

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. SM/321/2013 (Suo-motu)

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri M. Deena Dayalan, Member

Shri A.K. Singhal, Member

Date of order: 09.06.2014

In the matter of:

Compliance Audit under the Renewable Energy Certificate Mechanism.

ORDER

Regulation 13 of the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 (REC Regulations), provides for appointment of compliance auditors. Regulation 13(1) reads as under:

“13. Appointment of compliance auditors: (1) The Commission may, in consultation with the Central Agency, appoint from time to time compliance auditors to inquire into and report on the compliance of these Regulations by the person applying for registration, or on the compliance by the renewable energy generators in regard to the eligibility of the Certificates and all matters connected thereto.”

2. As required under the aforesaid regulation, the Commission vide Order dated 6/7/2012 (Suo-Motu Petition No. 154/2012) empanelled Ten (10) firms as Compliance Auditors.

3. The Commission vide its order dated 10.12.2013 in Petition No. 321/SM/2013, has clarified that a firm once empanelled as Compliance Auditor should be debarred from providing consultancy services related to REC to any of the RE generators and directed the Central Agency to call for a confirmation on affidavit from all Compliance



Auditors on quarterly basis to the effect that they do not have conflict of interest with any of the RE generators and submit a report to the Commission by 30th of April, July, October and January.

4. National Load Despatch Centre (NLDC) which is discharging the function of Central Agency has brought to the notice of the Commission about non-submission of affidavit regarding conflict of interest by one Compliance Auditor namely, M/s DNV India.

5. The Central Agency has also brought to the notice of the Commission that the Compliance Auditors have audited 48 Projects and submitted the audit reports. As per the audit observations made by the Compliance Auditors, some of the RE generators have been found to be deficient in compliance of the REC Regulations and Procedures made there-under, particularly, in the following cases .

(a) Some RE generators have claimed RECs on electricity generated from a unit which has not been registered under REC mechanism.

(b) Some co-generation plants have claimed RECs on captive consumption without surrendering the benefit from waiver of electricity duty and/or concessional transmission/wheeling charges and losses etc.

6. The Commission has taken cognizance of the instances of non-compliance of REC Regulations by the RE generators. The Commission is of the view that an audit log for each RE generator should be maintained and follow-up actions be taken by the Central Agency for ensuring that the audit observations, whether major or minor,

are acted upon by the RE generators within the stipulated time. The Commission is also of the view that instead of approaching the Commission *ab-initio*, the Central Agency should initiate proceedings on its own as per Regulation 6 of the REC Regulations which empower it to take actions against RE generators including revocation of registration for issue of RECs. As regards non-submission of affidavit regarding conflict of interest by one of the Compliance Auditors, the Commission is of the view that the Central Agency should seek an explanation from such Compliance Auditor for not submitting the affidavit and forward the same with its recommendations to the Commission for suitable action.

7. The Commission directs the Central Agency to adhere to the following guidelines with regard to the actions to be taken against the RE generators on the basis of the audit observations of Compliance Auditors:-

- (i) The Central Agency, based on the audit experience so far, would prepare a framework of specific areas to be looked into and the relevant documents to be checked by the Compliance Auditors during the process of audit.
- (ii) The Central Agency, based on the audit observations, shall categorise the observations into two parts:- (a) audit observations requiring immediate attention, (b) audit observations where action plan is required to be drawn up for corrective action.
- (iii) The Central Agency shall keep record in respect of each Compliance Auditor which shall include inter-alia the details of RE generators whose audit has

been carried out, duration of audit (proposed and actual), manpower involved in such audit, number of visits made by Compliance Auditor, any omission made by the Compliance Auditor, total remuneration paid to the Compliance Auditor etc.

- (iv) The Central Agency shall keep record of each audited RE generator including inter-alia chronological record of the sequence of audit activities and any specific observation made as stated at (ii) above.
- (v) The Central Agency shall make available the copy of the report of the Compliance Auditor to the concerned RE generator and seek an explanation regarding the lapse or infirmity pointed out in the audit observations within a specified time frame.
- (vi) After due consideration of the explanation tendered by the RE generators, if the Central Agency is satisfied about the existence of the deficiencies/defects as pointed out by the Compliance Auditor, the Central Agency shall issue appropriate directions to such RE generators to comply with all minor audit objections immediately and all major audit objections within one month from the date of audit.
- (vii) Till such time the audit objections are complied with, the Central Agency shall not issue fresh RECs to such RE generators and shall not allow sale of existing RECs by such RE generators.

- (viii) In the event of failure on the part of RE generators to respond to the notice of Central Agency or for prolonged default in complying with the audit objections, the Central Agency shall initiate the process of revocation of registration of such RE generators as per the REC Regulations and take appropriate action on the merit of each case.
- (ix) Any person, aggrieved with the decision of the Central Agency, may approach the Commission with appropriate application in accordance with the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999.
- (x) The Central Agency shall monitor periodically through repeat audit of such RE generators to ensure compliance status of earlier audit observations made.
- (xi) The Central Agency shall submit a report to the Commission, every six months which shall include (a) compliance of the audit observations by the RE generators, (b) list of pending audit observations with an analysis of gravity of such objections and period of their non-compliance, (c) comments/suggestions of the Central Agency, if any, regarding future course of action.

8. The Commission further directs the Central Agency to take the following action to deal with the instance of non-compliance of directions of the Commission by the Compliance Auditors:

- (i) The Central Agency shall call for a confirmation on affidavit from all Compliance Auditors on quarterly basis to the effect that they do not have

conflict of interest with any of the RE generators and submit a report to the Commission by 30th of April, July, October and January.

- (ii) The Central Agency shall seek explanation from such Compliance Auditor for not submitting affidavit regarding conflict of interest and forward the same with its recommendation to the Commission for directions. Pending issue of appropriate directions by the Commission, the Central Agency shall stop assigning fresh work to the concerned Compliance Auditor.
- (iii) If any compliance Auditor is found to have acted in violation of the terms and conditions of his appointment, the Central Agency shall follow the same procedure as per (ii) above.

9. We direct the Central Agency to post the above guidelines on its website to give wide publicity for the information of and compliance by all concerned.

sd/-
[A.K. Singhal]
Member

sd/-
[M. Deena Dayalan]
Member

sd/-
[Gireesh B. Pradhan]
Chairperson