



नईदिल्ली
NEW DELHI

याचिका संख्या./ Petition No.: 243/MP/2019

कोरम/ Coram:

श्री पी. के. पुजारी, अध्यक्ष/ Shri P. K. Pujari, Chairperson
श्री आई. एस. झा, सदस्य/ Shri. I.S. Jha, Member
श्री अरुण गोयल, सदस्य/ Shri. Arun Goyal, Member

आदेश दिनांक/ Date of Order: 14th of August, 2020

IN THE MATTER OF:

Petition filed under Section 79(1)(k) of the Electricity Act, 2003 and Regulation 2(1)(d) read with Regulation 27 and 111 of the Central Electricity Regulatory Commission (Conduct of Business Regulations) 1999, and Regulations 3, 7 & 14 and 15 of Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 seeking condonation of delay in uploading Energy Injection Report data for the month of October, 2018 and consequently delay in complying with the procedure for issuance of Renewable Energy Certificates and to further direct the Respondent to issue the certificates due to the Petitioner.

AND IN THE MATTER OF:

DCM SHRIRAM INDUSTRIES LIMITED.
Unit: Daurala Sugar Works, Meerut, UP.
Regd. Office: Kanchenjung Building,
18, Barakhamba Road,
New Delhi- 110001

...Petitioner

Versus

National Load Dispatch Centre.
1st Floor, NLDC Office,
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi- 110016

...Respondent

Parties Present:

Shri Pawan Upadhyay, Advocate, DCMSIL
Shri Ashok Rajan, NLDC
Shri KailashSaini, NLDC

आदेश/ ORDER

The Petitioner, M/s DCM Shriram Industries Limited (DCMSIL) is a renewable energy generator having its plant at Daurala, District Meerut, Uttar Pradesh with a total installed capacity of 89.51 MW of which 24 MW is under REC mechanism. The Petitioner has filed the Petition under Section 79(1)(k) of the Electricity Act, 2003 and Regulation 2(1)(d) read with Regulations 27 and 111 of the Central Electricity Regulatory Commission (Conduct of Business Regulations) 1999, and Regulations 3, 7, 14 and 15 of 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 REC Regulations, 2010').

2. The Respondent, National Load Dispatch Centre (NLDC) has been designated as the Central Agency for REC mechanism, in accordance with the REC Regulations, 2010. NLDC is entrusted with registration of eligible renewable energy generators, issuance of RECs, maintenance and settlement of REC accounts, repository of transactions in REC, and such other functions incidental to implementation of REC mechanism as may be assigned by CERC from time to time.
3. The Petitioner has made the following prayers:

- a. *condone the delay in applying for issuance of REC due to it for the month of October, 2018 due to the Petitioner for energy eligible for RECs and permit the Petitioner to submit / upload Energy Injection Report Data on NLDC website;*
- b. *direct the Respondent to issue the REC due to the Petitioner for the month of October, 2018;*
- c. *pass such other and further order(s) as this Commission may deem fit and proper in the premises of this case.”*

Submissions of the Petitioner

4. The Petitioner has submitted that it is a renewable energy generator having its plant at Daurala in Meerut district of Uttar Pradesh with a total installed capacity of 89.51 MW of which 24 MW is under REC mechanism. The project is accredited by Uttar Pradesh New and Renewable Development Agency (UPNEDA), which is the State nodal agency.
5. The Petitioner has submitted that an application along with verified Energy Injection Report (EIR) issued by State Load Dispatch Centre has to be made to NLDC for issuance of RECs. The EIR is prepared taking into consideration Joint Meter Reading (JMR) which is prepared jointly by the officials of the transmission company and the Petitioner.
6. The Petitioner has submitted that based on Joint Meter Reading prepared jointly by the officials of Uttar Pradesh Power Transmission Corporation Limited (UPPTCL) and the Petitioner, the Energy Injection Report (EIR) for the month of October 2018 was prepared giving details of power eligible for issue of RECs. EIR along with JMR was submitted to UPPTCL office for verification and thereafter for forwarding the same to Uttar Pradesh State Load Dispatch Centre (UPSLDC). EIR was forwarded by UPPTCL to UPSLDC on 26.11.2018.
7. The Petitioner has submitted that subsequently, UPSLDC sought certain clarifications from UPPTCL as in the EIR submitted, there was some mismatch in the opening figures for the month of October 2018. Accordingly, UPPTCL carried out site inspection of the Petitioner's power generating unit and noticed that there was an inadvertent error in taking the opening figures of three meters since during the month of October 2018 itself the old panels, which had become outdated, were changed. Accordingly, a revised JMR was prepared/ verified/ signed by the Petitioner and officers of UPPTCL and was submitted by UPPTCL to UPSLDC

on 05.03.2019. UPSLDC sought further details/ clarifications from UPPTCL. The same were duly provided to UPSLDC and accordingly the same EIR along with JMR, which was earlier sent on 05.03.2019, was again sent by UPPTCL to UPSLDC on 25.03.2019. There was no change in EIR submitted by UPPTCL to UPSLDC on 05.03.2019 and the one subsequently submitted on 25.03.2019. However, UPSLDC still wanted clarifications from UPPTCL and therefore, UPPTCL forwarded the same vide letter dated 15.04.2019. Finally, on 30.04.2019, UPSLDC approved EIR for the month of October 2018, which was received by the Petitioner only on 02.05.2019 i.e. after the last day when the Petitioner could upload data for October 2018 on NLDC's website and apply for issuance of RECs.

8. The Petitioner submitted that as per the applicable procedure, the figures of EIR approved by UPSLDC can be uploaded on NLDC's website only thrice a month i.e. on the 10th, 20th and the last day of the month. However, when it attempted to upload EIR for the month of October 2018 (received by it from UPSLDC on 02.05.2019) on NLDC's website on 10.05.2019, it failed in its attempt since the column for uploading EIR for the month of October 2018 was not being displayed therein. It forwarded an e-mail dated 14.05.2019 to NLDC stating the issue. NLDC vide reply dated 15.05.2019 declined to accept the application for issuance of RECs for the month of October 2018 as the period of six months since the generation month had lapsed and, therefore, EIR for October 2018 could not be uploaded on NLDC website.
9. The Petitioner has submitted that there was delay of only 10 days in uploading the verified EIR on NLDC website and such delay was beyond the control of the Petitioner. The delay sought to be condoned is not deliberate. In any case, the delay is not attributable to the Petitioner and hence, the delay in applying for issuance of RECs due to it may be condoned and NLDC be directed to issue RECs for the month of October 2018.

Analysis and Decision

10. The Petition was admitted on 20.12.2019 and came up for hearing on 18.06.2020 and thereafter, the petition was reserved for Orders.
11. On 18.06.2020, the Petitioner submitted that the present petition has been filed *inter-alia*, seeking condonation of delay in uploading EIR for the month of October 2018 and to direct NLDC to issue RECs to the Petitioner for the month of October 2018. The representative of

NLDC submitted that in terms of Regulation 7 of the REC Regulations, 2010, the renewable energy generator is required to apply for RECs to NLDC within 6 months from the month in which renewable energy was generated and injected into the grid. In the present case, there was delay of 10 days in uploading EIR on NLDC`s website. NLDC submitted that under the extant REC Regulations, 2010 and *Procedure for Issuance of Renewable Energy Certificates to the Eligible Entity by Central Agency* (hereinafter referred to as “REC Issuance Procedure”), NLDC does not have the power to condone the said delay. The representative of NLDC further submitted that as no allegations have been levelled by the Petitioner against NLDC, it does not want to file any reply and accordingly, no written reply was submitted by Respondent on the matter.

12. The brief facts of the case are that the Petitioner (M/s DCM Shriram Industries Ltd.) is a renewable energy generator having its plant at Daurala, District Meerut, UP with a total installed capacity of 89.51 MW of which 24 MW is under REC mechanism. This unit is accredited by Uttar Pradesh New and Renewable Development Agency (UPNEDA). As per the Petitioner, based on the joint meter reading, the energy injection report for the month of October 2018 was prepared giving details of power eligible for issue of RECs. EIR was verified and forwarded by UPPTCL to UPSLDC on 26.11.2018. However, UPSLDC sought certain clarifications from UPPTCL as there was some mismatch in the opening figures for the month of October 2018 in the EIR. Revised JMR was prepared and submitted by UPPTCL to UPSLDC on 05.03.2019. After further clarifications were sought by UPSLDC, the final EIR along with JMR was sent by UPPTCL to UPSLDC on 25.03.2019. Finally, on 30.04.2019, UPSLDC approved EIR for the month of October 2018, which was received by the Petitioner only on 02.05.2019 i.e. after the last day when the Petitioner could upload data for October 2018 on NLDC's website and apply for issue of RECs. The Petitioner could not upload EIR on website of NLDC when it attempted to do so on 10.05.2019. The Petitioner has submitted that the delay in submission of EIR for the month of October 2018 is only a procedural delay and the same may be condoned and the RECs for the relevant period may be issued.
13. On the other hand, NLDC has submitted that under the extant REC Regulations, 2010/ REC Issuance Procedure, it does not have power to condone the said delay. NLDC has not filed any written reply.

14. The Commission observes that the relevant provisions of the REC Issuance Procedure stipulates as under:-

“3. STEP-WISE DESCRIPTION OF THE PROCEDURE

3.1. Step - 1: An application for issuance of Renewable Energy Certificate shall be made by the Eligible Entity to the Central Agency. The eligible entity shall apply for Issuance of REC on the Web Based Application as per the details given in the Energy Injection Report (EIR issued by the SLDC / Recommendation of SERC for issuance of RECs) and shall also submit the same information in physical form with the Central Agency. The online application shall be acceptable by the Central Agency only if complete in all respect. The physical application for issuance of certificate shall include (i) Energy Injection Report (EIR) for RE projects /Recommendation of SERC for issuance of RECs for distribution licensee, and shall be made in the specified format (FORMAT-3.1: “Application for Issuance of Renewable Energy Certificates to the Eligible Entities”/FORMAT-3.1.1 for distribution licensee) (ii) Print out of online application duly signed and stamped by Authorized Signatory (iii) Commissioning Certificate for RE Generator, only for issuance for the first month after registration.

The application shall be accompanied with the details of payment of the applicable fee & charges towards issuance of certificates as determined by CERC from time to time. While making application for issuance of RECs, the Applicant (Eligible Entity) shall quote the unique Registration Number assigned to it by Central Agency at the time of registration.

3.2. Step - 2: After receipt of physical application for issuance of renewable energy certificates from the Eligible Entity, the Central Agency shall undertake a preliminary scrutiny within 6 working days to ensure that the Application Form is complete in all respect along with necessary documents and applicable fees and charges. As part of preliminary scrutiny, the Central Agency shall satisfy that the following conditions are fulfilled by the RE generators or distribution licensee, as the case may be:

- a) The application is made in the format specified by the Central Agency from time to time.*
- b) The status of Accreditation of the Eligible Entity with the State Agency has not expired. The status of Registration of the Eligible Entity with the Central Agency has not expired.*
- c) The duly certified EIR/ Recommendation of SERC for issuance of RECs is attached for the same period for which application is made towards issuance of Renewable Energy Certificate by the Eligible Entity.*
- d) The application is accompanied with fees & charges.*

3.3. Step - 3: After conducting the preliminary scrutiny, the Central Agency shall intimate in writing to the Applicant for submission of any further information or clarification, if necessary, to further consider the application for issuance of Renewable Energy Certificates or reject the application.

3.4. Step - 4: While considering any application for issuance of Renewable Energy Certificate, the Central Agency shall verify and ascertain availability of following information:

- a) Verification of the time period for which the Central Agency may have already issued Renewable Energy Certificates to the concerned Eligible Entity.
- b) Verification of Renewable Energy Certificates claimed by the Eligible Entity from the duly certified Energy Injection Reports by the concerned State Load Despatch Centre in respect of concerned Eligible Entity.
- c) Details of fee & charges made for issuance of certificates.
- d) Confirmation of Compliance Auditor report, if any.

3.5. Step - 5: The Central Agency shall issue Renewable Energy Certificates to the Eligible Entity only after confirming, the claims made by the Eligible Entity, with the duly certified EIR forwarded by the SLDC/ Recommendation of SERC for issuance of RECs . In case of any discrepancy, in the EIR enclosed by the Eligible Entity along with Application and regular EIR received by Central Agency from concerned State Load Despatch Centre, the information contained in regular EIR furnished by concerned State Load Despatch Centre shall be considered as final and binding for the purpose of issuance of Renewable Energy Certificates.

... ”

15. Regulation 7(2) of the REC Regulations, 2010 provides as follows:-

“7. Denomination and issuance of Certificates

(1) The eligible entity other than distribution licensee 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

(1A) The eligible distribution licensees shall apply to the Central Agency for Certificates within three months from the date of obtaining the certification, as provided in clause (1 A) of the Regulation 5, from the concerned Appropriate Commission

(2) The Certificates shall be issued to the eligible entity after the Central Agency duly satisfies itself that all the conditions for issuance of Certificate, as may be stipulated in the detailed procedure, are complied with by the eligible entity:

(3) The Certificates shall be issued by the Central Agency within fifteen days from the date of application by the eligible entities.

(4) The Certificates shall be issued to the eligible entity on the basis of the units of electricity generated from renewable energy sources and injected into the Grid [or deemed to be injected in case of self consumption by eligible captive generating plant and duly accounted in the Energy Accounting System as per the Indian Electricity Grid Code or the State Grid Code as the case may be, and the directions of the authorities constituted under the Act to oversee scheduling and dispatch and energy accounting, or

based on written communication of distribution licensee to the concerned State Load Dispatch Centre with regard to the energy input by renewable energy generators which are not covered under the existing scheduling and dispatch procedures.”

16. From the above, the Commission observes that as per the REC Regulations, 2010 and the REC Issuance Procedures, the eligible entity has to apply for issuance of RECs on the web-based application as per the details given in the Energy Injection Report and also submit the same information in physical form with the Central Agency (NLDC) within six months. The Central Agency has to verify the application in terms of the Energy Injection Report issued by the concerned State Load Dispatch Centre in respect of the Eligible Entity.
17. The Commission observes that there was a delay of ten days in filing of the application for issuance of RECs for the month of October 2018 which was due to delay in approval of EIR by UPSLDC and the Petitioner has prayed for condoning the delay and requested for issuance of RECs for the month of October 2018. In our view, the delay in uploading EIR on website of NLDC for issuance of RECs for the month of October 2018 was because of delay in approval by UPSLDC which is beyond control of the Petitioner. The same is procedural in nature and merits condonation. Accordingly, the delay in uploading EIR by the Petitioner is condoned and the Respondent NLDC is directed to process the case of the Petitioner for issuance of RECs for the month of October 2018 after due verification.
18. Accordingly, the Petition No. 243/MP/2019 is disposed of.

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