

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 76/MP/2016

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri A.K. Singhal, Member

Shri A.S. Bakshi, Member

Dr. M.K. Iyer, Member

Date of order: 20th September, 2016

In the matter of

Miscellaneous petition filed under Regulation 24 read with Regulation 111 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and Regulation 14 (Power to give directions) and Regulation 15 (Power to Relax) of the Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010

And

In the matter of

Power System Operation Corporation Ltd.
B-9, Qutab Industrial Area, 1st Floor,
Katwaria Sarai, New Delhi-110 016

.....**Petitioner**

Vs

1. Roshni Powertech Private Limited
2. Him Urja Pvt. Ltd.
3. Shri Lalitha Enterprises Industries (P) Ltd
4. Sirius Overseas Pvt. Ltd.
5. AP State Load Dispatch Centre
6. Uttarakhand Renewable Energy Development Agency
7. Telangana State Load Dispatch Centre

.....**Proforma Respondents**

The following were present:

Ms. Abiha Zaidi, NLDC
Shri Shailendra Saxena, NLDC
Ms. Swapna Seshadri, Advocate, Him Urja Pvt Ltd
Shri Sandeep Rajpurohit, Advocate, Him Urja Pvt Ltd

ORDER

The petitioner, Power System Operation Corporation Limited, has filed the present petition seeking direction from the Commission in implementation of requests for accreditation, registration and issuance of Renewable Energy Certificates (RECs) as per the judgments of the Appellate Tribunal for Electricity (hereinafter referred as 'Appellate Tribunal') dated 13.10.2015 and 20.11.2015 in Appeal No. 280 of 2014 and 193 of 2014 respectively and orders of Andhra Pradesh Electricity Regulatory Commission and Telangana State Electricity Regulatory Commission.

2. The petitioner has submitted that the following facts have led to filing of this petition:

(a) State Load Despatch Centre, Andhra Pradesh, State Load Despatch Centre, Telangana and Uttarakhand Renewable Energy Development Agency (UREDA) have requested for accreditation, registration and issuance of Renewable Energy Certificate (RECs) from retrospective dates.

(b) Roshni Powertech (P) Limited made an application to SLDC, Andhra Pradesh for accreditation of its 6 MW project in terms of the Andhra Pradesh Electricity Regulatory Commission (APERC) RPO Regulations. On 13.2.2013 SLDC, Andhra Pradesh rejected the application on the ground of ineligibility of

the project for accreditation in terms of Regulation 6 (b) of the APERC RPO Regulations as the generator was selling its power to erstwhile Andhra Pradesh Central Power Distribution Company through the trader, namely PTC India Ltd. at a cost more than the pooled cost of power purchase.

(c) On 13.5.2013, Roshni Powertech (P) Limited filed petition before APERC seeking accreditation as per Regulation 6 (b) (ii) of the APERC RPO Regulations. APERC vide its order dated 12.8.2013 held that Roshni Powertech (P) Limited is eligible for accreditation under Regulation No. 1 of 2012 and directed SLDC, Andhra Pradesh to issue accreditation to Roshni Powertech (P) Limited. Aggrieved by APERC order dated 12.8.2013, SLDC Andhra Pradesh preferred an appeal before the Appellate Tribunal. Appellate Tribunal vide its judgment dated 13.10.2015 in Appeal No. 280 of 2014 upheld the order of APERC. In pursuance of APERC's order dated 12.8.2013 and judgment of Appellate Tribunal dated 13.10.2015, SLDC, Andhra Pradesh vide its letter dated 17.10.2015 requested the petitioner to re-validate the accreditation applications which were rejected by the Central Agency and to facilitate the issuance of accreditation certificate for the period from 15.6.2012 to 30.5.2013.

(d) Him Urja Pvt. Ltd. made an application to UREDA on 22.6.2012 for accreditation. On 12.11.2012, UREDA rejected its application on the ground that the power sold to the distribution company was used for the compliance of RPO. Him Ujra filed the petition before UERC against the decision of UREDA. UERC vide its order dated 28.5.2014 rejected Him Urja's petition seeking accreditation

in terms of Renewable Energy Certificate Scheme of the Central Commission read with Renewable Purchase Obligation Regulations of the State Commission. Aggrieved by UERC's order dated 28.5.2014, Him Urja filed an appeal before the Appellate Tribunal. Appellate Tribunal vide its judgment dated 20.11.2015 held that Appellant is completely eligible for accreditation as per Regulation 8 of the State RPO Regulations, 2010 since all the conditions provided in the said regulations are fully fulfilled by the Appellant. Accordingly, UREDA vide its letter dated 13.1.2016 requested NLDC to facilitate the accreditation of Him Urja w.e.f 22.6.2012.

(e) Similarly, in the case of Shri Lalitha Enterprises Industries (P) Limited, Sirius Overseas Pvt. Limited and Shalivahana Green Energy Limited, SLDC, Andhra Pradesh and Telangana vide their letters dated 30.5.2015 and 24.3.2016 respectively requested NLDC to re-validate the accreditation applications which were earlier rejected by the State Agency and facilitate the issuance of accreditation certificate.

3. The petitioner has projected the following difficulties to implement the requests of State Agencies:

(a) REC web application is an online mechanism based on the REC Procedures approved by the Commission under REC Regulations with the petitioner as web administrator. As per the procedures, the application for accreditation is made online by RE Generator(s) which is approved/rejected by respective

State Agency through REC web application. The accreditation certificate number is also auto generated through the system.

(b) The accreditation, registration and issuance of RECs in the instant cases sought are for an intermediate period with retrospective effect and subsequent to that period, RE projects would not avail the benefit of REC mechanism. However, RE generators have not submitted the online application and SLDCs have not submitted their energy injection reports.

(c) The accreditation certificate generated through the web application reflects the auto generated accreditation number with date at the time of issuance of the certificate along with other relevant details. Therefore, NLDC is facing the difficulty to facilitate the requests of State Agencies for the issuance of accreditation certificate from retrospective dates.

4. The petitioner has submitted that requests received from the generators for accreditation, registration and issuance from retrospective dates are also related to issuance of RECs for an intermediate period. Therefore, the integrity and probity of the REC web application would be jeopardized with such implementation as it shall require manual intervention and shall go on to hamper the on-line surveillance in future. Accordingly, the petitioner has prayed for a suitable direction to proceed with the present case.

5. The petition was admitted on 26.5.2016 and notices were issued to Performa respondents to file their replies. No reply has been received from the Performa respondents.

Analysis and Decision:

6. We have considered the submissions of the petitioner. The present petition has been filed by NLDC seeking appropriate direction of the Commission for removal of difficulties being encountered by the Central Agency for implementation of the directions of the State Commission and Appellate Tribunal for grant of accreditation, registration and issuance of REC to the RE generators from retrospective dates. The petitioner has submitted that the REC web application is an online mechanism, based on the REC Procedures approved by the Commission, according to which the application for accreditation is made online by the RE Generator which is approved by respective State Agency, through REC web application and accreditation certificate number is also auto generated through the system. The State Agencies in these cases have requested for re-validation of the accreditation applications for an intermediate period with retrospective effect pursuant to the orders of the State Regulatory Commissions and judgment of the Appellate Tribunal. As the REC Procedure did not envisage such a situation, the petitioner is encountering difficulties to register and grant REC to these RE generators in line with the Orders of State Commissioner and Appellate Tribunal. NLDC has further submitted that implementation of directions of the State Commissions and Appellate Tribunal would require manual intervention and might hamper the online service in future and jeopardize the integrity and probity of the REC web applications.

7. The petitioner has placed on record the orders of the respective State Commissions and the Appellate Tribunal. On perusal of the orders/ judgments, it is revealed that the RE Generators were aggrieved on account of the rejection of their applications by the respective State Agencies and had approached the respective State Commissions for direction for accreditation. The State Commissions have allowed the applications with directions to the State Agencies to accredit these RE Generators from retrospective dates. Out of four generators whose cases have been cited in the present petition, State Agencies had challenged the orders of the State Commissions in two cases before the Appellate Tribunal and the Appellate Tribunal upheld the decisions of the State Commissions. Subsequent to this, the State Agencies have approached the petitioner for re-validation of the accreditation of RE Generators.

8. It is noted that accreditation of RE Generators is the first stage in the process of issuance of REC. A validly accredited RE Generator is registered with NLDC subject to its fulfilling the conditions for registration for REC in accordance with the REC Regulations and thereafter, the RE generator is issued RECs based on the Energy Injection Certificate submitted by the concerned SLDC.

9. Accreditations of Respondent Nos. 1 to 4 have been re-validated by the concerned State Agencies pursuant to the orders of the State Commissions/ Appellate Tribunal. Therefore, the consequential benefits of the accreditation have to be given to the RE Generators by registering them with the Central Agency and issuing them the RE Certificates on the basis of the Energy Injection Reports generated by the respective SLDCs. NLDC has expressed its difficulties to register these RE Generators and issue

RECs from retrospective dates on the ground that the Detailed Procedure does not have a provision for the said retrospective registration and grant of REC.

10. In our view, substantive right of an RE Generator for accreditation, registration and issue of RECs which has been declared as eligible by the State Commissions/Appellate Tribunal cannot be defeated on account of absence of provisions in the Procedure. In the past too, this Commission has issued directions for registration/ issue of RECs in certain cases from retrospective dates which have been given effect to by NLDC. It is to be recognized that the aggrieved parties have a right to approach the available forums and seek appropriate relief. If the relief granted by the forums is not given effect to or implemented, it will make the available legal remedies redundant. The decisions of the State Commissions/ this Commission/Appellate Tribunal with regard to accreditation, registration and issue of RECs have to be given effect, to achieve the objectives of the REC Regulations.

11. According to NLDC, implementation of the directions of the State Commissions/Appellate Tribunal would require manual intervention. In other words, the RE Generators can be registered and issued REC for the past period through manual intervention. However, NLDC is apprehensive that resorting to manual intervention might hamper the online service in future and jeopardize the probity and integrity of REC web applications. While the Commission appreciates the concern, the fact remains that the directions of the Court/Tribunals/Commissions have to be given effect to, even if it involves manual intervention in the instant case. We direct the Central Agency to take necessary action. As regards the contention that the Detailed

Procedure does not have the provision to take care of this eventuality, we direct NLDC to suggest appropriate provision in the Detailed Procedure for giving effect to the directions of the Commissions/ Courts/ Tribunals in consultation with the Staff.

12. In the light of the above discussion, we direct NLDC to register the RE Generators impleaded as Respondent No. 1 to 4 and grant the RECs for the relevant period after calling for the Energy Injection Report from the respective SLDCs. The process shall be completed within the period of one month from the date of the order.

13. With the above, the petition stands disposed of.

sd/-
(Dr. M.K. Iyer)
Member

sd/-
(A.S. Bakshi)
Member

sd/-
(A. K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson