulations. As such, the role of the Commission in issuing directions to the Administrator and the Registry in regard to discharge of their functions relating to transaction of ESCerts is only provided under Regulation 6. Therefore, this Clause is modified as under:

***“6. The Commission to issue directions***

*The Commission may, from time to time issue directions to the Administrator and the Registry in regard to the discharge of their functions related to transaction of ESCerts”.*

**7. Clause 7 of the Draft Regulations: Functions of Administrator**

**7.1 Clause 7.1 (a) of the Draft Regulations**

**7.1.1 Commission’s Proposal**

*“7.1 For the purpose of exchange of ESCerts issued under the EC Act, the Bureau shall act as the Administrator and subject to provisions of these regulations, it shall-*

- (a) define procedure(s) for interface activities between Power Exchanges and Registry, Administrator and Registry, and Registry and Designated Consumer(s) in pursuance of the Energy Conservation Rules with the approval of the Commission;”*

**7.1.2 Comments Received**

- i) POSOCO submitted that draft procedures prepared by BEE may be put up for comments of the stakeholders before being approved by the Commission.
- ii) They also submitted that Para 3.2.4 (f) of Explanatory Memorandum stipulates making Draft Procedures by registry, which as per the Clause 7.1 of Regulations are to be prepared by BEE. Therefore, suitable modifications may be done in the Explanatory Memorandum.
- iii) Accordingly, POSOCO has proposed the regulation to be modified as under :

*“For the purpose of trading of ESCerts issued under the EC Act, it shall-*

- a) Prepare and notify detailed procedure(s) for interface activities between Power Exchanges and Registry, Administrator and Registry, and Registry and Designated Consumer(s) in*

*pursuance of the Energy Conservation Rules followed by stakeholder consultation and approval of the Commission;”*

- iv) BEE submitted that the draft procedures would be prepared by BEE and sent to POSOCO. Thereafter POSOCO would be required to send the final version for approval of the Commission and subsequent notification by the Commission.

### **7.1.3 Analysis of the Commission**

The Commission has considered the submissions of the stakeholders. As mentioned earlier, the Commission is of the view that the Bureau should undertake the process of public consultation and seek approval of the same from the Commission. Accordingly, the **Regulation is modified as under:**

#### ***“ 7.Functions of Administrator***

*For the purpose of transaction of ESCerts issued under the EC Act, the Bureau shall act as the Administrator and subject to provisions of these regulations, it shall-*

*(a) define detailed procedure for the following, in pursuance of the Energy Conservation Rules in consultation with the Registry:*

- (i) Interface activities between Power Exchanges and Registry, Administrator and Registry and Registry and Designated Consumer (s);*
- (ii) Registration of eligible entities; and*
- (iii) Dealing, transfer and other residual matters.*

*Provided that the Bureau shall undertake public consultation on the proposed procedure, seek the approval of the same from the Commission and issue detailed procedure after the approval of the Commission.*

*...”*

## **7.2 Clause 7.1 (b) of the Draft Regulations**

### **7.2.1 Commission’s Proposal**

*“7.1For the purpose of exchange of ESCerts issued under the EC Act, the Bureau shall act as the Administrator and subject to provisions of these regulations, it shall-*

*...*

*(b) provide assistance to the Commission in the matters involving exchange of ESCerts on Power Exchanges.”*

### **7.2.2 Comments Received**

i) POSOCO suggested that the word “exchange” to be substituted by the word “trading”.  
*“(b) provide assistance to the Commission in the matters involving trading of ESCerts on Power Exchanges.”*

### **7.2.3 Analysis of the Commission**

The Commission has noted the submission of the stakeholder. The Commission is of the view that the word **“exchange” should be substituted by the word “transaction”**.

## **7.3 Clause 7.1 (d) of the Draft Regulations**

### **7.3.1 Commission’s Proposal**

*“7.1 For the purpose of exchange of ESCerts issued under the EC Act, the Bureau shall act as the Administrator and subject to provisions of these regulations, it shall-*

...

*(d) discharge such other functions as may be assigned under these Regulations”*

### **7.3.2 Comments Received**

- i) POSOCO suggested that the Clause be deleted
- ii) BEE has opined that the provision may be retained for unforeseen work in future.

### **7.3.3 Analysis of the Commission**

The Commission has noted the comments and is agreeable to the views of BEE. **Therefore, no change is required in this regard. However, the clause is renumbered as clause (k)**

## **7.4 Clause 7.1 (e) of the Draft Regulations**

### **7.4.1 Commission’s Proposal**



*“7.1 For the purpose of exchange of ESCerts issued under the EC Act, the Bureau shall act as the Administrator and subject to provisions of these regulations, it shall-*

...

*(e) ensure that exchange in ESCerts takes place in a transparent manner”*

#### **7.4.2. Comments Received**

- i) IEX submitted that as trade/exchange of ESCerts takes place through power exchanges under the regulatory purview and monitoring of the Commission, multiplicity of authority would create confusing signals to market participants and institutions. Hence, this function should remain with the Commission.
- ii) POSOCO submitted that the word “exchange” may be substituted by the word “trading”.
- iii) BEE submitted that since the Bureau is the Administrator and is maintaining the transactions of ESCerts after each trading session, BEE needs to ensure that exchange in ESCerts takes place in a transparent manner.

#### **7.4.3. Analysis of the Commission**

The Commission has considered the submissions of IEX, POSOCO and BEE. Power Exchanges are regulated entities under the regulatory purview of the Commission and are already under obligation to transact in any of the products approved by the Commission in a transparent manner. In so far as ESCerts are concerned, the Commission is of the view that BEE is the principal institution under the provisions of the EC Act, 2001 and PAT Rules; and is responsible for the implementation of the ESCerts mechanism. **Therefore, the Bureau is to monitor to ensure that transaction in ESCerts takes place in a transparent manner. Further, BEE is also to report instances of non-compliance of these Regulations to the Commission.**

**The Commission has also substituted the word “exchange” by the word “transaction”.** The modified Clause is as under:

*“7 .Functions of Administrator*

*For the purpose of transactionof ESCerts issued under the EC Act, the Bureau shall act as the Administrator and subject to provisions of these regulations, it shall-*

...

*(d) **monitor to ensure that transaction** in ESCerts takes place in a transparent manner, and report instances of non-compliance of these Regulations to the Commission.”*

## 7.5 Clause 7.1 (f) of the Draft Regulations

### 7.5.1. Commission's Proposal

*"7.1 For the purpose of exchange of ESCerts issued under the EC Act, the Bureau shall act as the Administrator and subject to provisions of these regulations, it shall-*

...

*(f) issue a detailed procedure with the approval of Commission for registration of eligible entities, exchange, transfer, banking, extinguishment of ESCerts and other residual matters;*

### 7.5.2. Comments Received

i) Hindalco Industries Ltd. suggested the following:

a) The ESCerts gained in 1 cycle will be valid in subsequent cycles and the designated consumer shall have the liberty to either use it for its own use within the company or sell the same through power exchange; and

b) Under the condition of excess ESCerts in the market and very little or no buyers, provision should be available for carry forward of ESCerts beyond 2 cycles

ii) REConnect Energy Solutions Pvt. Ltd. submitted that administrator should also make public the list of DCs who fail to meet their targets and need to purchase ESCerts.

iii) POSOCO suggested the deletion of this Clause.

iv) BEE submitted the following views :

a) As regards the submission of Hindalco Industries Ltd., while suggestion (i) is acceptable, the ESCerts will be valid only till the compliance of next PAT Cycle which is in accordance to PAT Rule 12 (6).

b) As per the current PAT Rules, ESCerts of current PAT Cycle can be carry forwarded to next cycle and shall remain valid only till the compliance of that PAT Cycle.

c) As regards other submissions, the Clause may be deleted and added as a function of Registry ( however excluding the functions of *banking, extinguishment of ESCerts*)

### **7.5.3. Analysis of the Commission**

i) The Commission has considered the submissions of Hindalco Industries Ltd. and REConnect Energy Solutions Pvt. Ltd and the BEE's response to these suggestions. The Commission is of the view that the **issues raised pertain to the Detailed Procedures and can be addressed therein.**

ii) As regards the submission of POSOCO on deletion of this Clause and the BEE's response to this suggestion, the Commission is of the view that the detailed procedure should be issued by the Administrator after approval of the Commission. Therefore, the **same is mentioned as a proviso to Clause 7.(a)** wherein the Commission has specified that the Bureau shall define detailed procedure for interface activities, registration of eligible entities and dealing, in consultation with the Registry.

## **7.6 Clause 7.1 (g) of the Draft Regulations**

### **7.6.1. Commission's Proposal**

*"7.1 For the purpose of exchange of ESCerts issued under the EC Act, the Bureau shall act as the Administrator and subject to provisions of these regulations, it shall-*

...

*(g) shall coordinate with the Power Exchanges and Registry for smooth interface for Exchange of ESCerts"*

### **7.6.2. Comments Received**

i) POSOCO submitted that while BEE may be the web administrator for the PATNET portal, POSOCO shall be the administrator for web application of Registry. POSOCO added that functions of power exchange (s) should include dissemination of information on the volumes exchanged/traded by eligible entities with the Registry after every trading session and issuance of purchase certificate to the buyers. Therefore, POSOCO suggested that this clause be deleted.

ii) BEE agreed with the above suggestion of POSOCO . However , they suggested that the provision may be retained for the purpose of coordination.

### **7.6.3 Analysis of the Commission**

The Commission has considered the submissions of the stakeholders and is of the view that coordination is one of the responsibilities of the Bureau and as such, **the Commission has decided to retain this provision.** Further, the Commission **has substituted the word "exchange" with the word "transaction".**

## 7.7 Addition of New Clauses

### 7.7.1 Analysis of the Commission

- i) POSOCO suggested the addition of the following as functions of Administrator:
- a) Provide all information regarding Designated Consumer(s) to the Registry;
  - b) All compliance under EC Act pertaining to ESCerts;
  - c) Facilitate the signing of NDA ( Non-Disclosure Agreement ) among Administrator, Registry;
  - d) Software developer / agency who maintain the PATNET portal;
  - e) Intimate the Registry regarding the extinguishment of ESCerts from the accounts of the concerned Eligible Entity; and
  - f) discharge such other functions as may be assigned under these Regulations
- ii) Further, POSOCO submitted the following:
- a) While BEE will be the web administrator for PATNET Portal, POSOCO shall be the administrator for web application of Registry.
  - b) Provisions regarding on-line surveillance/ audit trail may be made available in the regulations.
- iii) Accordingly, POSOCO suggested the addition of a new Clause after Clause 7.1, as reproduced below:
- “As the BEE is the web administrator for PATNET, therefore, ESCerts Registry module in PATNET Portal shall be maintained by BEE, and POSOCO shall be the administrator for web application of Registry. Any changes in the Registry module shall be done only after taking the approval of the Registry. Further, PATNET Portal shall have the provisions regarding on-line surveillance/ audit trail.”*
- iv) Dr. Anoop Singh , Associate Professor of IIT Kanpur suggested that disseminating relevant market information through its own or through the website of power exchanges and archiving the same for convenient access in public domain should also be among the functions of the Administrator.
- v) BEE submitted the following views on the suggestions of the stakeholders\_:
- a) BEE agrees with the above comments of POSOCO **except ‘(i) (a)’** and stated that all information regarding DCs need not to be shared with the Registry. Registry requires information only in respect of the trading process. Therefore, information pertaining to DCs which are to be shared with Registry may be finalized mutually.

- b) BEE agreed with the other submissions of POSOCO and added that the term “ PATNet Portal” should be replaced by the term “ IT Trading Platform”.
- c) As regards the submission by Dr. Anoop Singh, BEE submitted that the provision of sharing of information in public domain/stakeholders is addressed in the procedures of Registry and Power Exchange.

### **7.7.2 Analysis of the Commission**

i) The Commission has noted the suggestion of the stakeholder and the submission of BEE in this regard. Considering that BEE agrees with most of the suggestions made by POSOCO, **the Commission modifies the functions of the Administrator as follows:**

“

#### **7. Functions of Administrator –**

*For the purpose of transaction of ESCerts issued under the EC Act, the Bureau shall act as the Administrator and subject to provisions of these regulations, it shall-*

*(a) define detailed procedure for the following, in pursuance of the Energy Conservation Rules in consultation with the Registry:*

- (i) Interface activities between Power Exchanges and Registry, Administrator and Registry and Registry and Designated Consumer (s);*
- (ii) Registration of eligible entities; and*
- (iii) Dealing, transfer and other residual matters.*

*Provided that the Bureau shall undertake public consultation on the proposed procedure, seek the approval of the same from the Commission and issue detailed procedure after the approval of the Commission.*

*(b) provide assistance to the Commission in the matters involving transaction of ESCerts on Power Exchanges.*

*(c) disseminate relevant market information to all stakeholders*

*(d) monitor to ensure that transaction in ESCerts takes place in a transparent manner, and report instances of non-compliance of these Regulations to the Commission*

- (e) provide relevant information regarding Designated Consumer(s) to the Registry;
- (f) adhere to all compliance under EC Act pertaining to ESCerts;
- (g) signing of Non-Disclosure Agreement with the Registry;
- (h) coordinate with Software developer / agency who maintains the IT portal;
- (i) intimate the Registry regarding the extinguishment of ESCerts from the accounts of the concerned Eligible Entity;
- (j) coordinate with the Power Exchanges and Registry for smooth interface for transaction of ESCerts; and
- (k) discharge such other functions as may be assigned under these Regulations

ii) As regards the other suggestions of the stakeholders, the Commission is of the view that the **issues raised by the stakeholders pertain to the Detailed Procedure**. Therefore, **there is no need for the inclusion of Clause suggested by POSOCO in the regulations**.

## **8. Clause 8: Category of Certificates of the Draft Regulations**

### **8.1 Title of Clause 8 “ Category Of Certificates”**

#### **8.1.1 Comments Received**

POSOCO submitted that the word “certificates” be substituted by “ESCerts”.

#### **8.1.2 Analysis of the Commission**

The Commission has omitted Clause 8 of the Draft Regulations on “Category of Certificates” in the Final Regulations. The same is explained in detail in Para 9.2.3. of this SOR. In view of the omission of this Clause in the Final Regulations, the change sought by the stakeholder is not required to be made.

### **8.2 Clause 8.1 of the Draft Regulations**

#### **8.2.1 Commission’s Proposal**

*“8.1. ESCerts shall be denominated and have validity as specified in the Energy Conservation Rules.”*

#### **8.2.2 Analysis of the Commission**

The Commission, after analysis of the PAT Rules and Energy Conservation Act , 2001, as amended from time to time , is of the view that a separate Clause specifying the validity of

ESCerts is necessary and accordingly, modifies this Clause as **“Value and Validity of ESCerts”** **after Clause 7**, as given below:

### ***“8. Value and Validity of ESCerts***

*“The value and validity of ESCerts shall be as specified in the Energy Conservation Rules.”*

## **8.3 Clauses 8.2 and 8.3 of the Draft Regulations**

### **8.3.1 Commission’s Proposal**

*“8.2. Contract in ESCerts for offer on Power Exchanges shall be categorized by the Bureau based on year of issue and cycle having regard to market needs , with the approval of the Commission.”*

*“8.3. The Commission may, on an application made in this behalf, permit any Power Exchange to introduce such category of ESCerts in accordance with Power Market Regulations .*

### **8.3.2 Comments Received on Clause 8.2 of the Draft Regulations**

i) POSOCO suggested that the clause be modified as follows :

*“8.2 Any category of ESCerts contracts shall be introduced for trading in Power Exchanges only with the prior approval of the Commission. Contract in ESCerts for trading on Power Exchanges shall be introduced by Power Exchanges, in consultation with the Bureau based on year of issue and cycle having regard to market needs, with the approval of the Commission.”*

ii) BEE is agreeable to the proposal of the Commission on contract in ESCerts for offer on Power Exchanges.

### **8.3.3 Comments Received on Clause 8.3 of the Draft Regulations**

i) REConnect Energy Solutions Pvt. Ltd. submitted that the Commission should permit both the power exchanges to introduce the category of ESCerts to have a competitive market as per the power market regulations. The word "any" should be deleted.

ii) PXIL submitted that the CERC (Power Market) Regulations, 2010, do not specify categorization of ESCerts and required clarification on the following as it would help in developing the appropriate bidding and matching mechanism by the power exchange:

- i) Whether sector specific certificates would be issued by the Registry; and
  - ii) Whether the DC of sector needs to transact in sector specific ESCerts.
- iii) BEE agreed with the proposal of the Commission keeping in view that , the future may see more than two Power Exchanges.
- iv) As regards the submission of PXIL, BEE clarified the following:
- a) Certificates will be issued only by MoP and there are no sector specific certificates.
  - b) There is no sector wise characterization of ESCerts.

#### **8.3.4 Analysis of the Commission**

The Commission has considered the submissions of the stakeholders. Due to reasons elaborated subsequently in Para 9.2.3 of this SOR, the Commission has omitted Clauses 8.2 and 8.3 of the Draft Regulations in the Final Regulation. Therefore, the changes sought by the stakeholders are not required to be made in the Final Regulations.

### **9. Clause 9: Eligible Entity of the Draft Regulations**

#### **9.1 Eligible Entity**

##### **9.1.1 Comments Received**

- i) POSOCO suggested that Clause be renamed as “Eligibility for Registration and Trading”.
- ii) NTPC submitted that individual stations are the Designated Consumers. NTPC being a generating company having multiple stations with individual targets, some stations may require to buy ESCerts and some stations may be required to sell ESCerts as per the proposed regulation. In such a case, each station may have to buy/sell its ESCerts separately adding to work. Therefore, it is submitted that Entities having multiple stations may be allowed to net-off their ESCerts within their stations and net requirement of buying or selling ESCerts may be done by the generating company on behalf of stations. Therefore, it is suggested that generating company owning multiple DCs may be made eligible to trade and it may be allowed to trade after netting-off within its stations.
- iii) While BEE agrees with the proposal of the Commission with respect to the title of the Clause, it is not agreeable to the proposal of NTPC of allowing the DCs of the generating company to net off within stations and be eligible for trade in case of a net excess or shortage as a similar arrangement is not permitted as per provisions of PAT Rule 12 (4).



### **9.1.2 Analysis of the Commission**

- i) PAT Mechanism is a market based mechanism which seeks to address energy security and environmental challenges arising out of the use of energy. Targets are provided to each Designated Consumer, as specified in the relevant Rules and Regulations. The present Regulations arise from the PAT Rules notified by the Ministry of Power. In the absence of such a provision in the PAT Rules, the Commission does not deem it appropriate to allow generating companies owning multiple DCs to trade after netting-off within its stations, as sought by the stakeholder.
- ii) The Regulations detail the types of entities who are eligible to transact in ESCerts . Moreover, the term “Eligible entity” is also defined in the Regulations. Hence, **no change is required in this regard.**

## **9.2 Clause 9.1 of the Draft Regulations**

### **9.2.1 Commission’s Proposal**

*“9.1 Any category of ESCerts contracts shall be introduced for exchange in Power Exchanges only with the prior approval of the Commission.”*

### **9.2.2 Comments Received**

- i) POSOCO suggested that eligibility criteria for registration of a DC with the Registry be detailed in the Regulation. They also suggested that the existing Clause be modified as under: *“9.1 Only Designated Consumers are eligible for Registration with Registry for dealing in ESCerts as per the detailed procedure approved by the Commission. All information related with the Designated Consumer(s) shall be provided by Bureau to the Registry.”*
- ii) BEE agreed with the proposal of the Commission on introduction of contracts.
- iii) On the comment of POSOCO, BEE submitted that all information regarding DCs are not required to be shared with Registry. Registry requires information only related with trading process. Information to be shared with Registry regarding the DCs shall be finalized with mutual consent and would be available on IT trading platform.

### **9.2.3 Analysis of the Commission**

- i) The Commission has considered the submissions of the stakeholders.
- ii) It is clarified that the details on registration of eligible entities are to be provided in the detailed procedure and not in the Regulations. Further, the requirement of the approval of the Commission for introduction of ESCerts in the power exchanges are already provided in

Regulation 10 (5) of the Final Regulations. As such, the provision of Clause 9.1 of the Draft Regulation is redundant and has been omitted in the Final Regulations.

### 9.3 Clause 9.2 (a) of the Draft Regulations

#### 9.3.1 Commission's Proposal

*“9.2. The following entities shall be eligible for exchange in ESCerts on Power Exchanges, namely,-*

*(a) Designated Consumers who shall be issued ESCerts in electronic form in a cycle period for achieving specific energy consumption less than the energy consumption norms and standards notified by the Central Government for the cycle period, under Energy Conservation Rules, and subsequent cycles, who have held such certificates in Registry accounts;*

#### 9.3.2 Comments Received

- i) POSOCO suggested that the word “exchange” be substituted by the word “trading” in Clause 9.2 and the word “Registered” be added to Clause 9.2 (a), as given below:

*“The following entities shall be eligible for trading in ESCerts on Power Exchanges, namely,-*

*(a) Registered Designated Consumers who shall be issued ESCerts in electronic form in a cycle period for achieving specific energy consumption less than the energy consumption norms and standards notified by the Central Government for the cycle period, under Energy Conservation Rules, and subsequent cycles, who have held such certificates in Registry accounts;”*

- ii) BEE agrees with the proposal of the Commission on entities eligible for dealing in ESCerts on Power Exchanges.

#### 9.3.3 Analysis of the Commission

i) The Commission has considered the submissions of the stakeholders. The Commission finds it appropriate **to substitute the word “exchange” with “dealing”** in view of the change made in the title of the Regulations.

ii) The Commission does not agree with POSOCO on qualifying the designated consumers as registered. However, since the Regulations already define Designated Consumers, the Commission finds it appropriate to **substitute the word “Designated Consumers” with “Eligible Entities”**. Further, the words **“who shall be” have been deleted**. Accordingly, the Clause is modified as under:

***“9. Eligible Entity***

(1) The following entities shall be eligible for **dealing** in ESCerts on Power Exchanges, namely,-

(a) **Eligible Entities** issued ESCerts in electronic form in a cycle period for achieving specific energy consumption less than the energy consumption norms and standards notified by the Central Government for the cycle period, under Energy Conservation Rules, and subsequent cycles, who have held such certificates in Registry accounts;  
...”

## 9.4 Clause 9.2 (b) of the Draft Regulations

### 9.4.1 Commission’s Proposal

“9.2. The following entities shall be eligible for exchange in ESCerts on Power Exchanges, namely,-

...

(b) Designated Consumers having Registry accounts whose specific energy consumption are more than the prescribed energy consumption norms and standards specified for a cycle period as aforesaid in clause (a) and subsequent cycles and who wish to comply with the prescribed energy consumption norms and standards using ESCerts in lieu of implementing energy conservation and energy efficiency improvement measures , shall be entitled to purchase the ESCerts to meet compliance with the norms and standards prescribed under clause (g) of section 14 of the EC Act;

### 9.4.2 Comments Received

- i) POSOCO suggested that the words “Registered Designated Consumers” be specified instead of “Designated Consumers” and the words “having Registry accounts” be deleted.
- ii) BEE agreed with the comments of POSOCO.

### 9.4.3 Analysis of the Commission

The Commission has noted the suggestions of the stakeholders. As mentioned above, the Commission finds it appropriate **to substitute the words “Designated Consumers” with “Eligible Entities”**. The Commission accepts the suggestion of POSOCO on **deletion of the words “having Registry accounts”**. The Commission has also **deleted the words “as aforesaid in clause (a)” and “shall be entitled to purchase the ESCerts to meet compliance with the norms and standards prescribed under clause (g) of section 14 of the EC Act”**. Accordingly, the Clause inserted in the Final Regulations is given below:

***“9. Eligible Entity***

(1)The following entities shall be eligible for dealing in ESCerts on Power Exchanges, namely,-

...

(b) **Eligible Entities** whose specific energy consumption are more than the prescribed energy consumption norms and standards specified for a cycle period and subsequent cycles and who wish to comply with the prescribed energy consumption norms and standards using ESCerts in lieu of implementing energy conservation and energy efficiency improvement measures;

...”

## 9.5 Clause 9.2 (c) of the Draft Regulations

### 9.5.1 Commission’s Proposal

“9.2. The following entities shall be eligible for exchange in ESCerts on Power Exchanges, namely,-

...

(c) New products may be introduced in consultation with the Bureau and prior approval of the Commission.

### 9.5.2Comments Received

- i) POSOCO suggested that the Clause be deleted.
- ii) The Fertiliser Association of India requested that the meaning of new product be clarified.
- iii) Dr. Anoop Singh of IIT Kanpur submitted that the proposed Regulations are with reference to energy certificates only. The reference to new products may be premature as there is neither a proposal nor a discussion about the same with stakeholders. Provision for new product can always be incorporated through appropriate amendment of the Regulations in future, subject to relevant regulatory and policy framework for such products.
- iv) BEE agrees with the Commission stating that a provision has been kept for the introduction of new products in future

### 9.5.3Analysis of the Commission

The Commission has considered the submissions of the stakeholders. The Commission notes that revised Clause 9.1 already specifies that any category of ESCerts contracts shall be introduced for exchange in Power Exchanges only with the prior approval of the Commission. In view of the same, **this Clause becomes redundant and is deleted.**

## 9.6 Clause 9.2 (d) of the Draft Regulations

### 9.6.1 Commission's Proposal

*"9.2. The following entities shall be eligible for exchange in ESCerts on Power Exchanges, namely,-*

*...*

*(d) Any other eligible entity, as permitted in the EC Act and on subsequent intimation by the Bureau to the Commission, shall be allowed to enlist for participating in exchange of ESCerts on Power Exchanges by the Commission, from time to time.*

### 9.6.2 Comments Received

- i) POSOCO suggested that the word "dealing" substitute the word "exchange" and that the words "and Registry" be added to "intimation by the Bureau to the Commission".
- i) BEE agreed with the comments of POSOCO.

### 9.6.3 Analysis of the Commission

The Commission has noted the suggestions of the stakeholders. The Commission agrees with the suggestion of POSOCO on **substitution of the word "exchange" with the word "dealing"**.

## 9.7 Clause 9.3 of the Draft Regulations

### 9.7.1 Commission's Proposal

*"9.3. Power Exchanges shall permit only the Eligible Entities to either place buy or sell bids subject to confirmation of availability of ESCerts by the Registry during the exchange session."*

### 9.7.2 Comments Received

- i) POSOCO suggested that the words "subject to the confirmation of availability" and "by the Registry" be deleted. POSOCO also suggested that the word "trading" substitute the word "exchange".
- ii) BEE agrees with the comments of POSOCO.

### 9.7.3 Analysis of the Commission

- i) The Commission has noted the suggestions of the stakeholder and feels that as the Registry would be having a record of the availability of ESCerts, confirmation of the same from the Registry would help the DCs to decide whether or not to place bids. Therefore, the Commission finds **no need for any change in the regulation in this regard.**
- ii) Further, the Commission is of the view that the words **“exchange session” should be substituted by the word “transaction”**. The modified Clause is given below:

***“9. Eligible Entity***

...

*(2) Power Exchanges shall permit only the Eligible entities to place either buy or sell bids subject to confirmation of availability of ESCerts by the Registry during the **transaction.***

...”

**10. Clause 10 of the Draft Regulations: Dealing in the Certificates**

**10.1 a) Clause 10.1 of the Draft Regulations**

**10.1.1 Commission’s Proposal**

*“10.1 The Certificate issued to eligible entities by the Government on the recommendation of the Bureau may be placed for dealing in any of the Power Exchanges by the ESCerts holder, and such ESCerts shall be available for dealing in accordance with the rules and byelaws of such Power Exchanges.”*

**10.1.2 Comments Received**

- i) POSOCO suggested that the word “Certificate” be substituted by “ESCerts” and “eligible entities” be substituted by “DCs”.
- ii) Dr. Anoop Singh, IITK submitted that the words “and such ESCerts shall be available for dealing in accordance with the rules and byelaws of such Power Exchanges” with “and such ESCerts shall be available for dealing in accordance with the rules and byelaws of the Power Exchanges” as the rules and byelaws cannot be of each other or of all exchanges.

**10.1.3 Analysis of the Commission**

- i) The Commission has noted the suggestions of the stakeholders. The Commission has **substituted the word “Certificate” with the word “ESCerts”**.
- ii) As regards the suggestion made by Dr. Anoop Singh, the rules and byelaws are issued by the individual Power Exchanges after approval of the Commission as per the Power Market

Regulations. In view of the same, the Commission is of the view that **no change is required in this regard.**

## **10.1 b) Clause 10.1 of the Draft Regulations**

### **10.1.4 Analysis of the Commission**

The Commission has observed that a number of stakeholders have made comments on market platform and dealing in ESCerts. For greater clarity on the same, the Commission has decided to **modify Clause 10 (1) of the Draft Regulations and classify the same under Clause 11 on “Dealing in Certificates”** as under:

#### ***“10. Dealing in the Certificates***

*(1) Unless otherwise specifically permitted by the Commission by order, the ESCerts shall be dealt only through the Power Exchange and not in any other manner.*

*...”*

## **10.2 Clause 10.2 of the Draft Regulations**

### **10.2.1 Commission’s Proposal**

*“10.2 The frequency of exchange of ESCerts, through Power Exchanges, shall be on monthly basis or in such periodicity for all registered and eligible entities as per the procedure approved by the Commission.”*

### **10.2.2 Comments Received**

i) POSOCO suggested that the word “exchange” be substituted by “trading” and the words “registered and” be deleted, as given below:

*“The frequency of trading of ESCerts, through Power Exchanges, shall be on monthly basis or in such periodicity for all Eligible Entities as per the procedure approved by the Commission.”*

ii) POSOCO submitted that in discussions with CERC and BEE, it was agreed that ESCerts can be traded only once. Clarity in this regard may be detailed in the Regulations. In view of the same, POSOCO suggested the addition of a new Clause as given below:

*“All ESCerts shall be dealt only at Power Exchanges and an ESCert shall be traded only once and multiple trading of ESCerts shall not be allowed.”*

iii) BEE submitted that Frequency of trading shall be as per the procedure approved by the Commission. For the first PAT Cycle, multiple trading shall not be allowed as per the current provisions of PAT Rules. Therefore, POSOCO’s suggestion may be read as

*“ ESCerts shall be traded at Power Exchanges as per the provisions of the EC Act 2001, PAT Rules and regulations notified by the Commission”*

iv) Hindalco Industries Ltd. suggested that the frequency of trading be fortnightly.

v) Torrent Power suggested that the frequency of exchange of ESCerts be on a weekly basis. The higher frequency of ESCerts exchange will facilitate the bidders for timely compliance and give more insight on the movement of prices.

vi) During the Public Hearing, BEE submitted that frequency of trading shall be as per the procedure of power exchange approved by the Commission and window of trading for each cycle will be initiated and closed by the order of the Commission.

### **10.2.3 Analysis of the Commission**

i) The Commission has considered the submissions of the stakeholders. The Commission is of the view that the word **“exchange” should be substituted by the word “transaction”**.

ii) As regards periodicity, the Commission feels that to start with, ESCerts may be traded once in a month. However, the provision already has flexibility of changing the periodicity with the approval of the Commission.

iii) Hence, **the Clause is modified to be included under Regulation 11** on “Dealing in the certificates” as under:

#### ***“10.Dealing in the Certificates***

...

*(3)The frequency of **transaction** of ESCerts, through Power Exchanges, shall be on monthly basis or in such periodicity for all registered and eligible entities as per the procedure approved by the Commission.*

...”

iii) The Commission **also accepts BEE’s views on POSOCO’s suggestion** that frequency of trading should be as per procedure approved by the Commission. Therefore, the Commission **has added an additional Clause**, which shall read as under:

#### ***“10.Dealing in the Certificates***

...



(4)All ESCerts **shall be dealt at Power Exchanges as per the provisions of EC Act, 2001, PAT Rules and these Regulations.**

...”

### **10.3 Clause 10.3 (a) of the Draft Regulations**

#### **10.3.1 Commission’s Proposal**

*“10.3 Power Exchanges shall obtain prior approval of the Commission, on the rules and byelaws including the eligibility criteria, exchange process, ESCert price discovery mechanism and process of interaction between exchange and Registry which inter-alia shall include the following –*

*(a) all eligible entities who intend to participate in the exchange of ESCerts on Power Exchange shall register themselves with the Registry and the Power Exchange;”*

#### **10.3.2Comments Received**

- i) POSOCO suggested that the word “exchange” be substituted by the word “trading”.
- ii) Penna Cement Industries Ltd. suggested that Clause 10.3 (a) be modified as under:  
*“all eligible entities who intend to participate in the exchange of ESCerts on power exchanges shall register with Registry as one time registration (life time registration) for each Designated Consumer and the power exchange.”*
- iii) BEE opined that all DCs need to register with Registry in every cycle but the registration fees and charges will be as per approval of the Commission.

#### **10.3.3Analysis of the Commission**

The Commission has noted the suggestions of the stakeholders and has modified the Clause in the Final Regulations. . The Commission has **substituted the word “exchange” with the word “transact”**.

### **10.4 Clause 10.3 (b) of the Draft Regulations**

#### **10.4.1 Commission’s Proposal**

*“10.3 Power Exchanges shall obtain prior approval of the Commission, on the rules and byelaws including the eligibility criteria, exchange process, ESCert price discovery mechanism and process of interaction between exchange and Registry which inter-alia shall include the following –*

*(b) such eligible entities shall exchange either directly on a Power Exchange or through a Member of a Power Exchange as per the rules and procedures of respective Power Exchange. ;*

#### **10.4.2 Comments Received**

No comments received

#### **10.4.3 Analysis of the Commission**

For greater clarity, the Commission has modified the Clause as under:

##### ***10. Dealing in the Certificates –***

...

*(5) Power Exchanges shall obtain prior approval of the Commission, on the rules and byelaws including the eligibility criteria, transaction process, ESCert price discovery mechanism and process of interaction between exchange and Registry which inter-alia shall include the following –*

...

*(b) The ESCerts issued to the eligible entity may be placed for dealing in any of the Power Exchanges as the ESCerts holder may consider appropriate and such ESCerts shall be available for dealing in accordance with the rules and bylaws of such Power Exchange ;*

### **10.5 Clause 10.4 of the Draft Regulations**

#### **10.5.1 Commission's Proposal**

*“10.4 In any exchange session, an eligible entity shall not place sale bids in excess of total ESCerts held in its Registry Account.”*

#### **10.5.2 Comments Received**

- i) POSOCO suggested that the word “exchange” be substituted by the word “trading”.
- ii) Dr. Anoop Singh suggested that the words “exchange” be substituted by the words “ESCert trading”.

### 10.5.3 Analysis of the Commission

The Commission has noted the suggestions of the stakeholders. The Clause has been modified by **substituting the word “exchange ” with the word “dealing”**.

## 10.6 Clause 10.5 of the Draft Regulations

### 10.6.1 Commission’s Proposal

*“10.5 For restricting excess sale of ESCerts in any exchange session, by any eligible entity on Power Exchanges ,the Registry shall cross-check the cumulative sale bids placed on Power Exchanges with availability of ESCerts in respective Registry account(s) and in case breach of this sub-regulation is noticed, the Registry shall intimate the Power Exchanges to treat such eligible entities as defaulter and any bid submitted by such eligible entity shall not be considered by the Power Exchange for the purpose of price discovery. The bids submitted by such bidders shall become void and ineffective if the total bids submitted by eligible entity on both the Power Exchanges are more than the available ESCerts in the Registry account.”*

### 10.6.2. Comments Received

- i) POSOCO suggested that the word “exchange “be substituted by the word “trading” and “total bids submitted by eligible entity on both the Power Exchanges” be substituted by “total sale bids submitted by eligible entity on both the Power Exchanges”.

### 10.6.3. Analysis of the Commission

- i) The Commission has noted the suggestions. In order to bring in more clarity in the process , the Commission has **deleted the words “For restricting excess sale of ESCerts in any exchange session, by any eligible entity on Power Exchanges”**.
- ii) Further, **as sought by POSOCO, the word “sale” has been added.**

## 10.7 Clause 10.6 of the Draft Regulations

### 10.7.1 Commission’s Proposal

*“10.6 Eligible entities with more than three cases of default specified in sub regulation (10.5) in a cycle shall be barred from exchange of ESCerts for next 6 months:”*

### **10.7.2 Comments Received**

- i) POSOCO suggested that the word “exchange” be substituted by the word “trading”.
- ii) Dr. Anoop Singh suggested that the following be appended:  
*“notwithstanding any penalty due to be imposed on the entity by the Administrator (BEE) and punitive damages resulting from creation of such position”*

### **10.7.3 Analysis of the Commission**

The Commission has noted the suggestions of the stakeholders and has **substituted the word “exchange” with the word “transaction”**. Further, the **Commission has accepted Dr. Anoop Singh’s suggestion and accordingly modified the regulations**. The same has been included in Regulation 10 on “Dealing in the certificates” as under:

#### *“10. Dealing in the Certificates*

...

*(8) Eligible entities with more than three cases of default specified in sub-regulation 10(7) in a cycle shall be barred from transaction of ESCerts for next six months: **notwithstanding any penalty due to be imposed as per the provisions of the Energy Conservation Act, 2001.***

...”

### **10.8 Clause 10.7 (a) of the Draft Regulations**

#### **10.8.1 Commission’s Proposal**

*“10.7. The Power Exchanges, on receipt of confirmation report shall-*  
*(a) aggregate all the buy bids and the confirmed sell bids and determine the market clearing price and the market clearing volume and the exchange results shall be published to the Members through the exchange terminals;”*

#### **10.8.2 Comments Received**

- i) Torrent Power submitted that the mechanism of deciding market clearing price and the volume is to be transparent and known to all eligible entities and in acceptance of eligible entities.
- ii) POSOCO suggested that the words “from Registry” be added to Clause 10.7. POSOCO also submitted to substitute the word “trading session” with the word “exchange” and

that the words “on the website of the concerned Power Exchange” be added in Clause 10.7 (a) as reproduced below:

*“The Power Exchanges, on receipt of confirmation report from Registry shall-*

*a) aggregate all the buy bids and the confirmed sell bids and determine the market clearing price and the market clearing volume and the trading session results shall be published on the website of the concerned Power Exchange.”*

iii) BEE agreed to the views of POSOCO and added that the Power Exchange(s) should also share their business rules in public domain after the approval from Commission.

### **10.8.3 Analysis of the Commission**

- i) The Commission has noted the suggestions of the stakeholder and opines that the **transaction results can be updated on the website of the power exchange.**
- ii) Further, the words **“trading session” have been substituted by the word “transaction”.**

## **10.9 Clause 10.7 (a) of the Draft Regulations**

### **10.9.1 Commission’s Proposal**

*“10.7. The Power Exchanges, on receipt of confirmation report shall-*

*...*

*(b) send reports for exchange confirmation and financial obligation, invoices including financial settlement i.e. pay-in and pay-out shall be generated by the Power Exchanges for the executed exchange and shall be sent to respective members;”*

### **10.9.2 Comments Received**

- i) POSOCO submitted that Paragraphs 3.2.4(c) (i), (iii) & (iv) of the Explanatory Memorandum respectively stipulate POSOCO to communicate the obligation status of DCs to Power Exchanges; to maintain records of price discovered for ESCerts at power exchanges and annual energy savings details and periodic reporting to DCs. Obligation status of DCs and annual energy savings details are in the purview of BEE and the price discovery for ESCerts is in the purview of respective exchanges. Therefore, POSOCO suggested that this Clause be deleted.
- ii) Dr. Anoop Singh suggested that the word “exchange” be substituted with the word “trade”. He added that the primary statement should be appropriately modified to be self-explanatory.

- iii) BEE submitted that the suggestions of POSOCO do not relate to the Commission's proposal.

### **10.9.3 Analysis of the Commission**

The Commission has noted the suggestions of the stakeholders. The Clause has been modified by **substituting the word “exchange” with the words “dealing” and “transaction”**.

## **10.10 Clause 10.7 (c) of the Draft Regulations**

### **10.10.1 Commission's Proposal**

*“10.7. The Power Exchanges, on receipt of confirmation report shall-*

*...*

*(c) On successful exchange on Power Exchange, the Registry Accounts of the Eligible entities shall be updated whereby the sellers' accounts shall be debited and the buyers' accounts shall be credited;”*

### **10.10.2 Comments Received**

- i) POSOCO suggested modification as under :

*“The information on the volumes traded by Eligible Entities, including purchase certificate details, to be shared with the Registry after every trading session. On successful exchange on Power Exchange, the Registry Accounts of the Eligible entities shall be updated whereby the sellers' accounts shall be debited and the buyers' accounts shall be credited.”*

- ii) BEE concurred with the comments of POSOCO.

### **10.10.3 Analysis of the Commission**

The Commission agrees with the suggestion of the stakeholder. The Clause has been modified by **substituting the word “exchange” with the word “dealing”**. The modified Clause is included in Clause 11 on “Dealing in the certificates “as under:

*“10. Dealing in the Certificates*

*...*

*(9) The Power Exchanges, on receipt of confirmation report shall-*

*...*

*(c) share with the Registry after every dealing session, information on the volumes transacted by Eligible entities, including details of purchase of ESCerts. On successful transaction on Power Exchange, the Registry Accounts of the Eligible entities shall be updated whereby the sellers' accounts shall be debited and the buyers' accounts shall be credited.*

...”

## **10.11 Clause 10.7 (d) of the Draft Regulations**

### **10.11.1 Commission's Proposal**

*“10.7. The Power Exchanges, on receipt of confirmation report shall-*

...

*(d)The matching mechanism on Power Exchanges for ESCerts exchange shall be closed bid double-sided auction. “*

### **10.11.2 Comments Received**

No comments received.

### **10.11.3 Analysis of the Commission**

The Clause has been modified by substituting the word “exchange” with the word “transaction”.

## **10.12 Addition of new Sub-Clause to Clause 10.7**

### **10.12.1 Comments Received**

i) POSOCO suggested the addition of a new sub-clause after Clause 10.7 (b), as reproduced below:

*“Power Exchange(s) after trading shall issue the purchase certificate to the buyers. Power Exchange shall take approval of the Commission on the format of purchase certificate.”*

a) BEE agreed with the comment of POSOCO.

### **10.12.2 Analysis of the Commission**

The Commission is of the view that the changes sought by the stakeholders pertain to the Detailed Procedure and not the present Regulations. Therefore, **the same can be included at the time of framing the Detailed Procedure.**

## **11. Clause 11 of the Draft Regulations: Pricing of Certificates**

### **11.1 Clause 11.1 of the Draft Regulations**

#### **11.1.1 Commission's Proposal**

*“11.1 The denomination of one ESCert as mentioned in the Energy Conservation Rules shall be equal to energy consumed in terms of metric Ton of Oil Equivalent (toe).”*

#### **11.1.2 Comments Received**

- i) Indian Paper Manufacturers Association submitted that clarity is required on how the pricing of different fuels and electricity would be worked out to arrive at the face value of ESCerts. Further, single value may be considered for trading. As per notification in 2012, it was Rs. 10,200 per ESCert, which is also considered for penalty.
- ii) Given that the cost of 1 toe for each industry is different, EETPL sought clarification on whether the pricing of ESCerts would be done sector-wise or multiplication factors will be built in to get pricing at par.
- iii) BEE clarified that while the value of ESCert is based on the weighted average of the fuel prices and the quantity of fuel as mentioned in PAT Rule 16, the price of ESCerts is not determined sector wise.

#### **11.1.3 Analysis of the Commission**

As the PAT Rules already provide sufficient clarity on denomination of ESCerts, **no change is required in this regard.**

### **11.2 Clause 11.2 of the Draft Regulations**

#### **11.2.1 Commission's Proposal**

*“11.2 The market price of ESCert shall be as discovered through the process of bidding at the respective Power Exchange.”*



### 11.2.2 Comments Received

- i) NTPC requested separate fund to liquidate inventory of piled up ESCerts. NTPC submitted that in case requirement of ESCerts is much less than the availability, discovered price may be insignificant and may act as deterrence to sell. Even at low discovered price, post demand exhaustion, DCs may be left with unsold ESCerts inventory. It is suggested that carry over of unsold inventory beyond the validity period should be permitted till healthy price is discovered or alternatively, a separate fund may be created which will liquidate inventory at a declared floor price.
- ii) Indian Paper Manufacturers Association submitted that it is not clear how power exchanges will discover the price.
- iii) The Fertiliser Association of India submitted that maximum and minimum value of ESCerts for each PAT cycle may be fixed up to the compilation time of the next PAT cycle. The minimum and maximum quantity of energy certificate may be fixed for selling and purchasing in a single bid.
- iv) EETPL submitted that as per earlier notification, a formula based on prices of coal, gas, electricity and oil was to be used for calculating the prevailing price of 1 ESCert. However, the same has not been mentioned or validated in the draft. Therefore, EETPL sought clarification on whether there is a change in the pricing methodology from the methodology notified in the PAT Rules.
- v) Dr. Anoop Singh from IIT Kanpur submitted that there is an absence of an assessment about the potential range of demand and supply for the ESCerts. Given the current conditions, it is likely to be a situation with excess supply with poor compliance in some of the sectors dominated by the government entities. Given that DCs have a year to demonstrate compliance, it is likely that trade might be bunched towards the end of the year. The unsold ESCerts, if any, can only be monetised after a gap of almost 3 years. Given the time value of money, the price of ESCerts is may biased downwards. These outcomes should be taken in mind while formalizing regulations as well as the over PAT framework.
- vi) BEE opined the following , in response to the views of the stakeholders :
  - a) The business rules of Power Exchange will detail the mechanism of price discovery . Therefore, the Power exchanges may share the same in public domain after the approval from Commission .
  - b) The dealing of ESCerts in terms of quantity is based on the regulation approved by the Commisison and provisons of the PAT Rules.
  - c) No change in the methodology in the PAT Rule is envisaged.

d) In the proposed procedures of the Registry, the provision of purchase of banked ESCerts for the purpose of compliance may address the issue. The provision of rolling cycle may also address the issue.

### **11.2.3 Analysis of the Commission**

- i) Price discovery in power exchanges is a concept which has sufficiently matured in the power sector. Therefore, the same mechanism will hold good for the price discovery of ESCerts as well.
- ii) The submission of NTPC is beyond the purview of these Regulations.
- iii) As mentioned earlier, PAT Rules already provide sufficient clarity on denomination of ESCerts as sought by the stakeholders.
- iv) Hence, **no change in the Regulations is made.**

## **12. Clause 12 of the Draft Regulation: Fees and Charges**

### **12.1 Clause 12.1 of the Draft Regulations**

#### **12.1.1 Commission's Proposal**

*“12.1 The Commission in consultation with the Bureau may from time to time determine, by order, the fees and charges payable by the Eligible entities to the Registry for the purpose of meeting the cost and expense towards the management of Registry and software platform.”*

#### **12.1.2 Comments Received**

- i) POSOCO submitted that Clause 12.1 should include the software development and its maintenance for the functions of Registry, on PATNET platform, by the software developer(s) engaged by BEE. The responsibility of the required software, hardware including maintenance shall be of BEE. The required software module for carrying out the functions of Registry shall be done by software developer engaged by BEE, in consultation with the Registry, in accordance with the detailed procedure approved by the Commission. The support for development of software and the subsequent maintenance is under the purview of Bureau and accordingly, POSOCO may not keep provision for the same. In view of the same, POSOCO suggested modification of Clause 12.1, as reproduced below:

*“The Commission in consultation with the Bureau may from time to time determine, by order, the fees and charges payable by the Eligible Entities to the Registry for the purpose of meeting the cost and expense towards the management of Registry. Software development and maintenance of the ESCerts module in PATNET Portal shall be taken care by the Bureau.”*

- ii) Hindalco Industries Ltd. submitted that the charges payable by DC towards management of registry and exchange should be minimum with a cap.
- iii) Indian Paper Manufacturers Association submitted that fee to be charged by POSOCO and exchanges should be linked to the number of ESCerts traded.
- iv) The Fertiliser Association of India submitted that fees and charges towards the management of registry and software platform may be based on the facilities availed by the eligible entities
- v) Penna Cement Industries Ltd. suggested modification of Clause 12.1 as under:

*"The Commission in Consultation with the Bureau & DCs may from cycle to cycle determine, by order, the one-time registration fee and PAT - Cycle processing Fees payable by the Eligible Entities to the Registry for the purpose of meeting the cost and expense towards the management of Registry and software platform"*

- vi) BEE clarified the following :
  - a) IT fees and charges approved by the Commission should include the cost and expense towards the software development and maintenance of the IT Trading platform as in the Commission's proposal. However, there should only be one window for collection of fees from the Eligible entities by the Registry (POSOCO in order to minimise the transaction cost.
  - b) Fees & charges by POSOCO and exchanges are linked to the number of ESCerts traded.
  - c) Fees & charges by POSOCO and exchanges are based on the facilities availed by the eligible entities as approved by the Commission.
  - d) The Commission's proposal includes the expenses towards the cost and expense towards the management of Registry and software platform.

### **12.1.3 Analysis of the Commission**

As regards the various submissions on fees and charges, the Commission has noted the suggestions of the stakeholders. The Clause proposed in the Draft Regulations clearly specifies that the Commission may, in consultation with the Bureau, determine the fees and charges payable by the Eligible entities by way of an Order. In view of the same, **the Commission is of the view that the same may not be specified in these Regulations. Therefore, no change is required in this regard.**

## **13. Clause 13 of the Draft Regulation: Market Oversight**

### **13.1 Clause 13.1 of the Draft Regulation**

#### **13.1.1 Commission's Proposal**

*“13.1 The Commission may, in consultation with the Bureau, exercise market oversight over ESCerts on Power Exchanges in accordance with Power Market Regulations.”*

#### **13.1.2 Comments Received**

- a) PXIL submitted that information dissemination about availability and requirement of ESCerts is key to successful operation of market based mechanism for dealing in ESCerts. Therefore, appropriate procedure be devised so that information related to issuance, trading and change in ownership of ESCerts after every trade session should be available in the public domain. This would help the power exchanges invite eligible entities transact in ESCerts at the power exchange platform.
- b) BEE submitted that during various workshops conducted by them, DCs enquired on start of trading sessions. Therefore, BEE suggested that the Commission pass an Order on the start of every trading session.
- c) REConnect Energy Services Pvt. Ltd urged the Commission to incorporate in the Regulations detailed information sharing obligations on all constituents of the ESCerts trading process. The three constituents, i.e., BEE, POSOCO and Power Exchanges should be required to put detailed information on ESCerts trading in the public space. Sharing of information will be critical for the success of ESCerts markets for the following reasons:
  - a) since no floor or ceiling price is being set, adequate information on bidding behavior, available inventory, expected demand and willingness to pay will enable better price determination and smooth functioning of the market;
  - b) Eligible entities will constantly need to make ‘trade vs. bank’ decisions: bidding and market information will play a big role in the same; and
  - c) Unlike in the REC markets where two clear constituents exist – obligated entities and eligible entities that never overlap – the ESCerts markets will have trading between eligible entities. Hence, bidding, pricing and market behavior data will be important behaviour data will be important for the functioning of the market.
  - d) In view of the above, REConnect Energy Services Pvt.Ltd. suggested that the following list of information be made available in the public domain and to market participants:

<b>Function</b>	<b>Agency</b>	<b>Information to be made public</b>
Administrator	BEE	- No. of ESCerts issued

<b>Function</b>	<b>Agency</b>	<b>Information to be made public</b>
		<ul style="list-style-type: none"> <li>- No. of ESCerts applied for and in process of issuance</li> <li>- No. of ESCerts extinguished</li> <li>- No. of ESCerts banked</li> <li>- Shortfall on DCs (in mtoe)</li> </ul>
Registry	POSOCO	<ul style="list-style-type: none"> <li>- No. of ESCerts bid for trade in the trading session</li> <li>- No. of ESCerts cleared</li> <li>- Unmet demand due to bid price being lower than MCP</li> <li>- Unmet supply due to selling price being higher than MCP</li> </ul>
Power Exchange	IEX/PXIL/Others	<ul style="list-style-type: none"> <li>- No. of ESCerts bid for trade in the trading session</li> <li>- Demand and supply curve with price and volume information</li> <li>- Unmet demand due to bid price being lower than MCP</li> <li>- Unmet supply due to selling price being higher than MCP</li> </ul>

- e) BEE stated that the comments made by PXIL do not relate to the Commission’s proposal as spelt out in clause 13.1. However, other points were relevant.

### **13.1.3 Analysis of the Commission**

The Commission has considered the submissions of the stakeholders and is of the view that the Bureau is the principal institution under EC Act, 2001 and PAT Rules and is responsible for implementation of the ESCerts scheme, As such, the primary responsibility of monitoring of ESCerts market is to remain with the Bureau. Further, it shall be the duty of the Bureau to bring to the notice of the Commission instances of non-compliance of these Regulations, for suitable action by the Commission. Therefore, the Clause is modified as under:

“

### ***13. Market Oversight –***

*The primary responsibility of monitoring of ESCerts market shall be with the Administrator and it shall be the duty of the Administrator to bring to the notice of the Commission instances of non-compliance of these Regulations, for suitable action by the Commission. “*

## **14. Addition of New Clauses**

### **14.1 Revocation of Registration**

#### **14.1.1 Comments Received**

- i) POSOCO submitted that conditions for revocation of registration may be elaborated in the Regulations. Therefore, POSOCO suggested the following Clause, to be inserted after Clause 12:

*“Revocation of Registration of Eligible Entity from Registry:*

*(1) The Bureau after making an enquiry, may recommend the Registry to revoke registration of the Eligible Entity in any of the following cases, namely:*

*(a) where the Eligible Entity, in the opinion of the Bureau, makes wilful and prolonged default in doing anything required of him by or under these regulations;*

*(b) If the legal status of the Eligible Entity changed and eligible entity failed to communicate the same to Bureau.*

*(c) If the Eligible Entity failed to deposit the fees or other charges to the Registry, based on communication of Registry to Bureau, Registry shall disallow the Eligible Entity to participate in the trading.*

*(2)The Bureau 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 (1) and (2) above, the Commission may from time to time direct the Bureau to initiate enquiry and/or revocation process if the Commission deems it fit.*

*(4) A person aggrieved by the action of the Bureau 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.”*

#### **14.1.2 Analysis of the Commission**

Clause 2 (1) (k) defines **ESCerts** as the following:

## ***“2. Definitions***

...

*(k) ‘ESCerts’ means the Energy Savings Certificates issued by the Central Government in the Ministry of Power to the designated consumer under sub-section (1) of section 14(A) of EC Act, 2001*

...”

Therefore, revocation of registration is to be done by the Central Government in the Ministry of Power. Hence, **the same is not included in these Regulations.**

## **14.2 Penal Provisions**

### **14.2.1 Comments Received**

- i) Statkraft Markets Pvt. Ltd. requested that a penalty mechanism be specified and enforced on the designated consumers to ensure a robust functioning of the ESCerts market on exchange with adequate demand supply balance and substantial liquidity for competitive price determination.
- ii) POSOCO submitted that penalty conditions/ consequences in case of false information or by suppressing material information, etc. may be detailed.
- iii) BEE clarified as follows :
  - i) The penalty mechanism is defined in the section 26 of the EC Act.
  - ii) The penalty conditions/ consequences in case of false information or by suppressing material information are covered under the section 26 of the EC Act.

### **14.2.2 Analysis of the Commission**

As BEE has clarified that penal provisions are already specified in Section 26 of the Energy Conservation Act, 2001, **the Commission is of the view that no change is required in this regard.**

## **14.3 Targets under the PAT Scheme:**

### **14.3.1 Comments Received**

- i) Dr. Anoop Singh , IIT, Kanpur submitted that the methodological approach to set targets under the PAT scheme need significant improvement, both in terms of the level of target setting and relative target for the DCs in a sector. The level of target across the sectors for a three-year compliance window is very lenient. A number of cases this target would have been achieved. Further, the methodological approach to set relative targets for DCs within a factor need significant improvement. It is currently based on a cluster approach, while ignoring a number of underlying factors like purchase of intermediate inputs, and finished products for sale with minimal value addition. Alternate methods are available to set targets in a more scientific manner and be explored.
- ii) BEE noted the observations made by Dr. Anoop Singh.

#### **14.3.2 Analysis of the Commission**

Issues raised by the stakeholder **do not pertain to the present Regulations. BEE may take up the same with appropriate authorities , if found feasible.**

### **14.4 Voluntary Purchase:**

#### **14.4.1 Comments Received**

- i) Dr. Anoop Singh submitted that the benefit of ESCerts goes beyond the obligated entities (i.e. DCs). It is possible that ESCerts may be procured by others (only for extinguishing the same i.e. not to be allowed to be re-traded). This would also provide necessary buoyancy/liquidity in the market. REC market regulations implicitly allow voluntary purchase. Purchase of ESCerts for voluntary purchase should be allowed. This can be reviewed if total number of excess ESCerts are more than total number of deficit ESCerts.
- ii) BEE agreed with the observations made by Dr. Anoop Singh and requested the Commission to take a call.

#### **14.4.2 Analysis of the Commission**

The Commission is of the view that dealing of ESCerts will be in accordance with Clause 11 on “Dealing in the certificates”. The ESCerts market is primarily conceived to achieve targets of energy efficiency. Currently, voluntary purchase is not permitted as per PAT Rules; hence, **it is not included in these Regulations.**

### **14.5 Transaction of ESCerts:**

#### **14.5.1 Comments Received**



i) BEE requested the insertion of the Clause between Regulations 10.1 and 10.2 of the Draft Regulations:

*“The exchange of ESCerts shall be carried out on trading sessions defined between exchange periods. Exchange periods and frequency of trading sessions including date shall be declared by the Commission through an order, in consultation with administrator, for the compliance period and post compliance period of the relevant cycle.”*

#### **14.5.2 Analysis of the Commission**

The Commission is of the view that **the same can be specified in the Detailed Procedure.**

### **15. IT related Issues**

#### **15.1 Comments Received**

- i) IEX submitted that platform is ready for trading. However, testing of the interface between the exchange and the registry is yet to be done.
- ii) POSOCO submitted the following:
  - a) Adequate infrastructure and manpower including IT personnel for operation of Registry may be included during the finalisation of Fees and Charges for Registry.
  - b) Extension of Contract to Software developer for providing continued support and facility management to be ensured by BEE.
  - c) Extensive discussions are required to be held among BEE, NLDC, Power Exchange(s), on mapping of detailed procedures to Registry web application.
  - d) Robust software is the back bone for the successful implementation which shall require further discussions on:
    - Codification: Registration number, ESCerts, Designated Consumers,etc.
    - Interface of the web application with Power Exchanges
    - Provision of access of web application to POSOCO by BEE
    - Intimation by DC and BEE regarding change in any information
    - Website design
    - Seamless interface of software among the concerned stakeholders
    - Extinguishing of ESCerts in order of first in first out

- Dissemination of information: details to be displayed on website for public information and market information to be considered privy
  - e) Sensitivity of on-line web application is very high, therefore, Risk mitigation of the software in following areas are required:
    - Hosting of web application
    - Avoidance of malfunction of software
    - Website security: Secure Socket layer
    - Third party security audit of software
    - Disaster Recovery Site for hosting of Servers
    - Periodic backup, Password Policy etc.
    - Payment Gateway
    - Access to Web application by monitoring agencies, etc.
    - Audit Trail/System Audit
    - SRS document to be provided by developer
  - e) Provisions should be made for Compliance Auditors/ Market Surveillance
  - f) FAQs, Help Manual to be made available at the website
  - g) Periodic capacity building workshops for the stakeholders
- iii) BEE agrees to have discussion with POSOCO on above matters, though the same need not be spelt out in the regulations.

## **15.2 Analysis of the Commission**

Issues raised by the stakeholders pertain to the Draft Procedure and do not pertain to the present Regulations. Hence, **they may be addressed in the Detailed Procedure.**

## **16. Miscellaneous Issues**

### **16.1 Comments on various aspects of dealing in certificates**

Many stakeholders have submitted comments on various aspects related to dealing in certificates, i.e., bilateral exchange, floor price and forbearance price, self-retention of ESCerts, etc. These issues, along with the analysis of the Commission, are presented in the following paragraphs.

#### **16.1.1. Comments Received**

##### **a) Bilateral Exchange:**

- i) Penna Cement Industries Ltd. requested that “The Rules & Procedures for Bilateral Exchange” be incorporated.
- ii) During the Public Hearing, BEE submitted that each DC is treated as a separate entity and under the current provisions of PAT Rule 12 (4), bilateral trading, even with in the same corporate group is not permissible. ESCerts can either be sold in the market or can be banked for the purpose of compliance in the next cycle.
- iii) During the Public Hearing, IEX submitted that the purpose of associating with power exchanges only for trading was to enable a price to be discovered for trading of ESCerts, which would be useful for companies to take decisions for investing in energy efficiency projects. There will be considerable difference between number of buyers and number of sellers. Further dividing the market into bilateral and exchange would have an impact on accurate price discovery.

b) Floor Price and Forbearance Price as applicable in REC Mechanism:

- i) NTPC submitted that in the REC mechanism, there is a provision for floor price & forbearance price to avoid very high as well as very low price due to lack of depth in the REC Market. Since trading in ESCerts in a power exchange market is yet to happen, prices of ESCerts may be abnormally high or low. Therefore, it is submitted that floor and forbearance price for ESCerts in line with the REC mechanism may be considered.
- ii) The Fertiliser Association of India submitted that there should be a provision of floor and forbearance price for ESCerts in line with the REC mechanism. Further, Exchange procedure may be universal (either direct or through a member of Power Exchange) for all power exchanges. The stakeholder also requested clarification on cap of buying ESCerts looking at the future requirement.
- iii) Statkraft Markets Pvt. Ltd. submitted that in the initial years, the floor price model should be followed in order to ensure a minimum return against the investment on energy efficient equipment and also provide an incentive for the same.
- iv) Indian Paper Manufacturers Association submitted the following:
  - a) There is no limit (floor price) and upper limit (forbearance price) defined for trading. Hence, it is very essential that the online bid and offer prices should be displayed like the stock exchanges; otherwise, it would become very difficult to assess the price for bidding/purchasing;

- b) A process similar to REC trading may be followed wherein the floor and forbearance prices are defined and demand is equally distributed among the suppliers, in case demand is lower than supply, at the floor price. Under this mechanism, at least everyone will be able to reduce their inventory in the same ratio as other participants;
  - c) In case the above is not done, there will be every chance that a buyer will quote an extremely low price and in the end, nothing will be sold and the buyer will claim that ESCerts could not be obtained, which should be avoided;
  - d) In case ESCerts are not sold out due to less demand in the market, the Government should purchase it at an agreed upon price and the amount should be used by the DCs in only energy savings schemes in PAT Cycle II; and
  - e) Only 1 power exchange should be authorised for trading. As has been observed in the REC mechanism, there is a huge variation in percentage of sale between the power exchanges and as a result, some companies have benefitted relatively less than others.
- v) Torrent Power submitted that the minimum price (floor price) for ESCert is to be fixed. The minimum price must be equal to metric ton of oil equivalent as per formula given in the PAT rules. This will provide the assurance to eligible entities for the reward to be generated by earning ESCert. If the price of ESCert decided by market factors alone, then there are chances of deflated pricing of ESCert in comparison to the amount and efforts invested by the DC for earning the ESCert.
- vi) With reference to Para 3.4.2 of Explanatory Memorandum, Hindalco Industries Ltd. submitted that REC exchange, also being a market mechanism, has a floor price per REC. They proposed that there should be a minimum floor price for the ESCerts else there will be no guaranteed return for a company investing in energy efficiency improvement projects.
- vii) During the Public Hearing, BEE submitted that PAT Scheme is a market based mechanism which is totally dependent on the market principles of demand and supply. As per PAT Rules, no floor price and forbearance price have been prescribed. The forbearance price is likely to be below the penalty as prescribed in the EC Act. The penalty determined for each PAT Cycle is deemed to be the forbearance price.

- viii) During the Public Hearing, IEX submitted that floor prices are not normal. Once a floor price is set, even if a participant wants to sell at a lower price, they are not able to do so. In case of REC Mechanism, it was observed that when floor price was decreased, compliance in Solar RECs increased significantly. Therefore, absence of floor price would be better for trading. However, if the Commission deems it necessary, floor price may be fixed.

d) Self-retention of ESCerts:

- i) Trident Ltd. submitted that no provision for self-retention of ESCerts is specified in the Regulations.
- ii) BEE submitted that each DC is treated as a separate entity .As per the current provisions of PAT Rule 12 (4). Similarly, bilateral trading even within the same corporate group is not permitted. Therefore, ESCerts can either be sold in the market or can be banked for the purpose of compliance in the next cycle.

e) Inter-sector self-retention:

- i) Trident Ltd. submitted that if a company has DCs in more than one sector, retention/transfer of ESCerts should be allowed from one sector DC to a DC of the same company in another sector
- ii) BEE reiterated that as per the current provisions of PAT Rule 12 (4), bilateral trading even within the same corporate group is not permitted and accordingly, inter sector self-retention is also not permitted.

f) Setting off of excess ESCerts of DC with shortfall of another DC within the same company:

- i) Trident Ltd. submitted that if one DC of a company has earned ESCerts by exceeding its targeted energy norms while another DC was unable to meet the target and has an obligation to purchase ESCerts for other registered DC, then the company has an obligation to purchase from the exchange despite surplus being available with one of its DC. This increases the burden and results in a financial liability even after having net positive ESCerts in the company's account; thereby defeating the overall viability of the PAT scheme. Therefore, a company having more than one registered DC (irrespective of the sector) should be allowed to redeem its ESCerts purchase obligation from ESCert inventory of any of its DC. They also submitted that efforts made towards reduction of emissions cannot be converted into financials. Despite considerable investment towards reduction of emissions, DCs will have to incur expenditure towards purchasing ESCerts.

- ii) Hindalco Industries Ltd. referred to the REC Regulations, specifically Clause 8 (3) added in CERC REC Regulations (second Amendment) 2013, and proposed that in a similar manner, ESCerts gained by one unit of the company may be retained by another unit of the same company whose specific energy consumption is more than the prescribed energy consumption norms and standards and who wish to comply with the prescribed energy consumption norms and standards using ESCerts.
  - iii) Indian Paper Manufacturers Association submitted that exchange of ESCerts between seller and buyer within the same Group Companies should be allowed.
  - iv) EETPL requested clarification on whether transfer of ESCerts within multiple units of the same registered company or group companies can take place outside the exchanges.
- g) Retention/setting off ESCerts across states and different consumption points:
- i) Trident Ltd. referred to the REC Regulations, specifically Clause 8 (3) and submitted that DCs should be allowed to retain/set off ESCerts for fulfilling its own obligation as a consumer, even across different states and different consumption points/units
  - ii) BEE again reiterated that each DC is treated as a separate entity and that the provisions of PAT Rule 12 (4) do not permit even bilateral trading within the same corporate group
- h) Off-setting of ESCerts between different DCs within the same group:
- i) During the Public Hearing, Birla White submitted that despite various energy measures taken by them, they have to incur additional expenditure towards purchase of ESCerts. Therefore, they requested that the Commission allow off-setting of ESCerts between different DCs within the same group.
- i) Cost of ESCerts:
- i) During the Public Hearing, UltraTech Cement submitted that there will be considerable difference in the number of certificates available for sale and purchase. Accordingly, the cost of ESCerts will be low. Therefore, BEE should notify targets for next PAT cycle so that there will be an impact on the cost of ESCerts and DCs will be able to make adequate decisions on how many ESCerts to bank and how many to sell. In view of the same, Government of India should provide a subsidy.
  - ii) Dr. Anoop Singh , Professor, IIT, Kanpur submitted the following:
    - a) While one would expect the market participants to take an informed judgment, this may likely influence the market outcome. It may be prudent to limit or prohibit such an activity during the early phase of the development of the ESCerts market. Allowing the

above means that buyers / sellers can speculate about the movement of price of certificates. This will also depend on the period to show compliance, cost of money as well as penalty for non-compliance.

b) ESCerts as well as RECs are both targeted to address energy security as well as environmental challenges arising out of use of energy. It is possible to define a conversion (multiplier) factor to convert 1 ESCert to 1 REC based on the energy footprint avoided. This may not be feasible at the moment as compliance remains an issue with RPO (affecting REC market) and may also be an issue with PAT targets (affecting ESCerts market). A debate in direction needs to be initiated while compliance issues are addressed separately by the respective regulators.

iii) As regards the submissions by Dr. Anoop Singh, BEE submitted the following:

a) The issuance of ESCerts and entitlement to purchase of ESCerts by the DC is defined in the provisions of Section 14A of Energy Conservation Act, 2001. There is no need of duplication of these provisions again in the ESCert Exchange Regulations. As per the current provisions of PAT Rules and Energy Conservation Act, 2001, the designated consumer whose energy consumption is more than the prescribed norms and standards is entitled to purchase the energy savings certificate to comply with the prescribed norms and standards. The Eligible Entity holding the balance ESCerts (Banked ESCerts) of previous Cycle, and having the shortfall in the next cycle (Second Cycle) may sale Banked ESCerts if the shortfall in the next cycle is less than the amount of Banked ESCerts available in the Registry account. ESCerts whether issued or banked may be purchased only for the compliance purpose and not for the resale.

b) BEE agreed with Dr. Anoop Singh and added that this was also discussed in the CERC – BEE meeting. It was advised that a Task Force be created to discuss and deliberate the issue further.

#### **16.1.2. Analysis of the Commission**

a) *Bilateral Exchange:*

It is observed that the existing PAT Rules do not allow for bilateral exchange. Therefore, **the Commission does not find any need for any change in this regard.**

b) *Floor Price and Forbearance Price as applicable in REC Mechanism:*

BEE, in their submissions have stated that PAT Scheme is a market based mechanism which is totally dependent on the market principles of demand and supply. As per PAT Rules, no floor price and forbearance price have been prescribed. The forbearance price is

likely to be below the penalty as prescribed in the EC Act. The penalty determined for each PAT Cycle is deemed to be the forbearance price.

The Commission has noted the observations of BEE that there is no provision for floor and forbearance price in the PAT Rules. **Accordingly, floor and forbearance price have not been provided for in these Regulations.**

- c) Self-retention of ESCerts, d) inter-sector self-retention, e) setting off of excess ESCerts of DC with shortfall of another DC within the same company, f) retention/setting off ESCerts across states and different consumption points and g) off-setting of ESCerts between different DCs within the same group:*

The Commission has noted the suggestions made in this regard. PAT Mechanism is a market based mechanism which seeks to address energy security and environmental challenges arising out of the use of energy. Targets are provided to each Designated Consumer, as specified in the relevant Rules and Regulations. The present Regulations arise from the PAT Rules notified by the Ministry of Power. In the absence of such provisions in the PAT Rules, the Commission does not deem it appropriate to accept the suggestions of the stakeholders. Hence, **no changes are made to the proposed Clauses in the Draft Regulations.**

- h) Cost of ESCerts:*

As BEE has clarified the issues raised by Dr. Anoop Singh, the Commission is of the view that there is no need for any modification to the Regulations on this account.

## **16.2 Other Issues**

### **16.2.1 Comments Received**

- i) NTPC submitted that self-consumption may be permitted to DCs to meet PAT cycle obligations of next PAT cycle. For this purpose, it is proposed that validity extension by one year beyond compliance period of next PAT cycle may be available. Further, no fee may be levied for self-consumption.
- ii) REConnect Energy Solutions Pvt. Ltd. submitted that the Commission should fix the trading date considering the REC trading day i.e., last Wednesday of the month. NLDC also recently proposed bi-monthly trade of RECs.



- iii) The Fertiliser Association of India submitted that if an entity is having multiple units which are DCs, the registry account should be common in the name of the organization and not in the name of its unit.
- iv) PXIL requested the Commission to provide 3 months' time for development of the trading system in order to meet the procedure requirements specified by the Registry and BEE for trading in ESCerts.
- v) EETPL requested clarification on abatement costs incurred for meeting the targets based on type of energy efficiency project implemented by a unit within a sector.
- vi) EETPL enquired if any estimation has been done on the demand supply situation of ESCerts based on the M&V finalizations. Further, in the event of a mismatch in demand and supply, the stakeholder enquired as to the steps envisaged to ensure stability and sustainability of ESCerts.
- vii) POSOCO suggested that wherever mentioned, eligible entities may be referred to in the Regulation as “Eligible Entities”
- viii) POSOCO submitted the following:
  - As per the PAT Rules, the ESCert (s) purchased by a Designated Consumer (DC) for the purpose of compliance with the energy consumption norms and standards shall expire after their submission to the Bureau. The information flow from Bureau to Registry needs to be detailed for extinguishment of ESCerts from registry.
  - Functions of power exchange to include the dissemination of information on the volumes exchanged/traded by eligible entities with the registry after every trading session and issuance of purchase certificate to the buyers. Provisions regarding change of name / legal entity may be elaborated in the Regulations.
- ix) POSOCO also requested the Commission to include the following in the Regulations for smooth implementation of the scheme:
  - Eligibility conditions for purchase of ESCerts over and above the obligated quality.
  - Banking of excess ESCerts (purchased over and above the obligation) for next cycle. Subsequently, trading of the banked ESCerts in the next cycle. ESCerts carried forward would need suitable tagging
  - Roles and responsibilities of all the stakeholders in the chain are to be defined with clarity in the Regulations.
  - List of ESCerts issued by Ministry of Power shall be shared by BEE/Ministry of Power in hard copy with the Registry in addition to entry in the PATNet web application, in line with the procedure being followed in the REC mechanism.

- All ESCerts issued by Ministry of Power shall be registered by Registry, irrespective of the trading/banking by the Designated Consumers.

x) BEE has already addressed these issues in above points.

#### **16.2.2 Analysis of the Commission**

The Commission has noted the suggestions of the stakeholders and observes that many of the issues raised cannot be specified in the Regulations. Instead, **BEE and POSOCO may appropriately address the same in the Detailed procedure.** However, on the issues pertinent to the present Regulations, the **Commission has noted the suggestions and has made suitable modification, where it is deemed to be appropriate.**

**Sd/-  
( M.K.Iyer)  
Member**

**Sd/-  
(A.S. Bakshi)  
Member**

**Sd/-  
(A.K. Singhal)  
Member**

**Sd/-  
(Gireesh B. Pradhan)  
Chairperson**

**Date: 31.05.2016**

**CENTRAL ELECTRICITY REGULATORY COMMISSION (CERC)**

**Attendance Sheet**

**PUBLIC HEARING ON DRAFT CENTRAL ELECTRICITY REGULATORY  
COMMISSION (TERMS AND CONDITIONS FOR EXCHANGE OF ENERGY  
SAVINGS CERTIFICATES) REGULATIONS, 2016**

<b>Sl.No.</b>	<b>Name and Designation</b>	<b>Company</b>
1	Shri Tejas A. Desai, AGM	Torrent Power, Ahmedabad
2	Shri Nilesh Khatri, General Manager	
3	Shri Jitendra Chaudhary, G.M (Electrical)	Birla White
4	Shri Rohit Roy Nigam, Sr. Engineer	Aditya Cement
5	Shri Ashok Kumar, Energy Economist	Bureau of Energy Efficiency
6	Shri Girja Shankar, AEE	
7	Shri Vishal Mehta, PE	
8	Shri Tushar Saxena, Consultant	
9	Shri Prateek Gupta	Trident Ltd.
10	Shri Aashish Gupta	
11	Shri Sandeep Kurmi, G.M, Energy Cons.	
12	Shri Ch. Rakesh, Energy Manager	Kesoram Cement, Telangana
13	Shri Mayank Shekhar	OTPC
14	Shri S. Gurain	IISCO, SAIL
15	Shri J. Chakrabarti	SAIL – IISCO Steel Plant
16	Shri Piyush Shah	International Paper
17	Shri Sanjay Singh	Shree Cement Ltd.
18	Shri Amit Paul Ekka	IPPAI
19	Shri Y.C. Gupta	Pranat Engineers Pvt. Ltd.
20	Ms. Minaxi Garg	NLDC, POSOCO
21	Shri S.C. Saxena	
22	Shri Shailendra Verma	
23	Shri Ashok Rajan	
24	Ms. Abiha Zaidi	
25	Shri Akhilesh Awasthy	IEX
26	Ms. Shruti Bhatia	IEX
27	Shri Rajiv Kumar	NTPC

<b>Sl.No.</b>	<b>Name and Designation</b>	<b>Company</b>
28	Shri Neeraj.N	REConnect Energy
29	Shri Vibhav. N	REConnect Energy