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Date: 14th July 2015

The Secretary,
CENTRAL ELECTRICITY REGULATORY COMMSSION (CERC)
3rd & 4th Floor,
Chanderlok Building,
36 Janpath,
New Delhi - 110 001.

Kind Attention: The Secretary, Ms. Shubha Sarma

Ref: Draft Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) (Fifth Amendment) Regulations, 2015
Your Office Memorandum No.L-1/94/CERC/2011 dated 26th June, 2015

Dear Ma'am,

This has reference to the Draft Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) (Fifth Amendment) Regulations, 2015 which was issued on 26th June, 2015 for public comments/suggestions/objections to be sent latest by 15th July, 2015. Public hearing on the same is scheduled on 5th August, 2015.

We sincerely appreciate the initiative of reviewing the regulations by Central Electricity Regulatory Commission (**CERC**), on the Renewable Energy Certificate (**REC**) mechanism, towards promoting investment in the renewable energy (**RE**) projects and to provide an alternative mode to the RE generators for recovery of their costs.

We hereby enclose our representation in relation to the said public hearing, detailing out only the relevant clauses effecting the REC mechanism for us, for your ready reference and we would be happy to provide further clarifications, wherever necessary:

- Key points in the amendment are as below –
  i. REC eligibility of RE generator selling electricity component to third party through open access available only if the RE generator has not availed any concessional/promotional transmission or wheeling charges or banking facility benefit or concessional cross subsidy surcharge

Recd. Mohan 15/7

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ii. Captive Generating Plant (**CGP**) based on renewable energy sources and other RE Generators not fulfilling the conditions of CGP as prescribed in Electricity Rules, 2005 are not eligible for RECs to the extent of self-consumption.

Both the points have an effect on the REC mechanism for RE generators and the details of the recommendations are given in Annexure – A

Annexure - A

Suggestions on Draft Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) (Fifth Amendment) Regulations, 2015 published for public comments vide Office Memorandum No.L-1/94/CERC/2011 dated 26th June, 2015

A. **REC eligibility of RE generator selling electricity component to third party through open access.**

Para 2 (2) of the Proposed Draft states that,

"... ...a renewable energy generator selling electricity component to third party through open access, shall be eligible for the entire energy generated from such plant for participating in the REC scheme subject to the condition that such generator has not availed or does not propose to avail any benefit in the form of concessional/promotional transmission or wheeling charges or banking facility benefit or concessional cross subsidy surcharge:

Provided also that if such a renewable energy generator forgoes on its own, the benefits of concessional/promotional transmission or wheeling charges or banking facility benefit or concessional cross subsidy surcharge, it shall become eligible for participating in the REC scheme only after the date of forgoing such benefits....."

B. **REC eligibility of CGP based on renewable energy sources.**

Para 2(3) of the Proposed Draft states that,

"A Captive Generating Plant (CGP) based on renewable energy sources and a renewable energy generating plant not fulfilling the conditions of CGP as prescribed in Electricity Rules, 2005 but having self-consumption shall not be eligible for participating in the REC scheme for the energy generated from such plant to the extent of self-consumption"

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1.Background

RE can boost power generation in India, reduce its dependence on fossil fuels and help it to combat environmental pollution. Hence, RE sector in India has tremendous potential and presents an attractive investment opportunity to investors. The need to increase the use of renewable energy sources for sustainable energy development has been recognized by the Government. The Government has committed to take steps to promote renewable energy and incentivize investment in this sector so as to ensure long term sustainable development of the country.

As part of the initiative to promote renewable energy generation, the CERC (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations (**Regulations**) were issued in India in 2010. The major objectives of these Regulations were laid down in the Statement of Objects and Reasons:

- Addressing mismatch between availability of RE sources (dispersed across states) and the requirement of the obligated entities to meet their Renewable Purchase Obligation (**RPO**).
- Promoting additional investment in the RE projects and providing an alternative mode to the RE generators for recovery of their costs.

REC mechanism provided an additional incentive to RE investors. It is on account of such incentives and green energy friendly policies propounded by different states that the RE sector has witnessed significant rate of growth in the recent years.

2.Recommendations on the suggested amendments

We would like to take this opportunity to bring to the attention of the Hon'ble Commission our views on the impact of the suggested amendments in Regulations.

1. The cost of establishment of a CGP and a RE plant by a developer/electricity trader. CGPs have long term visibility and are established by the investor after taking into account the cumulative costs and benefits associated with the project. Ever since CGPs have helped State Discoms to offset Grid supply and enhance the efficiency of the grid discipline. Distinguishing CGPs from plants set up by electricity traders for entitlement of REC benefits would place the CGPs in a disadvantageous position viz a viz an electricity trader. This amounts to unfair and unequal treatment to CGPs.
2. These plants have been availing REC benefits after gaining the entitlement from the 2nd Amendment to Principal Regulation notified on 10.7.2013. Hon'ble CERC has failed to

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realise that with the introduction of Preferential generic tariffs and REC mechanism, Biomass fuel prices have increased substantially as Renewable energy projects selling power under preferential tariff or getting RECs are offering higher fuel prices to farmers/fuel producers. This is compelling the captive/cogen projects to come under REC mechanism for survival. The difference of the prevalent higher fuel cost (Biomass/Bagasse/Rice Straw etc) and consequent higher generation cost of the Captive/ Cogen entities is being met by the REC benefits.

3. The CGP developers have incurred huge expenditure for installing grid synchronization equipment & metering system with associated CTs/PTs, wiring and paneling on all process and auxiliary feeders to become eligible for accreditation/registration under REC mechanism. Further, total production loss for the period of shutdown availed to make the metering and synchronization system operational also had to be borne on this account. All this has been incurred to bridge the gap to sustain the industry.

4. Having faith in the 2nd Amendment, when the CPPs were offered the eligibility, most of the CPPs across India claimed REC benefits with a lot of sacrifice and expenditures as stated above hoping to contribute to the Renewable trajectory of the NAPCC. This resulted in attaining 41% of the entire RE Generation in the country in REC mechanism.

5. Now, when the RPO enforcement failed to compensate against the Supply side and the market plunged undeterred even today, the Regulators, instead of acting as per the Regulation (Consequence of Default for not meeting the RPO) began pondering over alternative issues like loading the IPPs using conventional fuels with RGO, making the Distribution Licensees Eligible for RECs, introducing vintage multiplier and the latest – removing the entire CGP fraternity from REC mechanism.

6. Due to clarity issues regarding RPO compliance for Captive Entities and Captive Cogen Entities based on conventional fuels etc, the participation from Captive domain is suffering –which in turn is affecting the market clearance miserably. More than half of the State Utilities still refrain from REC purchases without facing penalty, while the remaining few which have made an effort have been able to fulfill a part of their Obligation citing reasons of financial constraints and RE prospective projects still to come within their area. Several States do not impose RPO on its consumers and many States have not declared their RPO structure for the present Year. These points if addressed properly can balance the market to a considerable extent without having to deprive entities and their projects which rightly deserve to get the REC benefits.

7. Many CGPs (Eligible entities) are also using the RECs so received for retention against the Renewable Purchase Obligation of the wholly owned subsidiary companies (Obligated entities). Projects established under this provision will suffer a setback.

8. Differential rates of wheeling and transmission charges for RE cannot be considered to be as concession since they may include cross subsidy charges. A blanket provision disentitling open access consumers from availing RECs based on the differential rates of

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wheeling and transmission charges applicable to them is a wholly avoidable inconvenience to the generators.

9. (A)With respect to banking facility, it may be noted that this facility is not available uniformly across states. In some states RE generators are denied banking facility which is particularly disadvantageous to generatorsof RE like wind which is a seasonal and infirm source. In certain states there are restrictions ondrawal of power during peak hours. Hence banking is not an absolute benefit available to RE generators and is subject to restrictions in different states. Hence, availing of banking facility should not be used as a ground to disentitle RE generators selling electricity to third parties from RECs.

   (B) In certain cases, availability of banking facility becomes redundant.There have been instances, especially in Tamil Nadu wherein distribution licensees and have directed wind generators to back down wind turbines on the ground that they are unable to evacuate power because of low grid availability. Despite maximum production, particularly during the peak wind season, RE generators are unable to evacuate the power generated leading to wastage of generated power. This causes severe hardships and losses to wind generators more so since wind is seasonal in nature and a major chunk of the generated power is lost if generators are directed to back down during peak season.Removing incentives like RECs would further hurt the interests of the investors who are already struggling with unfavourableand whimsical attitude of the state electricity authorities.

10. It has been rightly noted in the 'Explanatory Memorandum for the "Draft Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) (Fifth Amendment) Regulations, 2015" that lack of RPO enforcement has been one of the major reasons for the high level of unsold REC inventory. It is submitted that there is a need to focus on the demand side, by stricter enforcement of RPO, rather than regulating the supply side. Enforcement of RPO lies mostly with states and it has neither been effective nor consistent across states. As such, curtailing the REC mechanism would only remove an additional incentive for the investors and would not be conducive for the REC market in the long run.

11. It is submitted that availability of RECs where factored in while evaluating the investments made in the RE projects. Wind is a seasonal and infirm source of power and REC mechanism provides a way to the investor to ensure the financial viability of the projects. In the case of renewable energy generators selling to third parties, the prices would have been negotiated knowing fully well that RE projects would also derive benefit if REC.Any effort to curtail the REC benefit would adversely affect the interests of the existing RE investors and deter future investment.

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Mitigation Measures

1. In the event the recommendations are not accepted and proposed amendments are brought into force, we would request that following clarifications be provided:
   (i) In some states concessional wheeling and transmission charges are available while banking as a facility is not available whereas in others banking may be available but no concessional wheeling and transmission charges are prevalent. It may be clarified that only if both these facilities are available in a state, then only the REC benefit would be curtailed for CGPs and RE generators generating for third party sale. It may be further clarified that if a state does not provide concessional wheeling and transmission charges or banking facility, the above two categories of generators should continue to enjoy REC benefits.
   (ii) It may be clarified that in the event the state utilities issue back down orders to the wind generators, the generator should become entitled to REC.
   (iii) It may be clarified that the RECs which have been already allotted to CGPs and RE generators selling wind power to third parties shall remain valid till their date of expiry as provided under the Regulations.
   (iv) We pray to your kind office to consider the alternatives by which such steps might not be needed so as to deprive a justified eligible entity to balance the market in a way which does not comply to the objectives of the REC mechanism nor having to deviate from the REC Regulations and its Amendments notified before. It will be in the interest of all the stake holders if a period of say 10 years is prescribed for the eligibility to receive RECs from the date of registration or 15 years from the date of commissioning of the project so that such projects partly recover the huge cost of investment for getting the registration and remain competitive in the face of increased fuel costs.

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