

The Central Electricity Regulatory Commission
(Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) (First Amendment) Regulations, 2010.

Statement of Objects and Reasons

INTRODUCTION

1. The Commission had notified the CERC (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 (hereinafter CERC REC Regulations) vide notification dated 14th January, 2010. The concept of renewable energy certificate seeks to address the mismatch between availability of renewable energy sources and the requirement of obligated entities to meet their renewable purchase obligations. The REC mechanism mainly aims at promoting investment in the renewable energy projects and to provide an alternative mode to the RE generators for recovery of their costs.
2. Regulation 5 of the CERC REC Regulations specifies eligibility criteria for an RE generator under REC framework. The said provision is reproduced below:

“A generating company engaged in generation of electricity from renewable energy sources shall be eligible to apply for registration for issuance of and dealing in Certificates if it fulfills the following condition:

- a. It has obtained accreditation from the State Agency;
- b. It does not have any power purchase agreement for the capacity related to such generation to sell electricity at a preferential tariff determined by the Appropriate Commission; and
- c. It sells the electricity generated either
 - (i) to the distribution licensee of the area in which the eligible entity is located, at a price not exceeding the pooled cost of power purchase of such distribution licensee, or
 - (ii) to any other licensee or to an open access consumer at a mutually agreed price, or through power exchange at market determined price.”

3. Concerns were raised from various quarters that the renewable generators having an existing PPA with distribution utilities for sale of electricity at preferential (cost plus) tariff might attempt to breach the existing contracts with the sole objective of making profits through REC mechanism. It was also argued that REC mechanism should not encourage breach of the existing contracts.
4. Further, misgivings and apprehensions were raised regarding the eligibility of captive generators based on renewable energy for participating in REC mechanism. Misgivings centered around the question as to whether self consumption by CPPs should qualify for REC and apprehensions hovered around the possibility of the REC market being flooded with low priced RECs placing the new investors at disadvantage. The electricity generated from a captive generating station based on renewable energy can be divided in two parts. The first part is surplus energy sale of which can be equated to sale by any other generating company. This component should obviously be

eligible for participating in REC mechanism subject to the conditions as applicable to any other generating company. The second component is the captive consumption or self consumption. It was argued that such a self consumption of electricity generated from renewable energy should also be made eligible for REC mechanism because such self consumption actually replaces the demand from the grid power and the entity having such self consumption in effect incurs comparatively higher costs vis-à-vis the cost of the power obtained from grid. It was; however, felt that the cardinal principle that *a renewable energy generator cannot participate in REC mechanism if it has availed promotional benefits* (preferential tariff in case of RE generators) should be borne in mind while considering eligibility for CPPs. In other words, CPPs should also be excluded from participating in REC mechanism if they have availed promotional/concessional benefits from the utilities.

5. To address these issues pertaining to the eligibility conditions of the REC Regulation, it was proposed to amend the REC Regulation. The Commission vide its public notice No. L-1/12/2010-CERC Dated: 27th August, 2010 issued draft CERC (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) (First Amendment) Regulations, 2010 and invited comments from the various stakeholders.
6. In the draft Regulation, the following provisos were proposed to be added at the end of the Sub-clause (c) of Clause (1) of Regulation 5 of the principal regulations as under:

“Provided that such a generating company having entered into a power purchase agreement for sale of electricity at a preferential tariff shall not, in case of pre-mature termination of the agreement, be eligible for participating in the REC scheme for a period of three years from the date of termination of such agreement or till the scheduled date of expiry of power purchase agreement whichever is earlier ,if any order or ruling is found to have been passed by an Appropriate Commission or a competent court against the generating company for material breach of the terms and conditions of the said power purchase agreement.

Provided further that a Captive Power Producer (CPP) based on renewable energy sources shall be eligible for the entire energy generated from such plant including self consumption for participating in the REC scheme subject to the condition that such CPP has not availed or does not propose to avail any benefit in the form of concessional/promotional transmission or wheeling charges, banking facility benefit and waiver of electricity duty etc.

Provided also that if such a CPP forgoes on its own, the benefits of concessional transmission or wheeling charges, banking facility benefit and waiver of electricity duty etc., it shall become eligible for participating in the REC scheme only after a period of three years has elapsed from the date of forgoing such benefits.

Provided also that the abovementioned condition for CPPs for participating in the REC scheme shall not apply if the benefits given to such CPPs in the form of concessional transmission or wheeling charges, banking facility benefit and waiver of electricity duty are withdrawn by the State Electricity Regulatory Commission and/or the State Government.

The dispute, if any, on the question as to whether such concessional/promotional benefits were availed by a CPP or not shall be referred to the Appropriate Commission.”

7. Last date of submission of comments/suggestion was on 17th September, 2010. A statement indicating list of various stakeholders who have submitted their comments is enclosed in Annexure-1.

CONSIDERATION OF THE VIEWS OF THE STAKEHOLDERS AND ANALYSIS AND FINDINGS OF THE COMMISSION ON IMPORTANT ISSUES

8. The Commission considered the comments of the stakeholders on the draft amendment regulations. The amendment regulations have been finalized after due consideration of the various issues raised. The examination of the major issues and findings of the Commission thereon are discussed in the subsequent paragraphs. Other comments of the stakeholders and observations thereon are enclosed as Annexure-2.

PRELIMINARY OBJECTIONS TO THE REGULATIONS AND FINDINGS OF THE COMMISSION

I. Validity of PPA and Eligibility for REC:

Comments of Stakeholders

Indian Sugar Mills Association has raised the concern that a generator could breach existing PPA and enter REC mechanism with sole objective of profit is misplaced. Association is of the view that the profit potential, if any, under REC mechanism is same irrespective of whether the generator came into it after existing PPA or do not have PPA to start with. Further, if a generator is ready to bear any contractual consequences of exiting PPA, it should not be debarred from REC mechanism. Some stakeholders (Indian Acrylics Limited etc.) have submitted that the RE generator having long term Power Purchase Agreement (PPA) should also be made eligible for REC mechanism, particularly in Bio-mass based power project due to unviable preferential tariff (lower than CERC determined tariff) and rise in cost of biomass. TVS Energy Limited has submitted that the proposed amendment should not be made applicable upon termination of PPA by an RE Generators which commissioned their plants after 1st April, 2010 and entered into PPA with utility at preferential rate due to absence of REC Regulations.

Findings of the Commission

The Commission has carefully considered these comments and decided that REC mechanism should not encourage breach of existing contract. In fact, various deterrents have been provided in the amendment to dissuade perverse incentive to breach and dishonour the existing contract. The existing contract entered into with mutual consent by two parties at a point of time based on the prevailing terms and conditions should be honoured unless both the parties mutually agree to terminate the contract. The main objective of REC mechanism is to encourage new capacities addition.

II. Variance in Regulation of SERC and CERC on termination of Contract

Comments of Stakeholders

KSK wind Energy Private Limited submitted that the MERC in its relevant regulation specified that prior termination shall not entitle existing RE projects to participate in REC mechanism. CERC needs

to clarify that how to deal with the situation where the State Regulations are at variance with the CERC Regulations.

Findings of the Commission

The Commission has noted the observation and would like to clarify that the REC scheme as evolved clearly demarcates the responsibility of CERC and SERC in line with the provisions of the Electricity Act, 2003. Given the fact that REC is a national level framework, jurisdiction in terms of 'eligibility criteria' for participation in REC scheme, registration of RE generators, issuance of REC, and transactions in PXs etc., clearly vests with CERC. The role of SERC is in recognizing REC as a valid instrument for meeting RPO.

III. Switch over from REC option once exercised

Comments of Stakeholders

Gujarat Energy Transmission Corporation Ltd (GETCO) submitted that the once the option of REC has been exercised by an RE Generator, it should not be allowed to switch over for Sale to Licensee or for self consumption in future.

Findings of the Commission

The Commission would like to clarify that the Regulation doesn't envisage any restriction for a RE generator in so far as exercise of its choice to opt for REC scheme or preferential tariff at any time during the life of the project is concerned. Whenever a generator opts for preferential applicable tariff as determined by Appropriate Commission for such class of generators will apply.

IV. Eligibility of RE generator supplying co-located load

Comments of Stakeholders

The following major comments have been received from the stakeholders:

- a. M/s GENSOL has requested that the Commission to clarify eligibility of non-grid interactive RE projects under REC mechanism which are selling power by third party sale without injecting to the grid. It has also been requested that the eligibility of off-grid RE generator under REC scheme should be clarified.
- b. A RE generator where its load is co-located with generating unit and not availing concessional transmission/wheeling and banking facility on a part of energy utilized for self consumption should be eligible under REC scheme. (Sudha Agro Oil and Chemical Industries Limited)

Findings of the Commission

The Commission would like to clarify that the existing REC regulation makes only grid connected RE generator eligible for REC. of REC.

However, in future the Commission would explore the possibility of inclusion of off-grid RE generators in the ambit of REC mechanism.

V. Consequential Change

Comments of Stakeholders

POSOCO has proposed to amend sub-Regulation 4 and 7 of the Regulation 7 of the REC Regulations that on “Denomination and issuance of Certificates” as under:

(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 power producer), 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.

(6) Each Certificate issued shall represent one Megawatt hour of electricity generated from renewable energy source and injected or deemed to be injected (in case of self consumption by eligible captive power producer) into the grid.

Findings of the Commission

The Commission has noted the suggestion and incorporated in the final amendment as a consequential change.

VI. Eligibility of a generator for activities other than REC after termination:

Comments of Stakeholders

M/s A to Z Group has requested to clarify as to whether after termination of an Agreement, the option of power sale or self consumption would be available or not.

Findings of the Commission

The Commission would like to clarify that the generator will be governed in accordance with the relevant provisions of the Electricity Act, 2003 and the proposed amendment only deals with the limited issue of eligibility of a RE generator under REC framework.

VII. Eligibility of CPP under REC framework:

Comments of Stakeholders

Indian Acrylics Limited has submitted that the CPP based on RE should not be denied eligibility for REC for entire generation if only part of its generation is tied up in PPA at preferential tariff.

Findings of the Commission

The Commission would like to clarify that the RE Project which has opted for self consumption and sale of surplus power to distribution licensee, shall be eligible for REC in accordance with the eligibility criteria as specified in the principal REC Regulation and in the draft amendment of the said Regulations. For example, if a CPP has generation capacity of 10 MW and has entered into PPA for sale of only 4 MW to local DISCOM at preferential tariff, it will not be eligible for REC for this 4 MW. It will, however, be eligible for REC for the balance 6 MW subject to its fulfillment of eligibility as in the amendment.

However, generation and self consumption in a CPP should be separately identifiable and have proper metering system as may be approved by the concerned DISCOM/STU and State Agencies.

VIII. Eligibility of RE generator selling power to third party:

Comments of Stakeholders

Some of the stakeholders (like M/s Beta wind Farm, M/s Gamma Green power and M/s Clarion Wind Farm have submitted that though in Tamil Nadu state sale of power to third party is not permitted but they under IPP status are supplying power to consumers in the market through a closed circuit mechanism under “group captive scheme” as recognized by TNEB. Such projects should be made eligible for REC scheme.

Findings of the Commission

The Commission would like to reiterate that as long as such generators are complying the eligibility criteria as specified in the principal Regulations and amendment Regulations they would be eligible for the REC mechanism.

IX. Treatment of self consumption by CPP based on renewable:

Comments of Stakeholders

The following comments have been received from the stakeholders:

- a. REC should not be issued for energy which goes into meeting their own Renewable Purchase Obligation (RPO) obligations. (Gujarat Urja Vikas Nigam Ltd, GETCO)
- b. CPP should be eligible for REC for whole generation and retain the number of REC’s required for fulfillment of his own RPO. (IWPA, Karnataka Council)

Findings of the Commission

The Commission would like to clarify that subject to the eligibility for participation under REC mechanism, REC would be issued on the electricity “generated” (including clearly identifiable self consumption) and injected into the grid, whereas RPO would be applicable on “consumption” of electricity. As such, the entire generation from a CPP based on renewable (including generation used

for self consumption) would be eligible for REC. The consumption of CPP (which could include consumption of electricity generated from its own plant and/or the electricity supplied by the DISCOM) would be accounted for separately and RPO would be applicable as % of the energy equivalent to self consumption. The CPP can meet its RPO (part or full) out of the REC issued to it on account of the electricity generated from its plant. The commission is in agreement with the suggestion of IWPA that the CPP should be eligible for REC for whole generation and retain the number of REC,s required for fulfillment of his own RPO.

For example, an eligible CPP based on non solar based renewable sources generates and inject 110 MWh during the month. Therefore, it is entitled to 110 non-solar RECs. It transmits/wheels the same generated units through the transmission and distribution system upto its manufacturing unit for self consumption. After deducting 10% loss of the system, it gets 100 MWh from renewable energy. His total consumption at mfg. unit is 200 MWh. It means that the unit purchases 100 MWh from the local distribution licensee at the appropriate tariff for category in which it belongs. On such consumption, no RPO is applicable. However, on the balance 100 MWh consumed from the CPP, RPO is applicable. Let us assume that the RPO fixed by the SERC for that year is 6% including 1% Solar RPO.

Accordingly, such CPP consumer has to purchase non-solar renewable energy or non-solar REC equivalent to 5 MWh and also have to purchase 1 MWh from Solar based generation or Solar REC.

CPP eligible for 110 non solar REC for whole generation may retain the 5 RECs required for fulfillment of his own non-solar RPO and purchase 1 solar REC from the power exchange.

X. Concessional Benefits

Following comments have been received from the various stakeholders.

CERC Jurisdiction

- a. It is beyond the jurisdiction of CERC to suggest that CPP is eligible for REC if they forego certain benefit conferred by the State /ERCs and any changes to the availing of such concession can be made only by the respective authorities. If CERC desires that a CPP opting for REC should not avail concessional charges etc., CERC can advise State Government / SERC to incorporate the same in their Orders. Further, there is no procedures /process for voluntary withdrawal. (Chhattisgarh Biomass Energy Developers Associations, Emergent Ventures Pvt. Limited)

Findings of the Commission

The Commission would like to clarify that the REC scheme as evolved clearly demarcates the responsibilities of CERC and SERC in line with the provisions of the Electricity Act, 2003. Given the fact that REC is a national level framework, jurisdiction in terms of 'eligibility criteria' for participation in REC scheme, registration of RE generators, issuance of REC, and transactions in PXs etc., clearly vests with CERC. The role of SERC is in recognizing REC as a valid instrument for meeting RPO.

- b. M/s Sudha Agro Oil and Chemical Industries Limited submitted that exclusion of an RE generator availing concessional benefit from REC mechanism tantamount to Promissory Estoppels as the promotional benefit once given to them is now withdrawn.

Findings of the Commission

According to the Commission, It would not amount to Promissory Estoppels as it does not apply against legislative action.

- c. The word “etc” at the end of the first Para in this amendment to be deleted and specific benefit to be covered for this purpose should be clearly specified. So that meaning of the provision may not be open to different interpretation. (KSK wind Energy Private Limited)

Findings of the Commission

The Commission has considered the above suggestion and decided to delete the word “etc.” from the phrase “concessional/promotional transmission or wheeling charges, banking facility benefit and waiver of electricity duty etc.” as proposed in the draft amendment Regulation.

GBI/AD: Promotional benefit under REC scheme?

- d. M/s IWPA, Karnataka Council has requested to clarify that whether GBI/AD also be considered as promotional benefit and investor who availed cannot go for REC mechanism?

Findings of the Commission

The Commission would like to clarify that GBI/AD would not be considered as promotional benefit as far as eligibility for REC mechanism is concerned because these have not been obtained from local licensees.

Definition of “Concessional/promotional transmission charges”

- e. One of the stakeholder M/s A to Z Group suggested that the phrase “Concessional/promotional transmission charges” should be defined in the Regulations.

Findings of the Commission

The Commission would like to clarify that the expression “Concessional/promotional transmission/wheeling charges” in the amendment Regulation means levy of transmission /wheeling charges at a rate lower than the rate as applicable to a normal open access customer.

Restriction of 3 years post foregoing of concessional benefits by CPPs

- f. Eligibility of CPPs based on renewable fuels should be without the preconditions of concessional wheeling, banking and waiver of electricity Duty. Further, The three years term fixed for being eligible to get REC is arbitrary and without justification same should be withdrawn for existing CPPs. (Rana Sugars Limited)

Findings of the Commission

The Commission would like to reiterate that the REC mechanism should not encourage perverse incentive either to existing CPPs or for the early termination of PPA. The provision of three years term

after termination for being eligible under REC frame work is kept with the intention that it would act as deterrent to the existing CPPs getting concessional benefits and RE Generators against such early termination of PPA. Moreover, the main objective of REC mechanism is to encourage new capacity addition in RE segment.

Banking facility

Comments of Stakeholders

- g. CPP who bank some percentage of their electricity should be allowed to participate in REC mechanism or they should be allowed to avail REC to the extent of number of units that are not banked. (GENSOL)
- h. Availing Banking facility should not be reason for dis-qualification under REC frame work. (A to Z Group, Gujarat Flurochemicals Limited)
- i. Banking permitted to day is account rather than a benefit as the banking is allowed only during certain hours & withdrawal of banked power is not permitted during certain hours. Further banking charges also have to be borne. The cost of banked energy is more than the cost of power under open access. (Indian Sugar Mills Association)

Findings of the Commission

The Commission would like to mention that banking facility is generally extended to the plant as a whole as incentive. Therefore, the proposed amendment debar a CPP availing such incentive. Banking facility is generally an additional incentive available to the captive RE generator especially in cases where the RE generator gets the benefit of utilizing the banked energy at any time (including peak hours) even when it has injected into grid during off-peak hours. If banking was availed for a clearly indentified part capacity, same would be considered for ineligibility.

The Commission has also clarified the expression 'banking' in the final amendment to include only such banking facility whereby the generator gets the benefit of utilizing the banked energy at any time (including peak hours) even when it has injected into grid during off-peak hours. In other words, the banking facility wherein the CPP is entitled to draw power from the utility based on and corresponding to the time period (peak or off-peak period) of injection of power by such CPP, shall not be considered as concessional / promotional benefit for the purpose of this regulation.

9. We direct that the regulations published in draft form be published in the official Gazette after incorporating the changes as decided in the forgoing paragraphs.

Sd/-	Sd/-	Sd/-	Sd/-
[M. DEENA DAYALAN]	[V.S.VERMA]	[S. JAYARAMAN]	[Dr. PRAMOD DEO]
MEMBER	MEMBER	MEMBER	CHAIRPERSON

New Delhi

Dated the 27st September, 2010

Annexure-1

Sr. No.	Name of Stakeholders submitted their comments
1	Chhattisgarh Biomass Energy Developers Associations,
2	Gujarat Urja Vikas Nigam Ltd. (GUVNL)
3	Indian Wind Power Association (IWPA)
4	Indian Wind Power Association (IWPA), Karnataka Council
5	Indian Wind Energy Association (InWEA)
6	Sudha Agro Oil and Chemical Industries Limited
7	RE Connect Energy
8	Price Waterhouse Coopers (PWC)
9	Gujarat Flurochemicals Ltd. (GFL)
10	GENSOL
11	Rana Sugars Limited
12	Emergent Ventures India Limited
13	Simran Jeet Singh
14	U.P. Sugar Mills Limited
15	A to Z Group
16	KSK wind Energy Private Limited
16	Indian Acrylics Limited
17	TVS Energy Limited
18	Indian Sugar Mills Association
19	Beta wind Farm,
20	Gamma Green power
21	Clarion Wind Farm
22	Gujarat Energy Transmission Corporation (GETCO)
23	Padmaja Financial Services
24	Independent Power Producers Association of India (IPPAI)
25	Indian Wind Turbine Manufacturers Association (IWTMA)
26	JK Sugar Ltd.
27	Gujarat Electricity Regulatory Commission
28	Indian Energy Exchange

Annexure-2

Sr. No.	Issue	Name of stakeholders	Comments of stakeholders	Observations
A	PPA Termination	KSK wind Energy Private Limited Rana Sugers Limited IWTMA Indian Energy Exchange	It is to be clarified that PPA terminated by either by mutual consent or due to event of default of buyers, in such cases Generator will be eligible for REC scheme. In case termination of PPA by mutual consent, especially where the utility has already met it RPO, the waiting period should be totally waived. However, utility should not be given an option to terminate PPA in case the RPO is met.	The Commission has carefully considered these comments and decided that REC mechanism should not encourage breach of existing contract. In fact, various deterrents have been provided in the amendment to dissuade perverse incentive to breach and dishonour the existing contract. The existing contract entered into with mutual consent by two parties at a point of time based on the prevailing terms and conditions should be honoured unless both the parties mutually agree to terminate the contract. The amendment seeks to address this issue by specifying the deterrent (3 years bar) if the PPA has been terminated as a consequence of generator's default. This bar, however, would not apply in case the PPA is terminated as a consequence of the buyer's default. The main objective of REC mechanism is to encourage new capacities addition.
		InWEA	Draft should provide an option to the distressed generating companies to shift from the current preferential regime on account of distribution companies not following orders issued by the appropriate commission.	
		IWPA	RE generator should be immediately allowed for REC mechanism upon termination of PPA not on their fault.	
		U.P. Sugar Mills Limited	Proposed amendment to be dropped as generator is ready to bear any contractual consequences of exiting PPA and REC mechanism should not be concerned with this aspect.	
		Indian Acrylics Limited	Generator having long term Power Purchase Agreement (PPA) should also be eligible for REC mechanism, particularly in Bio-mass based power project due to unviable preferential tariff (lower than CERC determined tariff) and rise in cost of biomass	
		TVS Energy Limited	Proposed amendment should not be made applicable to RE Generator who has commissioned their plant after 1 st April, 2010 and entered into PPA with utility at preferential rate due to absence of REC Regulations yet to be notified by TNERC.	
		Indian Sugar Mills Association	The concern that a generator could breach existing PPA and enter REC mechanism with sole objective of profit is misplaced. The profit potential, if any, under REC mechanism is same irrespective of whether the generator came into it after existing PPA or do not have PPA to start with. Proposed amendment to be dropped as generator is ready to bear any contractual consequences of exiting PPA and REC mechanism should not be concerned with this aspect.	

		A to Z Group	After termination of Agreement, whether power sell option or self consumption option available or not?	The Commission would like to clarify that the generator will be governed in accordance with the relevant provisions of the Electricity Act, 2003 and the proposed amendment only deals with the limited issue of eligibility of a RE generator under REC framework.
B	Variance in Regulation SERC and CERC on termination	KSK wind Energy Private Limited	MERC in its relevant regulation specified that prior termination shall not entitle existing RE projects to participate in REC mechanism. CERC to clarify that how to deal with the situation where the State Regulations are at variance with the CERC Regulations.	<p>The Commission has noted the observation and would like to clarify that the REC scheme as evolved clearly demarcates the responsibility of CERC and SERC in line with the provisions of the Electricity Act, 2003.</p> <p>Given the fact that REC is a national level framework, jurisdiction in terms of 'eligibility criteria' for participation in REC scheme, registration of RE generators, issuance of REC, and transactions in PXs etc., clearly vests with CERC. The role of SERC is crucial in recognizing REC as a valid instrument for meeting RPO.</p>
C	Sale of power to third party	<p>M/s Beta wind Farm,</p> <p>M/s Gamma Green power</p> <p>M/s Clarion Wind Farm</p>	In Tamil Nadu state sale of power to third party is not permitted. Objectors are RE generators in IPP status and supplying power to consumers in the market through a closed circuit mechanism under "group captive scheme" as recognized by TNEB, should be made eligible for REC scheme.	The eligibility criteria as specified in the principal REC Regulations as well as in the amendment Regulation required to be followed.

D	3 years lock period for PPA	PWC	The 3 years time lag should not be made applicable to RE generator who have to enter in to PPA at preferential tariff in the absence of state level REC regulatory framework and now willing to move to APPC based PPAs within 3 months of the state level frame work.	<p>REC mechanism cannot encourage breach of existing contract.</p> <p>The existing contract entered into with mutual consent by two parties at a point of time based on the prevailing terms and conditions should be honoured unless both the parties mutually agree to terminate the contract.</p> <p>The provision of three years term after termination for being eligible under REC frame work is kept with the intention that it would act as deterrent to the existing RE Generators for such early termination of PPA. Moreover, the major objective of REC mechanism is to encourage new capacity addition in RE segment.</p>
		IWTMA	Three years period may be detrimental to REC mechanism since there is expected to be initial shortfall of RE's and if market does not take off due to lack of liquidity , no new plants will be commissioned under REC mechanism.	
		IWPA	Period of 3 years is too long and no justification given for such high period. It should be reduced to 6 months.(IWPA)	
		Rana Sugars Limited	Eligibility of CPPs based on renewable fuels should be without the preconditions of concessional wheeling, banking and waiver of electricity Duty. Further, The three years term fixed for being eligible to get REC is arbitrary and without justification same should be withdrawn for existing CPPs.	
E	CPP eligibility	PWC	Regulation 5(1) of principal Regulation proposed to be amended to incorporate that the surplus power of CPP will be eligible for REC if sold at APPC.	This aspect was already clarified in the statement of reasons while issuing Principal REC Regulations.

		Indian Acrylics Limited	CPP based on RE should not be denied eligibility for REC for entire generation if only part of its generation is tied up in PPA at preferential tariff.	<p>The Commission would like to clarify that the RE Project which has opted for self consumption and sale of surplus power to distribution licensee, shall be eligible for REC in accordance with the eligibility criteria as specified in the principal REC Regulation and in the draft amendment of the said Regulations.</p> <p>For example, if a CPP has generation capacity of 10 MW and has entered into PPA for sale of only 4 MW to local DISCOM at preferential tariff, it will not be eligible for REC for this 4 MW. It will, however, be eligible for REC for the balance 6 MW subject to its fulfilment of eligibility as in the amendment.</p> <p>However, generation and self consumption in a CPP should be separately identifiable and have proper metering system as may be approved by the concerned DISCOM/STU and State Agencies.</p>
		IWPA, Karnataka Council	Whether CPPs can avail REC for generation over and above self consumption with availing concessional /promotional benefits or not?	As per the proposed amendment a CPP availing concessional benefits shall not be eligible for REC.
		IWPA, Karnataka Council	CPP should be eligible for REC for whole generation and retain the number of REC,s required for fulfilment of his own RPO.	The Commission is in agreement with the suggestion of IWPA.
		Gujarat Urja Vikas Nigam Ltd	REC should not be issued for energy which goes into meeting their own Renewable Purchase Obligation (RPO) obligations.	The Commission would like to clarify that subject to the eligibility for participation under REC mechanism, REC would be issued on the electricity “generated (including

CPP Eligibility	Gujarat Energy Transmission Corporation Limited (GETCO)		<p>clearly identifiable self consumption)” and injected into the grid, whereas RPO would be applicable on “consumption” of electricity. As such, the entire generation from a CPP based on renewable (including generation used for self consumption) would be eligible for REC. The consumption of CPP (which could include consumption of electricity generated from its own plant and/or the electricity supplied by the DISCOM) would be accounted for separately and RPO would be applicable as % of the energy equivalent to self consumption.</p> <p>The CPP can meet its RPO (part or full) out of the REC issued to it on account of the electricity generated from its plant. The commission is in agreement with the suggestion of IWPA that the CPP should be eligible for REC for whole generation and retain the number of REC,s required for fulfilment of his own RPO.</p>
	GETCO	The Option of REC once exercised by a RE Generator should not be allowed to switch over for Sell to Licensee or for self consumption in future. Rationale behind above suggestion is that according to GERC order prevailing preferential tariff is applicable to generator having commissioned new machine only. Therefore once REC exercised it would be difficult for Utility to fix the tariff for such generator	<p>The Commission would like to clarify that the Regulation doesn’t envisage any restriction for a RE generator in so far as exercise of its choice to opt for REC scheme or preferential tariff at any time during the life of the project is concerned.</p> <p>Whenever a generator opts for preferential tariff, applicable tariff as determined by Appropriate Commission for such class of generators will apply.</p>
	IWTMA	Commission should also give the investors an option of an conditional switch back to preferential tariff in case they find REC unviable with a similar 1-2 year waiting period.	

CPP Eligibility	GENSOL	Clarify the eligibility of a non-grid interactive RE projects under REC mechanism selling power by third party sale without injecting to the grid.	The Commission would like to clarify that the existing REC regulation makes only grid connected RE generator eligible for REC. However, in future the Commission would explore the possibility of inclusion of off-grid RE generators in the ambit of REC mechanism.
	Sudha Agro Oil and Chemical Industries Limited	A RE generator where its load is co-located with generating unit and not availing concessional transmission/wheeling and banking facility on a part of energy utilized for self consumption should be eligible under REC scheme.	
	POSOCO	<p>POSOCO has proposed to amend sub-Regulation 4 and 7 of the Regulation 7 of the REC Regulations that on “Denomination and issuance of Certificates” as under:</p> <p><i>(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 power producer), 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.</i></p> <p><i>(6) Each Certificate issued shall represent one Megawatt hour of electricity generated from renewable energy source and injected or deemed to be injected (in case of self consumption by eligible captive power producer) into the grid.</i></p>	The Commission has noted the suggestion and incorporated in the final amendment as a consequential change.
	IEX	To create liquid market, the entry barriers for CPPs may be totally removed. If no adequate liquidity in the initial months, then price discovery will not be efficient and the market will not get confidence in the price discovered on the exchanges.	The Commission has already explained the rationale behind the proposed amendment in the Explanatory Memorandum.

F	Restriction of 3 years post foregoing of concessional benefits by CPPs	KSK wind Energy Private Limited	CPP cannot be compared RE generator terminates its PPA with distribution licensee as in case of CPP it cannot be said that any loss has been caused to government or licensee. On the other hand by foregoing RE benefits, extra revenue will be generated to distribution licensee or revenue authorities. Therefore 3 year exclusion provision should be deleted for existing RE based CPP ready to forgo concessional benefits.	<p>The Commission would like to reiterate that the REC mechanism should not encourage perverse incentive either to existing CPPs or for the early termination of PPA.</p> <p>The provision of three years term after termination for being eligible under REC framework is kept with the intention that it would act as deterrent to the existing CPPs getting concessional benefits and RE Generators against such early termination of PPA.</p> <p>Moreover, the main objective of REC mechanism is to encourage new capacity addition in RE segment.</p>
		IPPAI	<p>There is likely to be great demand for RECs and keeping CPPs out for 3 years will contribute in creating an artificial scarcity of RECs pushing up its price, the burden of all of which will have to be borne by the consumers.</p> <p>CPPs voluntarily forgo the ED waiver and concessional Transmission and /or wheeling benefits, to become eligible to become a part of REC framework with immediate effect.</p> <p>In the interim 2 year transition period from now, allowing the existing RE projects including CPPs to participate in REC mechanism and defer the applicability of the conditions prescribed for the two year transition period of</p>	
		Rana Sugars Limited	Three years term fixed for being eligible to get REC is arbitrary and without justification and similar treatment is proposed for 6 month old or 6 years old or 16 years old projects.	
		RE Connect Energy	The Commission should consider doing away with the disqualification period of 3 years for that RE CPP's that are availing preferential wheeling and banking facilities, and are willing to give it up for accessing the REC markets.	
		PWC	It is needed to clarify that the in case of new CPPs who are willing to forego the concessions from day one, there will not be time lag for participating in REC market.	
		IWPA, Karnataka Council	The three year ban for eligibility for REC for CPP willing to forego concessional benefit should be removed as question of breaching does not arise as in case of PPA.	

G	Existing CPP will flood the market	Rana Sugars Limited IEX	Reason given for denying RECs to existing CPPs that these will flood the market with low priced REC is also not justified. This should left to market forces. If there are more RECs then SERCs will raise RPO. Issuance and non issuance should be on sound environment and financial principle for maximizing green energy. Proposed qualifying criteria will tend to discourage the setting up of more such plants.	The Commission has already explained the rationale behind the proposed amendment in the Explanatory Memorandum.	
		IEX	Net benefit to the CPP has also to be compared with the risks being faced by CPP developer and financials of similar project developed as IPP and <i>ab intio</i> eligible for REC.		
		Sudha Agro Oil and Chemical Industries Limited	Excluding RE generator availing concessional benefit from REC mechanism tantamount to withdrawal of the promotional benefit once given to them (Promissory Estoppels).		According to the Commission, It would not amount to Promissory Estoppels as it does not apply against legislative action.
		KSK wind Energy Private Limited	The word “etc” at the end of the first Para in this amendment to be deleted and specific benefit to be covered for this purpose should be clearly specified. So that meaning of the provision may not be open to different interpretation.		The Commission agreed to delete the word “etc.”
		Rana Sugars Limited	Due to manifold increase in input cost of biomass, based power plant as against increase in tariff is limited to 3 to 5% , it is wrong to presume that the CPPs have recovered their cost with concessional wheeling banking and waiver of ED. Likely REC price will be many times the net value of concession and denying REC to captive power plant due to these concessions will be totally unjustified and discriminatory.		The assumptions are misplaced.
H	Concessional benefits	PWC	Draft Regulation 6 C: If any state Commission withdraws the concessions to existing CPPs than such CPP would be eligible under REC mechanism immediately and REC market will be flooded with such plants offering low price RECs. Withdrawal of concession should be explained in more detail.	The provision in the proposed amendment is considered adequate.	

Concessional benefits	Gujarat Electricity Regulatory Commission	<p>Suggested to make following changes in the third proviso of the proposed draft amendment :</p> <p><i>Provided also that if such a CPP forgoes on its own, the benefits of concessional transmission or wheeling charges, banking facility benefit and waiver of electricity duty etc., <u>and benefit availed are paid back to the licensee concerned</u>, it shall become eligible for participating in the REC scheme only after a period of three years has elapsed from the date of forgoing such benefits.</i></p> <p>Rational given is that the benefit availed by such CPPs were borne by the other consumers of concerned licensee.</p>	The provision of three years term after foregoing the concessional/promotional benefits for being eligible under REC framework is considered adequate deterrent and also takes care of the concern raised.
	A to Z Group	“Concessional/promotional transmission charges” should be defined in the Regulations.	The Commission would like to clarify that the expression “Concessional/promotional transmission charges” in the amendment Regulation means levy of transmission /wheeling charges at a rate lower than the rate as applicable to a normal open access customer.
	Chhattisgarh Biomass Energy Developers Associations,	In most of the states no concession is offered in transmission charges. Concessional wheeling is applicable only to less than 66 kV.	
	IWPA, Karnataka Council	<p>What are benefits considered under the central and state concessional/promotional benefits for REC scheme?</p> <p>The terms like “concessional/promotional” will need be explicitly defined so to avoid it open to various interpretation.</p> <p>As per CERC Regulation it is stated that no transmission charges and losses have to be paid by solar generators in this case solar captive power producer cannot go for REC mechanism?</p> <p>The wheeling and banking should not be treated as concessional/promotional benefit</p>	<p>Concessional benefits are clearly mentioned in the amendment.</p> <p>The Commission would like to clarify that the sole purpose of benefit given to solar generators are only for limited projects coming under first phase of JNNSM scheme wherein NRVN is buying solar power and would bundle the same to sale to distribution licensee.</p>
IWTMA			
IEX			
IWPA			
IWTMA			

		<p>KSK wind Energy Private Limited</p> <p>IEX</p>	<p>Will GBI/AD also be considered as promotional benefit and investor who availed cannot go for REC mechanism</p> <p>Generator having concessional benefits needs to be separated for the status of CPP and RE based. Amendment may be modified such that RE based CPPs need to forgo only such benefits/ concessions which are granted as RE benefits to be eligible to participate in the REC scheme.</p> <p>It will be wrong to presume that the biomass captive power plants have recovered their cost with concessional wheeling, banking and waiver of Electricity Duty.</p> <p>When a project is eligible for CDM benefits with these minor concessions, it should be eligible for REC as well.</p>	<p>The Commission would like to clarify that GBI/AD would not be considered as promotional benefit as far as eligibility for REC mechanism is concerned because these have not been obtained from local licensees.</p>
I	Banking facility	<p>Chhattisgarh Biomass Energy Devel. Asso.,</p> <p>Rana Sugars limited</p> <p>Emergent Ventures Pvt.</p> <p>A to Z Group, Gujarat Flurochemicals</p> <p>IPPAI</p>	<p>Banking facility offered is not a concession at all.</p> <p>Concessional banking is misnomer.</p> <p>Such facilities given to RE generators are far less than what offered to thermal power producers.</p> <p>Same should be continued without linking with REC eligibility.</p> <p>Availing Banking facility should not be reason for dis-qualification under REC frame work.</p> <p>Wind energy is infirm and thus it cannot function without the provision of banking. The condition prescribed can never be technically availed by a wind energy project and places such projects at a clear disadvantage.</p>	<p>The Commission would like to mention that banking facility is generally extended to the plant as a whole as incentive. Therefore, the proposed amendment debar a CPP availing such incentive. Banking facility is generally an additional incentive available to the captive RE generator especially in cases where the RE generator gets the benefit of utilizing the banked energy at any time (including peak hours) even when it has injected into grid during off-peak hours. If banking was availed for a clearly indentified part capacity, same would be considered for ineligibility.</p> <p>The Commission has also clarified the expression 'banking' in the final amendment to include only such banking facility whereby</p>

		Indian Sugar Mills Association	Banking permitted to day is account rather than a benefit as the banking is allowed only during certain hours & withdrawal of banked power is not permitted during certain hours. Further banking charges also have to be borne. The cost of banked energy is more than the cost of power under open access.	the generator gets the benefit of utilizing the banked energy at any time (including peak hours) even when it has injected into grid during off-peak hours. In other words, the banking facility wherein the CPP is entitled to draw power from the utility based on and corresponding to the time period (peak or off-peak period) of injection of power by such CPP, shall not be considered as concessional / promotional benefit for the purpose of this regulation.
		U.P. Sugar Mills Limited	Banking as permitted today is a cost rather than a benefit therefore, banking and withdrawal of banked energy should not be treated as a concession to the Co-generator.	
		JK Sugar Ltd.	JK Sugar submitted that they banked 4.2% of electricity generated at the additional charge of 12.5% of electricity that they banked and also if the banked electricity is withdrawn between 17:00 and 22:00 hours, the sugar mill has to pay heavy peak hour charges.	
		GENSOL	CPP who bank some percentage of their electricity should be allowed to participate in REC mechanism or they should be allowed to avail REC to the extent of number of units that are not banked.	
		Padmaja Financial Services Pvt. Ltd.	Banking is a facility required to regulate the imbalances in generation and consumption so banking charges shall be removed from the amendment.	
		IWPA, Karnataka Council	Wheeling and banking facility is provided by DISCOM after levying certain charges (in cash and kind) therefore it should not be considered as concessional benefits.	The assumptions are misplaced.
		Sudha Agro Oil and Chemical Industries Limited	Benefit being enjoyed by us of concessional wheeling charges is @26 paise/unit (concessional and normal wheeling charges are 8 paise and 34 paise per unit.) as against average value of REC is 270 paise /unit and quantum of banked energy is very low and for that 2% charges we are Paying. Instead of completely eliminating existing RE generator from the preview of REC mechanism, they should allowed @ 80% of from REC mechanism.	

j	Electricity Duty	Chhattisgarh Biomass Energy Developers Associations, Padmaja Financial Services Pvt. Ltd. Emergent Ventures Pvt. Limited	ED is a state subject and CERC has no jurisdiction over their power to grant or withdrawal. Any voluntary withdrawal suggested would be bogged down in procedural wrangles as there are no procedures for that. Several states have given ED concession/exemption on ED for captive consumption including thermal power plant. If CERC strong feels that ED exemption not to be given to REC eligible entities, than CERC should advise state government so that they may debate on bringing such amendments to the Duty Exemption Scheme as may be feel necessary.	REC scheme as evolved clearly demarcates the responsibility of CERC and SERC in line with the provisions of the Electricity Act, 2003. Given the fact that REC is a national level framework, jurisdiction in terms of 'eligibility criteria' for participation in REC scheme, registration of RE generators, issuance of REC, and transactions in PXs etc., clearly vests with CERC. The role of SERC is crucial in recognizing REC as a valid instrument for meeting RPO.
		Rana Sugars Limited	ED is levied by States for power sourced by licensee and supplied to consumers. Thus duty is not leviabale by Licensee and hence no role to play. Therefore, treating it as benefit is not correct.	
		RE Connect Energy	The Commissions should consider doing away with the clause which disqualifies RE CPP's on the basis of the state having waived Electricity Duty.	
		IWPA, Karnataka Council)	Levying ED is in the horizon of State Government and such duties are defined for complete sector, therefore levying or exempting ED is not the true parameter for deciding factor for eligibility for REC. Further suggested that ground for eligibility should be uniform in all states.	
L	Jurisdiction	Chhattisgarh Biomass Energy Dev. Asso. Emergent Ventures Padmaja Financial Serv.	CERC may advise the SERCs/State Governments to make appropriate changes as may be necessary to ensure withdrawal of exemption such as wheeling and ED (not banking) The amendments made by CERC are beyond the jurisdiction of the Commission as the benefits/concessions are given by the States/ERCs.	The Commission would like to clarify that the REC scheme as evolved clearly demarcates the responsibilities of CERC and SERC in line with the provisions of the Electricity Act, 2003. Given the fact that REC is a national level framework, jurisdiction in terms of 'eligibility criteria' for participation in REC scheme, registration of RE generators, issuance of REC, and transactions in PXs etc., clearly vests with CERC. The role of SERC is in recognizing REC as a valid instrument for meeting RPO.

M	Applicability of Amendment Regulations	IPPAI	IPPAI suggested that the draft Regulation should be made prospectively applicable, saving the existing contracts.	This amendment regulation shall come into force from the date of its notification in the Gazette.
N	Sale of electricity component at APPC rate	InWEA	Regulations 5 (1) (c) of the principal Regulations may set off a session of negotiations related to purchase price of electricity with Average Power Purchase Cost (APPC) as a ceiling price as the Hon'ble Commission have stipulated that the generating company will be eligible for REC only when the generating company is selling the power at a price not exceeding the pooled cost of power purchase of such distribution licensee. Hence, it is requested that the Hon'ble Commission may amend the principal Regulation and mention specifically that the energy from renewable energy projects under REC mechanism to be purchased at the price equivalent to APPC. A similar condition has been stipulated by the Hon'ble MERC in its MERC RPO- REC Regulations.	The Statement of Objects and Reasons (SOR) issued along with the principal regulation, while explaining the salient features of REC scheme mentions that the price of electricity component of RE generation would be equivalent to the weighted average power purchase cost (APPC) of the DISCOM. Further, the floor price and forbearance price have also been computed with reference to the APPC. This implies especially in the context of the floor price that the stated objective of ensuring minimum viability requirements for RE projects through floor price can be achieved if the electricity component is sold at a price equivalent to PPC. Sale of electricity component at a price below the PPC could leave viability gap and eventually lead to high prices of REC in the power exchanges. It is, therefore, expected that the discoms whose average PPC is less than the RE generation cost would purchase the electricity component (from a RE generator participating in REC scheme) at a price equivalent to such PPC. Pertinently, the APPC as defined (in regulation 5 of the principal regulation) means the APPC of the discom in whose area the RE generator is located. Thus the APPC could vary in a state having more than one distribution licensee.
		GFL	Buying of Electricity component by utility should be at APPC rate.	
O	Sale to other Discom	InWEA	Hon'ble Commission to modify Principal Regulations and allow the electricity to be sold to any distribution company in the state.	This is beyond the scope of the amendment Regulation

P	Miscellaneous	Sudha Agro Oil and Chemical Industries Limited	Whether Auxiliary Consumption energy will also be made eligible along with self consumption while calculating energy entitlement for getting REC benefit.	The Commission would like to clarify that Auxiliary Consumption energy consumption of generator and same shall not be considered for REC. Only net energy shall be considered for REC.
		RE Connect Energy	The benefit of accessing REC markets should also be available to those RE power producers who have a PPA under preferential tariff, to the extent of their self-consumption/ auxiliary consumption of RE power.	
		PWC	Amendment should specify that within three months SERCs shall establish a framework to respond the request of existing CPPs who are willing to forego concessions. Further suggested that in case such framework doesn't exist, CCPs should be given right to participate in the REC market.	The provision in the proposed amendment is considered adequate
		PWC	Commission should address the issue of restriction in some states on third party sale through renewable technology having non-firm power. (PWC)	This is beyond the scope of the present proposed amendment in the Regulation.
		GFL	Since, PLF of Wind Farm is in the range of 20 – 25% full transmission charges in Rs./MW/Day would be very expensive.	Since it is under the jurisdiction of the State Electricity Regulatory Commission (SERC), above aspect can be settled by the developers with SERC only. For the purpose of this regulation "Concessional/promotional transmission or wheeling charges means levy of transmission /wheeling charges at a rate lower than the rate as applicable to a normal open access customer.
		IWTMA	PLF of RE sources is very low comparative to conventional energy sources an because of inherent phenomenon, levying uniform wheeling charges will have higher impact on renewable energy generators.	Since it is under the jurisdiction of the State Electricity Regulatory Commission (SERC), above aspect can be settled by the developers with SERC only.
		GFL	Sell of Electricity component to other licensees should include distribution licensee of other states.	Suggestions are beyond the scope of the present proposed amendment in the Regulation.
		GFL	Quarterly RPO fulfillment by obligated entity should be incorporated.	
GENSOL	Eligibility of off-grid RE generator under REC scheme should be			

			clarified.	
		Rana Sugars Limited	PPA of sugar mills in UP provides that 10% of power generated can be sold through open access. Same should be increased to 50%.	
		Emergent Ventures India Limited	<p>Life time of REC needs to be increased to 2 -3 years this will smoothen demand supply balance and create a long term market for RECs</p> <p>Longevity of REC scheme: In the long run REC Should become the sole basis for RE support replacing the FIT scheme. This mechanism need to manage well to ensure FIT can be successfully replaced.</p> <p>Ensuring stable price: We need a market mechanism for ensuring that the REC floor price is supported. This could be achieved by market maker entity run by CERC which buys and sells RECs using specific fund allocated by GOI .and keep prices at minimum level</p>	
		Simran Singh	Decentralized RE plants are considered under REC mechanism	