

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Dated: 10th of July, 2013

NOTIFICATION

No.L-1/12/2010-CERC.- In exercise of powers conferred under section 178 of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in this behalf, and after previous publication, the Central Electricity Regulatory Commission hereby makes the following regulations to amend the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 (hereinafter referred to as “the Principal Regulations”), namely:

1. Short title and commencement.- (1) These regulations may be called the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) (Second Amendment) Regulations, 2013.

(2) These regulations shall come into force with effect from the date of their publication in the Official Gazette.

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

3. Amendment of Regulation 5 of Principal Regulations.- (1) Sub-clause (b) of clause (1) of Regulation 5 of the Principal Regulations shall be substituted as under:

"(b) it does not have any power purchase agreement for the capacity related to such generation to sell electricity, with the obligated entity for the purpose of meeting its renewable purchase obligation, at a tariff determined under section 62 or adopted under section 63 of the Act by the Appropriate Commission:

Provided that in case of renewable energy sources based co-generation plants, the connected load capacity as assessed or sanctioned by the concerned distribution licensee, shall be considered as the capacity for captive consumption for the purpose of issue of certificates, irrespective of the capacity of such plants covered under the power purchase agreement."

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

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

"Provided that such a generating company having entered into a power purchase agreement for sale of electricity, with the obligated entity for the purpose of meeting its renewable purchase obligation, at a tariff determined under section 62 or adopted under section 63 of the Act by the Appropriate Commission shall not, in case of pre-mature termination of the agreement, be eligible for participating in the Renewable Energy Certificate (REC) scheme for a period of three years from the date of termination of such agreement or till the scheduled date of expiry of power purchase agreement whichever is earlier ,if any order or ruling is found to have been passed by an Appropriate Commission or a competent court against the generating company for material breach of the terms and conditions of the said power purchase agreement:

Provided further that a Captive Generating Plant (CGP) based on renewable energy sources shall be eligible for the entire energy generated from such plant for self consumption for participating in the REC scheme subject to the condition that such CGP has not availed or does not propose to avail any benefit in the form of concessional/promotional transmission or wheeling charges and/or banking facility benefit:

Provided also that if such a CGP forgoes on its own, the benefits of concessional transmission or wheeling charges and/or banking facility benefit, it shall become eligible for participating in the REC scheme only after a period of three years has elapsed from the date of forgoing such benefits:

Provided also that the above mentioned condition for CGP for participating in the REC scheme shall not apply if the benefits given to such CGP in the form of concessional transmission or wheeling charges and/or banking facility benefit are withdrawn by the concerned State Electricity Regulatory Commission and/or the State Government:

Provided also that any renewable energy generating plant not fulfilling the conditions of CGP as prescribed in the Electricity Rules, 2005 and availing the concessional benefits in the form of transmission or wheeling charges and/or the banking facility benefit shall be required to forego such benefits for the purpose of availing renewable energy certificate for self-consumption of energy generated:

Provided also that if any dispute arises as to whether a CGP or any other renewable energy generator has availed such concessional/promotional benefits, the same shall be referred to the Appropriate Commission for decision.

Explanation:- For the purpose of this Regulation, the expression 'banking facility benefit' shall mean only such banking facility whereby the CGP or any other renewable energy generator gets the benefit of utilizing the banked energy at any time (including peak hours) even when it has injected into grid during off-peak hours."

(4) A new sub-clause shall be added under clause (1) of Regulation 5 of the Principal Regulations as under:

"(d) It does not sell electricity generated from the plant, either directly or through trader, to an obligated entity for compliance of the renewable purchase obligation by such entity."

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

"(1) the eligible entity shall apply to the Central Agency for certificates within six months from the corresponding generation from eligible renewable energy projects:

Provided that the application for issuance of certificates may be made on 10th, 20th and last day of the month."

(2) In clauses 4 and 6 of the Regulation 7, the words "captive power producer" shall be substituted by the words "captive generating plant".

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

"(1) Unless otherwise specifically permitted by the Commission by order, the certificate shall be dealt only through the power exchange and not in any other manner except as provided in clause (3) of this regulation."

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

"(3) A renewable energy generator including captive generating plant shall be permitted to retain the certificates for offsetting its renewable purchase obligation as a consumer subject to certification and verification by the concerned State Agency:

Provided that the renewable energy generator including captive generating plant shall inform the Central Agency regarding the details of the certificates retained by it for meeting its renewable purchase obligations.

Provided further that renewable energy generator shall not be permitted to retain the certificates for offsetting renewable purchase obligation of its group companies as a consumer."

6. Amendment to Regulation 9 of the Principal Regulations.- In sub-clause (c) of clause (2) of Regulation 9 of Principal Regulations, the words "preferential tariff" shall be substituted with the words "tariff, for sale of electricity to an obligated entity for the purpose of meeting its renewable purchase obligations, determined under section 62 or adopted under section 63 of the Act by the Appropriate Commission".

7. Amendment to Regulation 10 of the Principal Regulations.- Clause (1) of the Regulation 10 of the Principal Regulations shall be substituted as under:

"(1) After registration, the renewable energy generation plant shall be eligible for issuance of Certificates under these Regulations from the date of commercial operation or from the date of registration of such plant by the Central Agency whichever is later:

Provided that the Certificate issued under these Regulations shall remain valid for seven hundred and thirty days from the date of issuance:

Provided that the Certificate issued to an eligible entity for the electricity generated at a time when such entity fulfilled the eligibility criteria for accreditation, shall remain valid for the said period of seven hundred and thirty days, even if accreditation of such entity is revoked at a later date:

Provided that where an eligible entity has obtained accreditation and registration on the basis of false information or by suppressing material information and the accreditation of such entity is revoked at a later date, the Certificates already issued to such entity but not redeemed shall stand revoked from the date of issue of such Certificates and in respect of Certificates already redeemed, such entity shall deposit the amount realized from sale of such Certificates along with the interest with the Central Agency at the rate of two (2) percent in excess of the applicable State Bank of India Base rate per annum."

sd/-
(Rajiv Bansal)
Secretary

Note: The principal regulations were published on 18.1.2010 in Gazette of India Extraordinary Part-III Section-4, Sr. No. 26 and first amendment was published on 1.10.2010 in Gazette of India Extraordinary Part-III Section-4, Sr. No.249.