

CERC REC Regulations, 2022-Relevant Provisions and Rationale

CONTRIBUTION BY: Samiron Borkataky, Partner, Kochhar & Co. EMAIL: samiron.borkataky@kochhar.com

The Central Electricity Regulatory Commission ("CERC" or "Commission") on May 9, 2022 notified the CERC (Terms and Conditions for Renewable Energy Certificates for Renewable Energy Generation) Regulations, 2022 ("REC Regulations, 2022")1.

The reasons for framing of the REC Regulations, 2022 can be found in the Explanatory Memorandum to the draft of the REC Regulations, 2022 published by the Commission. The Explanatory Memorandum states that while the Commission had introduced the Renewable Energy Certificates ("REC") in the Indian electricity sector by notifying the erstwhile REC Regulations of 2010, however, since such introduction, power sector in India has witnessed significant changes and the REC Regulations, 2022 have been framed as there was a need to revisit the REC Mechanism in order to align with emerging scenarios in the power sector and to promote new renewable energy technologies.

Provided below is a table containing the relevant provisions under the REC Regulations, 2022 and the rationale behind their framing as enumerated in the Explanatory Memorandum for ready reference of stakeholders:

S. No.	Regulation		Rationale
1.	3.	Central Agency and its Functions	
	(1)	The National Load Despatch Centre shall be the Central Agency for the purpose of these regulations: Provided that the Commission may designate any other agency as the Central Agency after satisfying itself that such agency has the required capability of performing functions as provided under these regulations.	National Load Despatch Centre (NLDC) has been designated as the Central Agency. In view of the technical and operational capability of NLDC to implement various activities under REC Regulations over the period, the Commission decided to continue to entrust the same responsibility again on the NLDC under the new framework. Accordingly, the Commission has designated the NLDC to perform the functions of Central Agency under the new REC mechanism.

¹ https://cercind.gov.in/regulations/REC-Regulations-2022.pdf

- (2) The functions of the Central Agency shall be to:
 - i. undertake registration of eligible entities,
 - ii. develop a mechanism for accounting of generation and sale in respect of Certificates:
 - iii. undertake issuance of Certificates,
 - iv. maintain and settle accounts in respect of Certificates,
 - v. act as repository of transactions in Certificates,
 - vi. maintain Registry of Certificates,
 - vii. perform such other functions incidental to sub-clauses (i) to (vi) of this clause.
 - viii. and
 - ix. undertake any other function that may be assigned by the Commission.

2. 4. Eligibility for Issuance of Certificates

- (1) Following entities shall be eligible for issuance of Certificates:
 - (a) Renewable energy generating stations,
 - (b) Captive generating stations based on renewable energy sources,
 - (c) Distribution licensees, and
 - (d) Open access consumers
- (2) A renewable energy generating station shall be eligible for issuance of Certificates, if it meets the following conditions:
 - (a) the tariff of such renewable energy generating station, for part or full capacity, has not been either determined or adopted under section 62 or section 63 of the Act respectively, or the electricity generated is not sold directly or through an electricity trader or in the Power Exchange, for RPO compliance by an obligated entity:
 - (b) such renewable energy generating station has not availed any (i) waiver of or concessional transmission charges or (ii) waiver of or concessional wheeling charges.

Primary criteria for the entity to be eligible under REC mechanism are that the entity should be engaged in generation of electricity from approved RE sources and connected to the grid.

Tariff determined under Section 62 or Section 63 of the Electricity Act, 2003 ("Act") for a renewable energy generating station takes into account the cost of generation and risks involved during the lifetime of the operation of a renewable generation station. Further, distribution licensee procures electricity from generating station whose tariff is determined or adopted under Section 62 or 63 for fulfilment of its renewable purchase obligation (RPO). Similarly, electricity procured through existing green contracts in power exchanges such as Green Day Ahead Contracts or Green Term Ahead contracts etc. are meant for compliance of RPO. Allowing such generation under REC mechanism would tantamount to double accounting of green attributes and hence need to be excluded. Accordingly, any sale of power used by obligated entities to fulfil RPO is not be eligible for participation in REC mechanism.

REC framework is a market driven approach seeking to promote competition without any concessional benefits, which have the potential to skew the market. Accordingly, renewable energy generating station should not have availed any (i) waiver or concessional transmission charges or (ii) waiver of or concessional wheeling charges. A captive generating station based on Under REC Regulations, 2022, all captive renewable energy sources and meeting the generating stations based on renewable conditions as specified under clause (2) of energy sources are allowed to participate in the this Regulation in respect of renewable REC mechanism irrespective of its date of energy generating station shall be eligible for commissioning subject to the condition that the issuance of Certificates: RECs issued up to self-consumption shall not be eligible for sale but can be used only to Provided that the Certificates issued to such offset RPO of such CGSs. Primary purpose of captive generating station to the extent of selfsetting up renewable energy station by captive consumption, shall not be eligible for sale. consumers is to fulfil its RPO. Such selfconsumption actually replaces the equivalent procurement from the distribution licensee and hence gets adequately compensated in terms

(4) An obligated entity being a distribution licensee or an open access consumer, which purchases electricity from renewable energy sources in excess of the renewable purchase obligation as determined by the concerned State Commission shall be eligible for issuance of Certificates to the extent of purchase of such excess electricity from renewable energy sources.

(3)

Issuance of certificates to the distribution companies is an inducement for procurement of renewable energy beyond their renewable purchase obligation. Any policy or regulatory framework should have deterrents against non-performance as well as incentives for better performance. Further, the previous REC Regulations also allowed issuance of Certificates to the distribution licensees to the extent of purchase of excess electricity from renewable energy sources beyond their renewable purchase obligation.

and would hence be eligible for REC.

of saving on the tariff applicable for such consumer category. Hence, the Certificates issued to such captive generating stations to the extent of self-consumption, shall not be eligible for sale in the REC Market. For the generation component which beyond the self-consumption from such captive generating stations, it could be treated like a sale to any third party by any renewable generating station

3. 6. Grant of Accreditation for Certificates

(1) Accreditation to the eligible entities connected to intra-State transmission system shall be granted by the State Agency:

Existing practice of granting the accreditation by the State Agency designated by the State Commission to the eligible entities connected to intra-State transmission system has been Provided that the eligible entities granted accreditation prior to the date of coming into force of these regulations shall be deemed to have been granted accreditation under these regulations till validity of their respective accreditations.

(2) Accreditation to the eligible entities connected to the inter-State transmission system shall be granted by the RLDC of the region in which such eligible entities are located, in accordance with the Procedure for Accreditation to be issued by the Central Agency as part of the Detailed Procedure:

Provided that the eligible entities granted accreditations prior to the date of coming into force of these regulations shall be deemed to have been granted accreditations under these regulations and their accreditations shall remain valid till the date of validity of their respective accreditations.

(3) The eligible entities that have been granted accreditations, referred to in clause (2) of this Regulation, which have undergone a change in name or change in legal status after the grant of accreditation, shall inform, along with relevant documents from the appropriate authority such as Registrar of Companies or National Company Law Tribunal or any other Court, to the concerned RLDC which shall, upon verification of documents, update such change in its records within 30 days from the date of such information and inform the same to the Central Agency.

continued as per the specification by the State Commission.

The previous REC Regulations issued by the Commission envisaged accreditation renewable projects at State level considering the then prevailing market conditions of renewable generating stations connected to intra-State system. With maturity of renewable energy market many renewable energy projects have been connected directly to inter-State transmission system, and hence it is necessary to make provision for accreditation of such RE generating stations. Accordingly, accreditation of eligible entities connected to inter-State transmission system shall be granted by the RLDC of the region in which such eligible entities are located. The Central Agency shall issue detailed procedure for accreditation of such regional entities.

In order to address any regulatory uncertainty to existing accredited projects, the entities granted accreditation for Certificates under the REC Regulations, 2010 shall be deemed to have been granted accreditation for Certificates under REC Regulations, 2022 and their accreditation shall remain valid till the date of validity of their respective accreditation.

The Commission dealt with various petitions with regard to the processes involved in change in name or change in legal status of the entities. In order to bring clarity and simplify the process in this regard, the Commission has proposed that upon the eligible entity connected to Inter-state transmission system informing about its change in name or change in legal status with relevant documents from appropriate authorities (viz., Registrar of Companies or National Company Law Tribunal or any other Court), the RLDC shall update such change in records within 30 days. This will standardization bring required and simplification in transferring the benefits by virtue of the approval granted by the competent authority and all consequences flowing from the Scheme of Arrangement, under the

Company Law, including transfer of assets and liabilities. (4) Notwithstanding the provisions contained in clauses (1) and (2) of this Regulation, a distribution licensee or an open access consumer satisfying the eligibility conditions specified in clause (4) of Regulation 4 of these regulations, shall deemed to have been accredited for grant of registration under these regulations. 4. 8. **Grant of Registration for Certificates** The provision of Registration of eligible entities (1) An eligible entity which has been granted accreditation or deemed to have been by the Central Agency after grant of accreditation accreditation either by State Agency or RLDC granted under these regulations, shall be eligible for grant of has been continued. registration by the Central Agency in accordance with the Procedure for Registration for Certificate to be issued by the Central Agency as part of the Detailed Procedure: Provided that the entities Further, to bring regulatory certainty to entities granted registration under the REC Regulations, which are already registered under the 2010 shall be deemed to have been granted previous REC Regulations, it has been registration under these regulations. provided that such entities would considered to have deemed registration. (2) The registration granted in terms of these regulations shall be valid for twenty five years from the date of registration: Provided that the registration granted under the REC Regulations, 2010 and deemed to have been granted registration under these regulations shall be valid for a period of twenty five years from the date of deemed registration. As in case of Accreditation, the REC granted (3)The entities having been Regulations, 2022 provides that upon the registration which have undergone change eligible entity informing about its change in in name or change in legal status after the name or change in legal status with relevant grant of registration, shall inform, along with documents from appropriate authorities (viz., relevant documents from the appropriate Registrar of Companies or National Company authority such as Registrar of Companies Law Tribunal or any other Court), the Central or National Company Law Tribunal or any Agency shall update such change in records other Court, to the Central Agency which within 30 days. shall, upon verification of documents update such change in its records within 30 days from the date of such application.

5.	10.	Issuance of Certificates	
	(1)	An eligible entity which has been granted registration or deemed to have been granted registration may apply for issuance of Certificates, to the Central Agency in accordance with the Procedure of Issuance of Certificate to be issued by the Central Agency as part of the Detailed Procedure.	The Regulations have continued with the existing provision of making application before the Central Agency for issuance of certificates.
	(2)	Application for issuance of Certificates shall be made by an eligible entity being a renewable energy generating station or a captive generating station based on renewable energy sources, to the Central Agency within six months from the corresponding generation by the eligible entity:	
		Provided that no Certificate shall be issued in case the application is made beyond the period of six months from the corresponding generation.	The timelines for making an application would have to be followed strictly in order to expedite the process of issuance and any delay in such application will lead to non-issuance of Certificates for the corresponding period.
	(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.	
	(4)	The Central Agency shall, within fifteen days from the date of receipt of complete application for issuance of Certificates from an eligible entity, issue Certificates or reject the application recording the reasons for such rejection and intimate the same to the concerned entity.	

- (5) The Certificates shall be issued to the eligible entity being a renewable energy generating station or a captive generating station based on renewable energy sources, on the basis of the electricity generated and injected into the grid or deemed to be injected in case of self-consumption by the eligible captive generating station based on renewable energy sources and duly accounted in the Energy Accounting System:
 - as per the Grid Code or the State Grid Code, as the case may be, or
 - ii. based on written communication of distribution licensee to the concerned State Load Despatch Centre or Regional Load Despatch Centre with regard to the energy input by the renewable energy generating station and captive generating station based on renewable energy sources which are not covered under the existing scheduling and despatch procedures.
- (6) The entities granted registration or deemed to have been granted registration under these regulations shall be eligible for issuance of Certificates for the validity period of their registration.

In order to bring certainty in issuance of Certificates for the eligible entity, the REC Regulations, 2022 provide that eligible entities granted registration or deemed to have granted registration under the REC Regulations, 2022 would be eligible for issuance of Certificates for the validity period of their Registration.

6. 11. Exchange and Redemption of Certificates

- (1) The Central Agency shall maintain a Registry of Certificates.
- (2) The Certificates shall be exchanged through power exchanges or through electricity traders in such periodicity as may be stipulated by the Central Agency in the Detailed Procedure.
- (3) The Power Exchange(s) shall seek approval of the Commission, as may be required under the Central Electricity Regulatory Commission (Power Market) Regulations, 2021, to the respective

Previously, transactions of Certificates have been mandated only through the Power Exchanges which was considered necessary at that time for ensuring transparency, accounting and monitoring. However, over the period, the monitoring and compliance mechanism for both power exchanges and traders have evolved in so far as the energy trade is concerned. It is also felt that transaction of RECs through traders would provide an opportunity to the investors to secure their revenue on a longer-term time horizon and in

Bylaws and Rules for exchange o Certificates in the Power Exchange(s).

turn will mitigate their risks. Hence, the Commission has allowed transaction of Certificates through power exchanges as well as traders.

- (4) Exchange of Certificates through electricity traders shall be subject to the following:
 - a) The eligible entities shall inform, in advance, to the Central Agency about the number of Certificates intended to be sold through electricity traders;
 - b) The Central Agency shall block such number of Certificates in the Registry as informed by the eligible entities in terms of sub-clause (a) of this clause;
 - c) The Certificates blocked under subclause (b) of this clause shall not be allowed to be exchanged through Power Exchange(s);
 - d) The electricity traders shall intimate to the Central Agency consequent upon sale of the Certificates blocked under sub-clause (b) of this clause;
 - e) The trading margin for exchange of Certificates through electricity traders shall be governed by the Trading Licence Regulations, 2020, treating one Certificate representing one Megawatt hour of electricity.
- (5) The Certificates once exchanged through Power Exchange(s) or through electricity traders and used for compliance of RPO by the obligated entities, shall stand redeemed.
- (6) Upon redemption, the Central Agency shall extinguish the said Certificates from the Registry and update its records.
- (7) The Certificates issued to captive generating stations based on renewable energy sources to the extent of selfconsumption shall stand redeemed on compliance of RPO:

Provided that the State Agency shall inform the Central Agency about such redemption of Certificates, upon which the Central Agency shall extinguish such Certificates and update its records. Considering the importance to put in place a robust framework to ensure transparency and probity of transactions to safeguard the interest of stakeholders against any kind of abuse of the processes, sub-clause (4) has been inserted to Regulation 11 which is to be followed for transactions of Certificates through traders.

7. 12. Denomination of Certificate

(1) Each Certificate issued under these regulations shall represent one Megawatt hour of electricity generated from renewable energy sources and injected or deemed to be injected (in case of self-consumption by eligible captive generating station based on renewable energy sources) into the grid:

Provided that Certificate Multiplier may be determined by the Commission as per clause (2) of this Regulation:

Provided further that Certificates shall be issued in multiple of the assigned Certificate Multiplier as per clause (2) of this Regulation for one Megawatt hour of electricity generated and injected or deemed to be injected into the grid.

(2) The Certificate Multiplier for the period of three years from the date of effect of these regulations or such other period as may be decided by the Commission, as determined in **Appendix-1** shall be as under:

Renewable	Certificate
Energy	Multiplier
Technologies	
On-shore Wind and	1
Solar	
Hydro	1.5
Municipal Solid	2
Waste (MSW) and	
non-fossil fuel-	
based cogeneration	

The Regulations have continued with the provision of denomination existing Certificates, that is, one Certificate representing one MWh of energy generated and injected or deemed to have been injected into the grid, but with a special provision that certificate multiplier may be issued by the Commission keeping in view the maturity level and cost of various RE technologies. Over the period, costs of wind and solar projects have reduced significantly, and stakeholders have argued that a separate carve out for solar and the present provision of putting together all other RE resources as non-solar, needs a revisit. There have been demands for incentivising higher cost RE sources such as Municipal Solid Waste (MSW), Biomass, hydro etc. The Commission has taken note of these feedbacks and accordingly decided that renewable energy-based projects would receive a common but differentiated by number of Certificate(s), by way of Certificate multiplier based on maturity and cost of a particular technology. This will ensure that REC market is not fragmented while making sure at the same time that all technologies are equitably compensated. It is believed that Certificate multiplier would also provide required support for new and innovative technologies in its nascent stage of development.

In order to give regulatory certainty, the REC Regulations, 2022 provides that a multiplier will be assigned for a period of 3 years or such other period as decided by the Commission.

Further, Certificate Multiplier has been determined based on the tariff range of various renewable energy sources, by taking into account the:

 Tariffs of renewable energy projects discovered through bidding process under Section 63 of the Act;

8.	13.	Pricing of Certificates		
8.	(4)	generating station base energy sources: Provided that for the perion Registration beyond fifted date of commissioning or energy generating station base energy sources, such in generating station or castation based on resources shall be issued one Megawatt hour of eand injected or deemed to grid.	be assigned to the ating stations and ations based on es, commissioned into force of these once assigned to a ating station, shall a fifteen years from of such renewable ation or captive ed on renewable at the first of the fir	While the REC Regulations, 2022 provide for revision of multiplier from time to time based on the review of maturity level and cost of generation of renewable technologies by the Commission, it also makes a provision for 'grandfathering', which implies that the project which has been granted a certain multiplier would continue with the same multiplier till 15 years from the date of commissioning of such project. This is to ensure revenue recovery during the period of debt obligation for such projects.
		Provided that the Certificate Appendix-1: Provided further that the from time to time, based maturity level and corenewable energy technology.	technologies, not e, shall be notified case-to-case basis es stipulated in Commission may, I on review of the cost of various	 Tariff Orders issued by the Commission for projects based on various Renewable Energy Sources; Tariff Orders issued by State Electricity Regulatory Commissions for Renewable Energy Projects; Renewable Energy Project Specific Tariffs determined by the Appropriate Commission, if any

discovered in the Power Exchange(s) or as mutually agreed between eligible entities and the electricity traders:

The price of Certificates shall be as

(1)

As per the previous Regulations, RECs were exchanged within the forbearance price and floor price as determined by the Commission. The intent of determining the floor and

Provided that the Power Exchange(s) and the electricity traders shall report all transactions with details including but not limited to volume, price, buyers and sellers to the Central Agency on a monthly basis.

- (2) The Commission may by an order give such directions to the Power Exchange(s) or the electricity traders or the Nodal Agency as may be considered necessary, on being satisfied that any of the following circumstances exist or are likely to occur:
 - a) Abnormal increase or decrease in prices of Certificates;
 - b) Sudden volatility in the prices of Certificates;
 - Sudden high or low transaction volumes of Certificates on a Power Exchange.

forbearance price was to avoid price volatility (through forbearance price) and to ensure viability of an REC project (through floor price). The basic premise of REC framework and REC prices thereof, is that the revenue for a project registered under REC mechanism should be comparable to the revenue from sale of bundled green power for a regulated tariff route project. In view of the fact that RE market has adequately matured and prices of renewable technologies, especially wind and solar have reduced drastically, the Commission reviewed the need for floor and forbearance price for the REC market. The Commission from time to time had also directed the staff to review the need of floor and forbearance price in view of the fact that REC market has been in operation for more than ten years now. The Regulatory Impact Assessment study conducted by the Commission also recommended that it is imperative to do away with floor and forbearance price of REC. The communication received from the Ministry of Power also recommended removal of floor and forbearance price. Accordingly, the Commission has decided to do away with the requirement of determining floor forbearance price for REC. The price of REC would be discovered based on the demand and supply situation in the REC market with complete freedom to buyers and sellers. The Commission believes that this will help realize true market value of REC.

In order to ensure there is no gaming or malpractice leading to manipulation of prices in the REC market, a sperate provision for Regulatory intervention is provided under subclause (2) of Regulation 13.

9. 14. Validity of Certificates

(1) The Certificates issued shall remain valid until they are redeemed:

Provided that where an eligible entity has obtained accreditation or registration on the basis of false information or by suppressing material information and the accreditation or registration of such entity is revoked at a later date, the Certificates already issued to such entity, but not redeemed, shall stand

The key consideration for determining the validity of Certificate is to provide certainty to RE generators in the event of lean demand on one side and also to prevent hoarding of RECs in speculation of increase in REC prices in future. Accordingly, in the previous REC framework validity of the Certificate was retained at 1095 days (approximately 3 years) from the date of issuance of the Certificate to the eligible entity. Further, the Commission

extinguished from the date of issue of such Certificates and in respect of Certificates already redeemed, such entity shall deposit in the Central Agency, the amount realized from sale of such Certificates along with the interest at the rate of two hundred (200) basis points above the State Bank of India Marginal Cost of Funds based Lending Rate (MCLR) of one year tenor.

from time to time had extended the validity of REC certificate in order to grant relief to the affected parties due to some legal proceeding or in view of the sluggish market demand. However, since the REC market has matured now and Floor and Forbearance Prices for Certificates are to be removed, Commission has extended the validity of the Certificates till they are redeemed through power exchanges or through trading licensee. The Commission believes that this will provide required certainty in the market.

10. 16. Detailed Procedure

(1) The Central Agency shall issue the Detailed Procedure after stakeholders' consultation within a period of 3 months of notification of these regulations and submit the same for information to the Commission. The earlier model procedure for Accreditation, procedure for Registration, Procedure for Issuance, Procedure for Redemption of Certificate would be replaced with the Detailed Procedure to be issued by the Central Agency under the present Regulations

- (2) The Detailed Procedure shall contain procedures including, but not limited to:
 - a) Procedure for accounting of generation in respect of eligible entities as referred in clause (2) of Regulation 3 of these regulations;
 - b) Procedure for Accreditation as referred in clause (2) of Regulation 6 of these regulations;
 - c) Procedure for Registration for Certificate as referred to in clause (1) of Regulation 8 of these regulations;
 - d) Procedure for Issuance for Certificate as referred to in clause (1) of Regulation 10 of these regulations;
 - e) Periodicity for exchange of Certificate through power exchange or through electricity traders as referred to in clause (2) of Regulation 11 of these regulations;
 - f) other related and incidental matters.

Procedure to be issued by the Central Agency under the present Regulations.

The Detailed Procedure is to be submitted to

The Detailed Procedure is to be submitted to the Commission for its information and there is no need for the Commission's approval on the same.