



नई दिल्ली  
NEW DELHI

याचिका संख्या./ Petition No. 333/MP/2023

कोरम/ Coram:

श्री जिष्णु बरुआ, अध्यक्ष/Shri Jishnu Barua, Chairperson  
श्री अरुण गोयल, सदस्य/ Shri Arun Goyal, Member  
श्री पी. के. सिंह, सदस्य / Shri P. K. Singh, Member

आदेश दिनांक/ Date of Order: 31<sup>st</sup> of March, 2024

**IN THE MATTER OF:**

Petition under Section 79(1)(K) of the Electricity Act, 2003 Read with Regulations 17 And 18 of the CERC (Terms and Conditions for Renewable Energy Certificates for Renewable Energy Generation) Regulations 2022 seeking condonation of delay in complying with the procedure for issuance of Renewable Energy Certificates for FY 2021-2022 and other consequential reliefs.

**AND IN THE MATTER OF:**

**Southern Power Distribution Company of Andhra Pradesh Limited (SPDCAPL),**  
Srinivasasa Kalyana Mandapam Backside, Tiruchanoor Road,  
Kesavayana Gunta, Tirupati 517501.

...Petitioner

Versus

**National Load Dispatch Centre (NLDC),**  
C/o Grid Controller of India  
(Formerly Power System Operation Corporation Limited)  
B-9 (1st Floor), Qutab Institutional Area,  
Katwaria Sarai, New Delhi -110016.

...Respondent

**Parties Present:** Shri Sidhant Kumar, Advocate, SPDCAPL  
Ms. Ekssha Kashyap, Advocate, SPDCAPL  
Shri Kailash Chand Saini, NLDC  
Shri Alok Mishra, NLDC  
Shri Gajendra Sinh, NLDC

### **आदेश/ ORDER**

The Petitioner, Southern Power Distribution Company of Andhra Pradesh Limited (SPDCAPL), is a licensed distribution entity in the State of Andhra Pradesh engaged in procuring and distributing electricity from renewable and non-renewable energy sources. The Petitioner is seeking condonation of delay in complying with the procedure for issuance of Renewable Energy Certificates (REC) for FY 2021-2022 and other consequential reliefs.

2. The Respondent, National Load Dispatch Centre (NLDC), is designated as the Central Agency under Regulation 3 of the Central Electricity Regulatory Commission (Terms and Conditions for Renewable Energy Certificates for Renewable Energy Generation) Regulations 2022 (REC Regulations, 2022) and is entrusted with the functions of granting registration and issuance of RECs as per the said REC Regulations.
3. The Petitioner has made the following prayers:
  - a) *Relax the timelines stipulated under Regulation 10(3) of the REC Regulations 2022 and condone the delay of 277 days in approaching the Respondent for issuance of Renewable Energy Certificates for FY 2021-2022;*
  - b) *Direct the Respondent to issue the Renewable Energy Certificates for FY 2021-2022 in favour of the Petitioner;*
  - c) *Pass any other or further order(s) as this Hon'ble Commission may deem fit and*

### **Brief Factual Background**

4. The Petitioner is accorded Registration No. AP0DSAPSPDCLTR171018 is a registered distribution entity under the REC Regulations 2022. It had procured renewable power in excess of its obligations during the FY 2021-2022. To avail of the benefits of RECs under the REC Regulations, 2022, the Petitioner is required to obtain a certificate/recommendation from the relevant State Commission, namely, the Andhra Pradesh Electricity Regulatory Commission (APEREC), which is a pre-requisite to certify that during the previous financial year, the Petitioner procured renewable energy in excess of its statutory obligation and

thereafter must submit the application to the Central Agency, NLDC for issuance of RECs within three months from the end of the financial year.

### **Submission of the Petitioner**

5. The Petitioner has submitted as under:

- a) During the Financial Year 2021-2022, the Petitioner has procured renewable energy of 70,89,077.45 MWh. This procurement is in far excess of the Petitioner's statutory Renewable Power Purchase Obligations (RPPO) of 49,77,767.86 MWh.
- b) The Petitioner has received the recommendation from the Andhra Pradesh Electricity Regulatory Commission (APEREC) for the issuance of Renewable Energy Certificates (RECs) for FY 2021-22.
- c) The Petitioner was unable to approach the Respondent for issuance of RECs within the period of 3 months from the end of the financial year as stipulated under Regulation 10(3) of the REC Regulations, 2022, as there was a delay in finalising the Petitioner's RE procurement data for the FY 2021-22 due to the following reasons:
  - (i) **Delay in taking joint meter readings:** The Petitioner manually recorded meter readings from its renewable energy generators, involving field officers in the presence of Transmission Corporation of Andhra Pradesh Limited (APTRANSCO) and Power Generator officials. With approximately 250 PPAs in place with solar power generators and non-solar power generators, quantifying renewable energy units took about two months and finally concluded in June 2022.
  - (ii) **Submission of data with Andhra Pradesh Power Coordination Committee (APPCC) for collation:** The Petitioner submitted collected renewable energy procurement data to APPCC for collation to determine the excess quantity of renewable energy units consumed beyond their Renewable Purchase and Procurement Obligations (RPPO) for FY 2021-2022. APPCC concluded this assessment in December 2022.
  - (iii) **Delay in finalizing data:** The Petitioner, besides procuring renewable energy, had a significant amount of unutilized banked energy. Challenges arose in finalizing renewable energy settlements with generators due to evolving regulations on banked energy from the year 2017 to 2022. This issue was finally resolved by the order dated 16.08.2022 of the Hon'ble High Court of Andhra Pradesh, which allowed banking facilities for the Renewable Energy

Generators in respect of the PPAs executed prior to November 2019. Only after this order did generators agree to sign and finalize Renewable Energy Generator Settlements.

- d) Thereafter, the RE procurement data was finalised by the Petitioner along with APPCC on 23.12.2022.
- e) On 26.12.2022, the Petitioner submitted this data to APSLDC for issuing the Annual Status Report for FY 2021-2022. This Report demonstrates that the Petitioner exceeded its RPPO for FY 2021-2022.
- f) After reviewing the data, APSLDC issued the Annual Status Report for the FY 2021-2022 on 25.01.2023. The Petitioner's RPPO for FY 2021-22 was 21% of the total consumption, and the Report confirmed that the Petitioner procured 70,89,077.45 MWh of renewable energy, which was in excess of its obligations during the year 2021-2022. The Petitioner also exceeded its RPPO for the past 4 years consecutively.
- g) On the basis of the Annual Status Report and the other renewable power procurement data collected, the Petitioner filed a Petition bearing O.P. No. 11/2023 before APERC on 24.02.2023.
- h) APERC heard the Petition, and vide judgment dated 21.04.2023, APERC allowed the REC Petition and held that the Petitioner had exceeded its RPPO during the FY 2021-21. APERC issued a certification affirming the Petitioner's eligibility to avail of RECs for FY 2021-2022.
- i) Upon receiving the recommendation from APERC, the Petitioner on 24.04.2023, tried to file an application for issuance of RECs in respect of FY 2021-2022 on the Respondent's portal as per the procedure laid down by the Respondent.
- j) However, the Respondent's automated portal prevented the filing of any such application, being after the expiry of the period of 3 months stipulated under Regulation 10(3) of the REC Regulations, 2022.
- k) This has resulted in a loss of about Rs. 211.13 Crores and caused a grave prejudice to the Petitioners, who already faced financial liabilities amounting to Rs. 11,000 Crores approximately. The revenue realised through the sale of these RECs will be duly disclosed and accounted for as revenue realised by the Petitioner. This will consequently be deducted from the Petitioner's true-up petitions and will pass through to the Petitioner's consumers, ensuring their benefit.

- 1) In view of the above, it is submitted that the Commission may exercise its powers under Regulation 10(3) of the REC Regulations 2022 to
  - (i) condone the delay of 277 days in approaching the Respondent and
  - (ii) direct the Respondent to issue RECs in favour of the Petitioner for the FY 2021-2022.

#### **Hearing held on 14.02.2024**

6. During the course of the hearing on 14.02.2024, the Petitioner sought condonation of delay in approaching NLDC for the issuance of RECs for FY 2021-22. The Petitioner requested the Commission to direct the Respondent to issue the RECs. NLDC expressed no objection to the Petitioner's requests and opted not to file a reply. Considering this, the Commission admitted the matter and reserved it for orders.

#### **Analysis and Decision**

7. We have heard the learned counsels for the Petitioner and the Respondents and have carefully perused the records.
8. The brief facts of the case are that the Petitioner is a distribution licensee in the State of Andhra Pradesh. During the FY 2021-2022, the Petitioner has procured renewable energy of 70,89,077.45 MWh. This procurement is in far excess of the Petitioner's statutory RPO of 49,77,767.86 MWh. Due to factors beyond its control, the Petitioner could not approach the Respondent within the stipulated period of three months from the end of the financial year as per Regulation 10(3) under the REC Regulations, 2022. The delay was primarily attributed to the extensive process of collecting and collating renewable energy procurement data from over 250 PPAs between solar and non-solar power generators. After manually noting meter readings in the presence of officials of APTRANSCO and RE generators, the data was sent to APSLDC for verification on 26.12.2022. APSLDC issued an Annual Status Report confirming the Petitioner's RPPO exceedance on 25.01.2023, subsequent to which APERC issued a recommendation of excess RE procurement on 21.04.2023. Thereafter, the Petitioner tried to file an application for issuance of RECs in respect of FY 2021-2022 on the Respondent's web portal on 24.04.2023. However, the Respondent's automated portal did not allow the filing of the Petitioner's application due to a delay beyond 3 months from the end of the financial year as specified in Regulation 10(3) under REC Regulations, 2022. The Petitioner contends that the delay in filing the REC application is unintentional and beyond

its control. The Petitioner is seeking the Commission's intervention to condone the delay of 277 days in approaching the Respondent and to direct the issuance of RECs for FY 2021-2022.

9. We observe that the REC Regulations, 2022 provide that the distribution licensee is required to apply to the Central Agency (NLDC) for the issuance of RECs within 3 months from the end of the financial year. The relevant provision regarding the issuance of certificates to an eligible distribution licensee stipulates as under:

*10. Issuance of Certificates*

.....

*(3) Application for issuance of Certificates shall be made by an eligible entity being a distribution licensee or an open access consumer within three months from the end of a financial year, along with a copy of certification from the concerned State Commission about purchase of electricity from renewable energy sources in excess of the renewable purchase obligations as determined by the concerned State Commission:*

*Provided that no Certificate shall be issued in case the application is made beyond the period of three months from the end of the financial year.*

.....”

10. From the above we observe that the Petitioner was required to approach the Respondent within three months from the end of the financial year along with the received certification from APERC. We observe that the Petitioner could not adhere to the timeline and have applied for issuance of RECs for FY 2021-2022 with a delay of 277 days. As submitted by the Petitioner, the delay was principally on account of manual collection of the renewable energy procurement data for more than 250 PPAs involving both solar and non-solar power generators, which were undertaken by the Petitioner along with APPCC.
11. The relevant provisions of REC Regulations, 2022 stipulate as under:

***17. Power to give directions***

*The Commission may, from time to time, issue such practice directions and orders as considered appropriate for the implementation of these regulations*

***18. Power to Relax***

*The Commission may by general or special order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected, may relax any of the provisions of these regulations on its own motion or on an*

*application made before it by interested person(s).*

12. As per the principle laid down for the grant of RECs, the Petitioner is an eligible entity being a distribution licensee, and it will be entitled to RECs subject to fulfilment of the criteria for the issuance of RECs to such entities. The main objective of the REC framework is to promote the generation of renewable energy. Therefore, we are inclined to exercise the “Power to relax” under Regulation 18 of REC Regulations, 2022, in order to achieve the objective of the regulations.
13. In our view, the delay in the application for issuance of REC is procedural in nature due to the reasons stated by the Petitioner and is not likely to prejudice any of the stakeholders, including the Respondent. Accordingly, the timelines stipulated under Regulation 10(3) of the REC Regulations 2022 are hereby relaxed, and the Petitioner is permitted to file its application for the issuance of RECs before the Central Agency for FY 2021-2022. Further, NLDC is directed to issue the RECs after due verification and satisfying itself that the Petitioner meets all other conditions and has submitted all the required documents for the issuance of RECs.
14. The Petition No. 333/MP/2023 is disposed of in terms of the above.

Sd/-  
पी. के. सिंह  
सदस्य

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