



No. WBERC/Regulation/34/10-11/0647

Dated, the 10th August, 2012

NOTICE

Sub: **Previous Publication of Proposed Regulations – inviting objections / suggestions / comments**

West Bengal Electricity Regulatory Commission draws the attention of all concerned to the following two drafts of the proposed Regulations one for replacing the existing regulations mentioned in the draft and the other a new set of regulations:-

1. Draft West Bengal Electricity Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2012 (For replacing existing Regulation).
2. Draft West Bengal Electricity Regulatory Commission (Procedure for Accreditation of a Renewable Generation Project for REC Mechanism) Regulations, 2012.

The Commission draws the attention of all stakeholders and interested persons to the said drafts of the proposed Regulations and invites objections, comments and suggestions thereon. Copy / copies of the draft of the proposed Regulations as also of the existing Regulations to be replaced may be obtained from the office of the Commission between 11-00 hrs and 15-00hrs. on any working day on payment of the usual fees. The same may also be viewed and downloaded from the website of the Commission free of cost. Objections / comments / suggestions in writing must reach the office of the Commission **latest by 07th September, 2012.**

By Order of the Commission

Place: Kolkata
Dated: 10th August, 2012

Sd/-
(K. L Biswas)
Secretary

DRAFT INVITING OBJECTIONS, SUGGESTIONS AND COMMENTS

Proposed draft regulation on West Bengal Electricity Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2012 inviting objections, suggestions and comments.

WEST BENGAL ELECTRICITY REGULATORY COMMISSION

NOTIFICATION

No. ____/WBERC

Kolkata, the _____, 2012

In exercise of the powers conferred by sub-section (1) and clause (zp) of sub-section (2) of section 181, sections 61 and 66 read with clause (e) of sub-section (1) of section 86 of the Electricity Act, 2003 and all powers enabling it on that behalf and in supersession of Notification No. 47/WBERC dated 10.08.2010 published in the Kolkata Gazette, Extraordinary dated 10.08.2010 the West Bengal Electricity Regulatory Commission hereby makes the following regulations:-

1.0 Short title, extent and commencement:

- i) These regulations may be called the West Bengal Electricity Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2012.
- ii) They extend to the whole of West Bengal.
- iii) They shall come into force on the date of their publication in the Official Gazette.

2.0 Definitions:

2.1 In these regulations, unless the context otherwise requires,—

- (a) 'ABT' means Availability Based Tariff as defined in the Tariff Regulations;
- (b) 'Act' means the Electricity Act, 2003;
- (c) 'ALDC' means Area Load Despatch Centre as defined in the State Grid Code;

- (d) 'Bio-gas plant' means a 'power plant' generating electricity by using fuel produced through anaerobic digestion of wet biomass;
- (e) 'Biomass' means waste produced during agricultural and forestry operations (for example straws and stalks) or produced as a by-product of processing operations of agricultural produce (e.g., husks, shells, deoiled cakes, etc.), wood produced in dedicated energy plantations or recovered from wild bushes/ weeds and the wood waste produced in some industrial operations;
- (f) 'Central Agency' means the agency as designated by the Central Electricity Regulatory Commission under the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010, as amended;
- (g) 'CERC' means the Central Electricity Regulatory Commission;
- (h) 'Commission' means the West Bengal Electricity Regulatory Commission referred to in sub-section(1) of section 82 of the Act;
- (i) 'DPL' means the Durgapur Projects Limited;
- (j) 'DVC' means the Damodar Valley Corporation established by the Damodar Valley Corporations Act, 1948;
- (k) 'KV' means Kilo Volt;
- (l) 'KVARh' means reactive energy in Kilo Volt Ampere hour;
- (m) 'kWh' means active energy in Kilo Watt hour;
- (n) 'Licensee' means a person who has been granted a licence under section 14 of the Act for distribution of electricity and includes a deemed licensee for supply of electricity under first, fourth and fifth provisos to section 14 of the Act under the jurisdiction of the Commission;
- (o) 'MNRE' means Ministry of New and Renewable Energy of the Government of India;

- (p) 'MOU' means the Memorandum of Understanding entered into between the seller / developer and the licensee;
- (q) 'MSW power plant' means the power plant that generates electricity by utilizing municipal solid waste as fuel for generation of electricity;
- (r) 'MW' means Mega Watt;
- (s) 'Nodal Agency' means SLDC or ALDC of respective licensees;
- (t) 'Open Access Regulations' means the regulations as defined in the Tariff Regulations;
- (u) 'PPA' means the Power Purchase Agreement between two agencies for purchase / sale of power;
- (v) 'Renewable source' means renewable electricity generating sources such as hydro generating station, wind, solar, biomass based on 100% producer gas on combustion route, urban / municipal waste, industrial waste, geothermal, tidal, ocean thermal energy conversion (OTEC) or other such sources as approved by the MNRE;
- (w) 'REC' means Renewable Energy Certificate as specified in Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010, as amended;
- (x) 'Renewable Purchase Obligation' or 'RPO' means the obligation as specified in regulations 3.1 to 3.9 of these regulations;
- (y) 'Small hydro Generating Station' means hydro power station where size of each unit of the generating station is not more than 25 MW;
- (z) 'SLDC' means the State Load Despatch Centre;
- (aa) 'Solar PV power plant' means the Solar Photo Voltaic Power plant that uses sunlight for direct conversion into electricity through Photo Voltaic technology;

- (bb) 'STU' means State Transmission Utility;
- (aa) 'State' means the State of West Bengal;
- (ab) 'State Agency' means the agency in the State of West Bengal as may be designated by the Commission to act as the agency for accreditation and recommending the renewable energy projects for registration and to undertake such function as may be specified by the Commission;
- (ac) 'Tariff Regulations' means the regulations made by the Commission under section 61 of the Act ;
- (ad) 'TOD' means the Time-of the-Day;
- (ae) 'Transmission licensee' means a person who has been granted a licence under section 14 of the Act for transmission of electricity and includes a deemed licensee for transmission of electricity under fourth and fifth provisos to section 14 of the Act;
- (af) 'UI' means Unscheduled Interchange;
- (ag) 'Ultimate Target' means the RPO target of 10% of the total consumption of electricity in the area of supply, of licensee(s) or some higher percentage of the total consumption as may be fixed by the Commission to be met by the licensee(s).
- (ah) 'WBERC' means the West Bengal Electricity Regulatory Commission;
- (ai) 'WBREDA' means the West Bengal Renewable Energy Development Agency;
- (aj) 'WBSEDCL' means the West Bengal State Electricity Distribution Company Ltd.

2.2 Words and expressions used and not defined in these regulations but defined in the Act or any other regulations issued by the Commission, shall have the same meaning assigned to them respectively in the Act, or such other regulations issued by the Commission.

3.0 Renewable Purchase Obligation (RPO) Target:

- 3.1 All efforts shall be made to meet the targets in the table below by purchase of electricity and/or generation of electricity by the distribution licensees from cogeneration and / or renewable sources, expressed as percentage of their total consumption of electricity in a year during the years 2013 – 2014 to 2017 – 2018.

year	Minimum quantum of usage (in %) from Co-generation and Renewable energy sources	
	Solar	Total including Solar
2013-14	0.25	4
2014-15	0.30	5
2015-16	0.40	6
2016-17	0.50	7
2017-18	0.60	8

- Such target obligation indicated hereinbefore in the above table shall be considered on the basis of summated energy available from own generation and purchase of power both being originated from co-generation and/or renewable sources.
- 3.2 The quantum of obligation is with regard to the energy input in the system of the licensee(s) after adjustment of losses. For subsequent years (from 2018 – 2019 onwards) the increase shall be 1% each year till the Ultimate Target is reached by the distribution licensee(s). Till the Ultimate Target is reached, the distribution licensee shall prefer long term agreement with the supplier of renewable and/or co-generation sources if supplier agrees.
- 3.3 Obligations for the licensees as specified in regulation 3.1 of these regulations are mandatory minimum percentages of purchase and to be maintained by the licensees. The licensees shall have the option to purchase, in excess of target till Ultimate Target is reached without the prior approval of the Commission.
- 3.4 Every distribution licensee may meet its RPO target by way of own generation or by purchase from any sources including other licensee or by way of renewable energy certificate or by considering the energy used from co-generation and /or

renewable sources generated in the manner as per regulation 3.9 of these Regulations or by way of combination of any of the above methods.

Provided that consumption / procurement of renewable and/or co-generation power from own generation or from other sources at the price above the capping price, fixed by the Commission where applicable shall not be considered as eligible quantum for fulfillment of RPO. For this purpose the purchase price at the metering point will be considered for eligibility determination on the basis of capping price as per regulation 6 of these regulations.

- 3.5 To meet the RPO the licensee shall make advertisement in at least two widely published national English daily newspapers and at least one widely published Bengali daily newspaper every year.
- 3.6 Subject to the terms and conditions contained in these Regulations, the certificates issued under the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issue of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010, as amended, shall be valid instruments for the discharge of the mandatory obligations set out in regulation 3.1 above for the distribution licensee(s) to purchase electricity from renewable energy sources. The certificates purchased by the distribution licensee(s) from the power exchange in terms of the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issue of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010, as amended, shall be deposited with the Commission in accordance with the detailed procedure laid down by the Central Agency.
- 3.7 The distribution licensee shall submit the summary statement of compliances against RPO to the State Agency on annual basis.
- 3.8 The metering point at which a licensee shall purchase energy from cogeneration and / or renewable sources shall be the delivery point as per regulation 7 of these Regulations.

3.9 Energy from cogeneration and / or renewable sources generated within the State and used for captive purposes within the State shall be taken into account for computing the achievement of purchase target of a licensee in whose licensed area such captive use of energy from cogeneration and / or renewable sources is made provided the licensee submits the necessary details of such use to the Commission each year. In case of captive use through open access, the quantum of energy wheeled through the system of the licensee in whose area such energy is consumed through open access shall also be taken into account as the achievement of purchase target for that licensee. Consumers using captive energy produced from co-generation and / or renewable sources either produced in its own premises or purchased through open access shall submit separately to the licensee every month

- i) the quantum of energy consumed from such sources; and
- ii) wheeling loss of such uses within the licensed area along with unit cost of such energy in whose licensed area it is situated.

The renewable and/or co-generation energy which is being lost during wheeling through the distribution network of any licensee shall also be considered while calculating the RPO of the distribution licensee. The transmission loss for transmission of renewable and/or co-generation energy will also be accounted for RPO of the licensee under whose area and through whose network the energy is drawn by the user of such energy. Similarly, distribution loss of renewable and / or co-generation energy passing through an intervening network of any distribution licensee, will also account for RPO of that distribution licensee.

3.10 While contracting power purchase from cogeneration and / or renewable sources, the priority for purchase shall be on the basis of the comparative price of energy and availability from cogeneration and /or other renewable sources in a transparent manner through negotiation within the capped price specified under regulation 6.0 of these regulations until Ultimate Target of the licensee is being achieved. Thereafter, the licensee shall procure such power through competitive bidding within the capped price specified under regulation 6.0 of these Regulations except hydro power stations if tariff of such power stations are

determined by regulatory mechanism as provided in tariff regulations. For this purpose open competitive bidding should be done every year through wide publicity including advertisements in the news papers subject to the condition that such price will be within the capping price of these regulations. However, where competitive bidding route is used according to guidelines issued by the Central Government in pursuance of section 63 of the Act, the price will be as per the competitive bidding guidelines and in that case capping price as per these regulations will not be applicable.

- 3.11 A licensee shall keep the Commission informed about its status against purchase target as mentioned in regulation 3.1 of these regulations by May every year for the previous year indicating the quantum of energy procured and its sources along with reasons, if any, for non-achievement of purchase target.

4.0 Fall out of Non-compliance of RPO

In case of non-fulfillment of RPO, Commission may suo-motu or on the basis of any application initiate proceedings under section 142 of EA 2003 if any of the followings is established.

- i) Licensee has not complied with regulation 3.5
- ii) Licensee has not complied with regulation 3.6 where RPO commitment has yet to be fulfilled.

5.0 Determination of Tariff of Electricity from Cogeneration and / or Renewable Source:

- 5.1 Tariff for purchase of electricity from cogeneration and / or renewable sources shall be agreed mutually by the licensees and the suppliers at a level not above the price cap indicated by the Commission in these regulations. Tariff determined under these regulations will not be re-determined under Tariff Regulations.
- 5.2 To facilitate examination of reasonableness of price at which a licensee shall procure energy from cogeneration and / or renewable sources, the prospective purchaser may require the seller to submit all cost data and finance charges to the purchaser. MOU/PPA shall also include the terms and conditions of meter-

reading, meter-rent, billing, payment, payment security arrangements, rate of delayed payment surcharge etc. MOU / PPA as agreed between the seller and the purchaser shall be submitted to the Commission. The Commission at this stage shall not debar a licensee from agreeing to a negotiated price within the capped price. The Commission may accept the same for the present if the PPA is made as per these regulations. PPA, if any, entered into between the seller / developer and purchaser before the Act came into force and also the PPA already executed based on earlier Regulations of the Commission on cogeneration and / or generation of electricity from renewable sources made under any of the repealed regulations shall remain valid. However, the licensee shall not decline to purchase energy from such sources within the specified capped price as per these regulations from the existing units who have already covered the validity period of the capped price as was indicated in the earlier Regulations of the Commission until the minimum purchase obligation is achieved each year provided that connectivity and all other conditions are consistent with these regulations.

6.0 Price Capping for Energy from Cogeneration and / or Renewable Sources:

6.1 (i) Bio-mass

The price at which the renewable energy from biomass source can be sold to a licensee is capped at Rs 5.00 per kWh and shall remain fixed for five years from the date of coming into force of these regulations or till the date of further notification on this price cap by the Commission whichever is earlier. The Commission may re-fix the capped price and validity period along with the rate of escalation suo motu in consideration of information from market sources. Fuel for power generation from bio-mass source shall be generally rice husk or bio-mass made available by additional energy plantation undertaken by the owner of bio-mass plant. A maximum fuel mix of 15% conventional fossil fuel shall be allowed on yearly basis. The project developer shall furnish monthly fuel usage statement for each month along with monthly energy bill to the beneficiary. The statement shall include quantity of fuel consumed for each fuel type during the month, actual gross energy generation during the month, opening fuel stock

quantity for each type of fuel in the beginning of the month, receipt of fuel quantity for each fuel during the month etc. At the end of the year a statement of audited accounts of fuel usage for each financial year certified by a Chartered Accountant shall be submitted to the beneficiary and any discrepancy noted by the beneficiary shall be brought to the notice of the Commission. Non-compliance with the condition of fossil fuel usage by the project developer shall result in withdrawal of applicability of tariff as per these regulations.

For a bio-mass plant a two part tariff (fixed charge and energy charge) may be agreed to by the purchaser with the provision for allowing an increase in energy charge at the rate notified by CERC for Case- I Bidding for domestic coal each year on the energy charge considered in the detailed project report or fixed at the time of introduction of two part tariff in the PPA. The seller of power shall submit all documentary evidence as required by the purchaser in this regard. For two-part tariff determination the elements of fixed charge component may be fixed by the licensee on the basis of principles as laid down in the Tariff Regulations.

Provided that the price of electricity (price of electricity = fixed charge + energy charge) as per the two part tariff decided for bio-mass plant during the year of implementation of such rate shall not exceed the capped price as per these regulations.

(ii) Wind

For wind energy, the price cap shall be at Rs. 5.70 per kWh for ten years from the date of coming into force of these regulations.

(iii) Hydro Generating Station

- a) For energy from Small hydro generating station of any generating company (not pumped storage sources), the price cap is fixed at Rs 4.40 per kWh for five years from the date of coming into force of these regulations.
- b) Notwithstanding anything contained contrary elsewhere in these regulations for energy from own hydro generation station of any distribution licensee or

from any hydro generating station other than small hydro generating station the tariff will be determined as per the Tariff Regulations.

(iv) Co-generation

The price cap for co-generation plant shall be at Rs. 3.30 per kWh and the same shall remain in force for five years or till further notification on this price cap by the Commission whichever is earlier.

For a co-generation plant a two part tariff (fixed charge and energy charge) may be agreed to by the purchaser with the provision for allowing an increase in energy charge at the rate notified by CERC for Case- I Bidding for domestic coal each year on the energy charge considered in the detailed project report or fixed at the time of introduction of two part tariff in the PPA. The owner of the generating station shall submit all documentary evidence as required by the purchaser in this regard. For two-part tariff determination the elements of fixed charge component may be fixed by the licensee on the basis of principles as laid down in the Tariff Regulations.

Provided that the price of electricity (price of electricity = fixed charge + energy charge) as per the two part tariff decided for co-generation unit during the year of implementation of such rate shall not exceed the capped price as per these regulations.

(v) Solar PV

(a) Licensees purchasing power from eligible grid connected Solar PV power plants of capacity ranging from 100 KW and upto 2 MW if set up either on the ground or on the top of a building in the licensed area of supply of a licensee but shall avail generation based incentive as per guide lines dated 16.06.2010 of MNRE, the capped price of energy from such plants shall be Rs.10.00/ kWh and shall remain valid for 25 years and will be applicable for those generating plants for which PPA has already been done with the licensee. The capped price of energy for grid connected Solar PV power plants (including those plants which

are availing accelerated depreciation benefit under section 32 of the Income Tax Act, 1961) which are not eligible for any incentive declared by MNRE, shall be Rs. 10.00 / kWh for sale to the licensees and such tariff will be applicable for the grid connected Solar PV power projects commissioned upto 2012-13 and shall remain valid for 15 years. The capped price of energy and period of validity for grid connected Solar PV power plants (including those plants which are availing accelerated depreciation benefit under section 32 of the Income Tax Act, 1961) which are commissioned after 2012-13 shall be Rs 10.00/ kwh for the projects commissioned upto 2015 – 2016 or till the date as notified by the Commission, whichever is earlier and shall remain valid for 15 years. If at any stage in future such Solar PV power plants which are ineligible to avail the generation based incentive, become eligible for any incentive declared by MNRE or by the State or Central Government, the Commission may review the capped price for sale to the licensees and fix a new capped price duly taking into consideration the allowable incentive to such Solar PV power plants. Tariff for grid connected Solar PV power plants of capacity ranging from 250 KW and upto 5 MW already commissioned and availing generation based incentive of MNRE, shall continue to be guided as per PPA already made out as per the Commission's earlier Regulations on cogeneration and generation of electricity from renewable sources made under Notification No. 39/WBERC dated 25.03.2008. Any incentive received by a licensee from MNRE on this account shall be passed on to its purchasers of electricity.

(b) Roof-top Solar PV sources can be installed for injecting into the distribution system of a licensee only by such institutional consumer(s) like Government and private hospitals and health centres, hospitals and health centres owned and run by any private charitable organization, Government and Government aided and private schools and academic institutions, Government offices and organizations, any housing complex already promoted for this purpose by Government or any Government agency for the development of renewable sources, local bodies like municipalities, panchayats and consumers of any housing complex located in the same premises.

Provided that total installed capacity in such premises shall not be less than 5 kW.

Provided also that such injection from roof-top solar PV sources of the above mentioned consumer(s) shall not be more than 90% of the consumption from the licensee's supply by the above mentioned consumer(s) in a financial year. Such injection from roof-top solar PV sources of the above mentioned consumer(s) shall be settled on net energy basis at the end of each financial year. Any excess energy injected by the above mentioned consumer(s) from the roof-top solar PV sources being more than 90% of the consumption of energy by that consumer(s) from the licensee's supply in each billing period shall be carried over to the next billing period within that financial year. Slab tariff, as per applicable tariff order under the Tariff Regulations, shall be applicable for the net energy supplied by the licensee in a billing period if the supplied energy by the licensee is more than the injected energy by the roof-top solar PV sources of the consumer(s) after taking into account the quantum of energy, if any, carried forward from earlier billing period(s) of that financial year. If in a billing period the supplied energy by the licensee is less than or equal to energy injected by the roof-top solar PV sources of the consumer(s) after adding the cumulative carried over injected energy from previous billing periods of that financial year the billed amount for energy will be nil for that billing period(s). At the end of the financial year, if the total energy supplied by the licensee to the consumer(s) for that financial year is found to be less than the energy injected by the roof-top solar PV sources of that consumer(s) for that financial year, the licensee shall not pay any charge to the consumer(s) for that net energy injected by the consumer(s), in excess of 90% of consumption of that consumer(s) from the licensee's supply in that financial year and the same shall be treated as unwanted / inadvertent injection. At the beginning of each financial year, cumulative carried over injected energy will be reset to zero. Payment in a billing period by the consumer(s) (owning roof-top solar PV sources) to the licensee shall be guided by the provisions of the regulations made by the Commission under section 50 of the Act. For each billing period in a financial year the licensee shall show the quantum of injected energy from roof-top Solar PV sources in the billing period,

supplied energy from its source in the billing period, net billed energy for payment by the consumer for that billing period and net carried over energy to the next billing period separately. Any delay in payment shall attract surcharge at the agreed rate. The MOU / PPA to be signed between the licensee and developer of such roof-top Solar PV sources shall include necessary terms and conditions of meter reading, meter-rent, billing, payment, payment security arrangements, rate of delayed payment surcharge etc. However, meter-rent applicable for each meter shall not be higher than the meter-rent as applied for the developer as consumer.

(vi) MSW

The price at which the electricity generated through combustion route by directly using the Municipal Solid Waste (MSW) as fuel or by utilizing land fill gas can be sold to a licensee is capped at Rs 5.10/ kWh and shall remain fixed for a period of ten years from the date of coming into force of these regulations. Fuel for power generation from Municipal Solid Waste shall be generally from the garbage supplied by a municipality free of cost. A maximum fuel mix of 15% conventional fossil fuel shall be allowed on yearly basis for generation of electricity through combustion route. The project developer shall furnish monthly fossil fuel usage statement and audited accounts figure of fuel used in similar manner as specified under Biomass generation in regulation 6.1(i) of these regulations.

(vii) Bio-gas

Electricity generated from Bio-gas Plant can be sold to the licensee at a capped price of Rs. 6.20/ kWh and shall remain fixed for a period of five years from the date of coming into force of these regulations. Fuel for power generation from bio-gas plant shall be the gas produced by fermentation of cow dung in a multistage process through the activity of anaerobic micro-organisms.

- 6.2 All price caps as specified in these regulations shall exclude all applicable taxes but include cost of connectivity through suitably connected line upto the delivery point.

6.3 The Commission may, at any time, review the period of capped price, mentioned in these regulations, if necessary.

6.4 The above capped price shall be applicable for the new units which will be in operation after issue of these regulations and also for existing units who have already covered the validity period of the capped price.

Provided that for existing fossil fuel used (partly or fully) in co-generation plant such price cap of existing units can be revisited due to increase in fuel cost part only and price may be re-determined prospectively only subject to capping price as provided in these regulations.

6.5 For an existing bio-mass plant a new price of electricity on the basis of two part tariff can be agreed by the buyer and seller through a new PPA where fixed charge and energy charge will be decided on the basis of the documents which were submitted during finalization of the existing PPA. The energy charge so fixed shall thereafter be increased at the rate notified by CERC for Case-I Bidding for domestic coal every year.

Provided that the price of electricity (price of electricity = fixed charge + energy charge) as per the two part tariff decided for bio-mass plant during the year of implementation of such rate shall not exceed the capped price as prevailed at the time of finalization of the existing PPA, if the units do not cover the validity period of such capped price. For the units who have already covered the validity period of the capped price the price of electricity as per the two part tariff shall be limited to the capped price as per these regulations.

Provided further that the aforesaid two part tariff for an existing bio-mass plant shall be applicable prospectively from the date of signing of the new PPA and not earlier from the date of issue of these regulations.

6.6 For an existing co-generation plant a new price of electricity on the basis of two part tariff can be agreed by the buyer and seller through a new PPA where fixed

charge and energy charge will be decided on the basis of the operational and performance parameters (such as PLF, auxiliary energy consumption, plant availability factor, station heat rate, distribution loss of evacuating delivery line) which were submitted during finalization of the existing PPA. The energy charge so fixed shall thereafter be increased at the rate notified by CERC for Case-I Bidding for domestic coal every year.

Provided that the price of electricity (price of electricity = fixed charge + energy charge) as per the two part tariff decided for co-generation unit during the year of implementation of such rate shall not exceed the capped price as prevailed at the time of finalization of the existing PPA, if the units do not cover the validity period of such capped price. For the units who have already covered the validity period of the capped price the price of electricity as per the two part tariff shall be limited to the capped price as per these regulations.

Provided further that the aforesaid two part tariff for an existing co-generation plant shall be applicable prospectively from the date of signing of the new PPA and not earlier from the date of issue of these regulations.

- 6.7 Renovation and Modernization (R&M) of the existing plants, if considered necessary after completion of at least 70% of their expected life, can be taken up. The developer shall submit details of work with cost break up and cost benefit analysis to the purchaser. The purchaser may allow the seller to capitalize the R&M cost and agree to a new rate.

Provided that the aforesaid new rate after capitalization of R&M cost shall not exceed the capped price as per these regulations and shall remain valid for the residual useful life.

- 6.8 Notwithstanding anything to the contrary contained elsewhere in these regulations, the price of energy purchase by any distribution licensee from cogeneration and / or renewable sources shall not be determined for a part of such purchase under these regulations and for balance part of such purchase

under other regulations. The price of energy purchase by distribution licensee from any cogeneration and/or renewable sources shall be determined as per these regulations for the entire purchase of power from such sources.

7.0 Connectivity:

- 7.1 The cogeneration and / or renewable energy sources excepting roof-top Solar PV and bio-gas sources shall be connected to the State Grid at a voltage level of 132 KV or 66 KV or 33 KV or 11 KV or 6 KV subject to technical suitability determined by the licensee. If any dispute arises about the technical suitability of connection of such sources with the grid, the matter shall be referred to the Commission whose decision in this regard shall be final. The delivery point shall be the nearest grid sub-station having 132 KV / 66 KV / 33 KV / 11 KV / 6 KV voltage level. Synchronization point shall, however, remain at the power station end with all protection and inter-lock as agreed between the licensee, STU and developer. Such connectivity shall also be provided for use of licensee's system under open access. More than one such project established by the same developer located near each other are to be clustered together as far as possible in order to avail connectivity with the grid sub-station.
- 7.2 Roof-top Solar PV sources of capacity as mentioned in regulation 6.1(v)(b) of these regulations shall be allowed connectivity at LV or MV or 6 KV or 11 KV of the distribution system of the licensee as considered technically and financially suitable by the licensee and the developer. If any dispute arises about connectivity of such sources with the grid, the matter shall be referred to the Commission whose decision in this regard shall be final. Supply of electricity to the consumer(s) from the licensee's sources and that to the licensee's distribution system from the roof-top Solar PV sources shall be measured either by two separate meters, the readings of which shall be used in each billing period for settlement on net basis as specified in regulation 6.1(v)(b) of these regulations or alternatively by an export-import type meter suitable for directly measuring the net exchange. The meter for measuring the energy injected from Solar PV sources shall be provided by the licensee against applicable meter rent along with the connection of the meter upto the nearest technically suitable point

- in the distribution system of the licensee. The connectivity from the roof-top Solar PV sources upto the meter shall be at the cost and responsibility of the consumer(s) and shall be in accordance with the guidance of the licensee so that the licensee's distribution system is not affected by any fault in the system owned by the consumer(s).
- 7.3 Bio-gas Plants, if connected to the distribution system, shall be connected at 415 V, 3 phase or at 6 KV or 11 KV of the distribution system of the licensee according to the technical suitability examined by the licensee.
- 7.4 Communication system between grid sub-station and generating station shall be developed by the developer / developers at its / their cost. Protection schemes shall be examined by the licensee to suit the requirements. Developers of cogeneration and / or renewable energy sources shall abide by all applicable codes, rules, regulations etc. in regard to operational and commercial practices.
- 7.5 Wherever cogeneration and / or renewable energy sources have already been connected to the State Grid at a voltage level lower than the voltage level specified in these regulations and wherever such State Grid connection causes any bottleneck in capacity addition or causes avoidable discontinuance of generation or low voltage during peak hours or frequent outage of line or insufficient redundancy, such grid connection shall be converted into suitable voltage level preferably with double circuit line and cost for such conversion shall be borne by the developer.
- 7.6 For the purpose of grid connectivity for a new small-hydro and island based wind projects, if the length of the evacuation line to be drawn by the project developer is greater than 5 km, cost of the line beyond 5 km is to be equally shared by the project developer and transmission/distribution licensee, as the case may be.
- 8.0 **Despatch Principle and mismatch/ Unscheduled Interchange charges:**
- 8.1 All renewable energy power plants except biomass power plants, co-generation plants and Municipal Solid Waste (MSW) plants shall be treated as 'Must Run' power plants and shall not be subjected to 'merit order despatch' principles. Must Run power plants/ open access customers purchasing power from Must Run

- power plants shall submit a 24 hours day ahead schedule to the Nodal Agency on mutually agreed time block (TOD basis) for operational convenience. No mismatch / Unscheduled Interchange charges will be payable for such power plants.
- 8.2 The biomass power plants, co-generation plants and Municipal Solid Waste (MSW) plants with capacity of 10MW and above and open access customers of these plants shall come under ABT mode of operation. A 24 hours day ahead schedule shall be submitted as per ABT mode of operation to the Nodal Agency as per the State Grid Code. Unscheduled / mismatch charges for deviation from the schedule shall be paid weekly as per rate as specified in the Tariff Regulations. The modalities regarding revision of schedule, billing and payment mechanism shall be in accordance with the State Grid Code and Tariff Regulations.
- 9.0 **CDM Benefits:**
- 9.1 The proceeds of carbon trading from approved Clean Development Mechanism (CDM) projects shall be shared between a generating company and concerned beneficiaries in accordance with the Tariff Regulations.
- 10.0 **Open Access for Cogeneration and / or Renewable Sources of Energy:**
- 10.1 Any person generating electricity from cogeneration and / or renewable sources shall have open access, subject to availability of adequate transmission facility to any transmission licensee's system within the State on payment of various charges as specified.
- 11.0 **Charges for Open Access:**
- 11.1 All open access charges shall be payable as per Open Access Regulations and Tariff Regulations except meter rent, meter reading and other related charges.
- 11.2 Meter rent and meter reading and other related charges shall be paid by an open access customer at the rate of 0.75 paise / unit of monthly energy reading per month subject to a minimum of Rs. 500/- and maximum of Rs. 2,000/- per month and shall be paid to the licensee who is rendering such service.

12.0 Transmission Charges:

- 12.1 Transmission charges payable for open access availed by cogeneration and / or renewable energy sources shall be two-third of the rate of such charges applicable for open access customers for long term and short term open access as determined in relevant tariff order.

13.0 Wheeling Charges:

- 13.1 Wheeling charges applicable for use of distribution system or associated facilities of a licensee by open access customers for conveyance of electricity from cogeneration and / or renewable energy sources shall be either one-third of the wheeling charges calculated as per tariff order under Tariff Regulations or cost of 7.5% of the energy fed to the grid irrespective of the distance of wheeling, whichever is higher.

14.0 Reactive Energy Charges:

- 14.1 Reactive energy charges will be payable as per Open Access Regulations for all co-generation and renewable sources of power generation except for wind power generation. For wind power the rate will be three times the rate of the reactive energy charges specified in Open Access Regulations.

15.0 Other charges for Open Access:

- 15.1 All other charges for open access shall be in terms of Open Access Regulations.

16.0 Procedure to be followed for Renewable Energy Sources:

- 16.1 After preliminary discussions with the buyer licensee, the developer shall submit full details of the project along with cost data and finance charges and tariff for direct sale to the licensee. Copies of the details shall be sent by the developer to WBREDA for site suitability check up, technological clearance and eligibility criteria verification. However, in case of roof top solar PV, copies of details need not be sent to WBREDA for verification.

- 16.2 The buyer licensee shall examine the tariff proposal in the light of price reasonableness, impact on consumer tariff and the price cap specified in these regulations.
- 16.3 MOU / PPA shall be signed between the developer and the purchaser. In case of open access, a separate wheeling or transmission agreement shall be signed between developer and the transmission and / or wheeling agency. In the MOU / PPA details of connectivity, completion of project and commencement of supply, periods of supply (month wise), time of supply (peak / off peak), technical and commercial obligation, security and modes of payment of each party, etc. in line with these regulations shall be suitably incorporated. The MOU / PPA, as agreed and signed, shall be submitted to the Commission.
- 16.4 Any person generating electricity from renewable sources shall abide by all applicable Codes/ Regulations/ Rules and instructions given by SLDC and/or ALDC as applicable from time to time.
- 16.5 For the purpose of these regulations the useful life of any renewable sources and/or co-generation plants shall be considered as per the regulation of CERC or WBERC as published from time to time.
- 17.0 **Power to Amend:**
- 17.1 The Commission may from time to time add, vary, alter, modify or amend any provisions of these regulations.
- 18.0 **Power to Remove Difficulties:**
- 18.1 The Commission may suo motu or on an application from any person generating electricity from cogeneration and / or renewable sources or a buyer licensee, review these regulations and pass appropriate orders to remove any difficulty in implementing the provisions of these regulations.

19.0 Repeal and Saving:

- 19.1 The West Bengal Electricity Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2010 issued under Notification No.47/WBERC dated 10.08.2010 and published in the Kolkata Gazette Extraordinary Part I dated 10.08.2010 are hereby repealed.
- 19.2 Notwithstanding such repeal, anything done or any action already taken under the repealed Regulations, shall in so far as it is not inconsistent with these Regulations, be deemed to have been done or taken under the corresponding provisions of these Regulations.

By Order of the Commission

Place: Kolkata

(K. L. BISWAS)

Date: _____

Secretary of the Commission

DRAFT INVITING OBJECTIONS, SUGGESTIONS AND COMMENTS

Proposed draft regulation - West Bengal Electricity Regulatory Commission (Procedure for Accreditation of a Renewable Generation Project for REC Mechanism) Regulations, 2012.

WEST BENGAL ELECTRICITY REGULATORY COMMISSION

NOTIFICATION

No. ____/WBERC

Kolkata, the, 2012

In exercise of the powers conferred by sub-sections (1) of section 181 and section 66 read with clause (zp) of sub-section (2) of Section 181 clause (h) of Section 61 and clause (e) of Section 86 of the Electricity Act, 2003 and all other powers enabling it in this behalf, and after previous publication, the West Bengal Electricity Regulatory Commission (WBERC) hereby makes the following regulations for the development of market in power from Non Conventional Energy Sources by issuance of transferable and saleable credit certificates:

1. Short title, commencement and extent of application

- (1) These regulations may be called the West Bengal Electricity Regulatory Commission (Procedure for Accreditation of a Renewable Generation Project for REC Mechanism) Regulations, 2012.
- (2) These regulations shall come into force from the date of their notification in the Official Gazette.
- (3) These Regulations shall extend to the whole of State of West Bengal.

2. Definitions and Interpretation :

- (1) In these regulations, unless the context otherwise requires,
 - a) 'Act' means the Electricity Act, 2003 (36 of 2003);
 - b) 'Central Agency' means the agency as may be designated by the Central Electricity Regulatory Commission under Central Electricity Regulatory

Commission (Terms and conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010, as amended;

- c) 'Certificate' means the renewable energy certificate issued by the Central Agency in accordance with the procedures laid down by it and under the provisions specified in these regulations;
- d) 'Commission' means the West Bengal Electricity Regulatory Commission referred to in sub-section (1) of section 82 of the Act;
- e) 'Central Commission' means Central Electricity Regulatory Commissions referred to in sub-section (l) of section 76 of the Act;
- f) 'Eligible Entity' means the generating plants which fulfill all requirement of accreditation and obtain certificate of accreditation as elaborated in regulations no. 4 and 5.
- g) 'floor price' means the minimum price as determined by the Central Commission at and above which the certificate can be dealt in the power exchange;
- h) 'forbearance price' means the ceiling price as determined by the Central Commission within which only the certificates can be dealt in the power exchange;
- i) 'MNRE' means the Ministry of New and Renewable Energy of the Government of India;
- j) 'obligated entity' means the Distribution licensee(s) within the State of West Bengal. It shall also apply to other users and consumers as per notification of the Commission as and when issued.
- k) 'Power Exchange' means that power exchange which operates with the approval of the Central Commission;
- l) 'preferential tariff' means the tariff fixed by the Commission for sale of energy, from a generating station using renewable energy sources, to a distribution licensee;
- m) 'renewable purchase obligation' means the requirement specified by the Commission in Regulations on co-generation and generation of electricity from renewable sources of energy;

- n) 'REC' means Renewable Energy Certificate which represents one Megawatt hour of electricity generated from renewable energy source and injected into the grid;
 - o) 'State Agency' means the agency in the state of West Bengal as may be designated by the Commission to act as the agency for accreditation and recommending the renewable energy projects for registration and to undertake such functions as may be specified by the Commission;
 - p) 'Year' means a financial year.
- (2) Words and expressions used in these Regulations and not defined herein but defined in the Act or any other regulations issued by the Commission, shall have the same meaning assigned to them respectively in the Act, or such other regulations issued by the Commission.
3. State Agency and its functions:
- 3.1. The Commission shall designate an agency as the State Agency after satisfying itself that the said agency has the required capability of performing its functions as provided under these regulations.
- 3.2. The functions of the State Agency will be:
- i) To adopt the procedure contained here-in for Accreditation of the Renewable Energy (RE) Generating Company.
 - ii) To comply with the directions issued by the Commission from time to time and shall act in consistent with the procedures, rules laid by Central Agency for discharge of its functions under the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issue of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 as amended.
 - iii) To scrutinize and verify the documents and all other steps as may be necessary prior to the accreditation of RE generation project. Prior to accreditation, the activities to be undertaken by State Agency shall include but not limited to following;

- a) Verification of Application.
 - b) Review of information submitted in the application by the generating company for its completeness and accuracy.
 - c) Independent verification of the information submitted by the RE generators.
 - d) Review of information available with regard to similar renewable energy projects registered with the Central Agency, if necessary.
- iv) To submit recommendation for registration or reasons of rejection.
 - v) To extend validity of existing accreditation following due process.
 - vi) To revoke accreditation, following due process for revocation.
 - vii) To intimate accreditation of generating company to the following:
 - a) The concerned generating company
 - b) West Bengal Electricity Regulatory Commission
 - c) Central Agency,
 - d) State Load Despatch Centre
 - e) The distribution company(s) in whose area the proposed RE generation project would be located.
 - viii) The State Agency shall devise appropriate protocol for collection of information from various sources such as renewable energy generating companies, obligated entities, SLDC etc., on regular basis and compile such information to compute the compliance of RPO target by such obligated entities.
 - ix) The State Agency shall submit quarterly status to the Commission in respect of compliance of renewable purchase obligation by the obligated entities and may suggest appropriate action to the Commission if required for compliance of the Renewable Purchase obligation.

- x) The Commission may from time to time fix the remuneration and charges payable to the State Agency for discharge of its functions under these Regulations.
- xi) If the Commission is satisfied that the State Agency is not able to discharge its function satisfactorily, it may by general or special order, and recording reasons in writing, designate any other Agency to function as State Agency as it considers appropriate.

4. Procedure for Accreditation of Renewable Generation Project:

For the purpose of accreditation of its RE Generation project, the generating company shall furnish information to the State Agency the owner details, operator details, Generating Station details, Connectivity details with STU/ DISCOM, Metering details, Statutory Clearances and other details with details of fee and charges in the format as elaborated in Form -1.1 to 1.4. The declaration is to be signed by M.D./ C.E.O./ Authorized signatory as per Format given in Form -1.4. In addition to these information State Agency may ask some other information which it feels necessary.

5. ACCREDITATION CERTIFICATE

The State Agency shall grant 'Certificate of Accreditation' to the Applicant fulfilling all requirements of accreditation to the satisfaction of the State Agency in the Form-2.

6. TIMELINES

- 6.1 The State Agency shall grant/ undertake accreditation of those eligible entities which are proposed to be commissioned within period not exceeding 6 months from the date of application for accreditation made by the RE generator.
- 6.2 Once received, the State Agency shall inform the RE generator with regard to the incompleteness of the application, if any, within 5 working days.
- 6.3 The RE generator shall furnish the details as requested by the State Agency within 10 working days from the date of request so as to enable State Agency to undertake the accreditation of the generating facility.

- 6.4 In case the applicant fails to furnish the information requested by the State Agency within the stipulated time frame, the State Agency shall abandon the accreditation and retain the processing fees.
- 6.5 The State Agency may extend the time to furnish the details if prayed for if it is found reasonable.
- 6.6 The process of accreditation by the State Agency shall normally be completed within 30 working days from the date of receipt of complete information by State Agency.
- 6.7 The Eligible Entity shall apply for revalidation or extension of validity of existing accreditation at least three months prior to expiry of existing Accreditation.
- 6.8 Whenever there is change in the legal status of the eligible entity (e.g. change from partnership to company) the eligible entity shall immediately intimate the concerned State Agency and Central Agency. In all other cases involving a change in the name of the eligible entity, only the name of the eligible entity shall be updated with the records of the State Agency and the Central Agency based on intimation (supported by relevant documents) given by the eligible entity.

7. FEES AND CHARGES

The fees and charges towards processing of application and undertaking accreditation shall be as mentioned below:

- One time Application Processing Fees: Rs. 1000/- per application shall be payable at the time of submitting application for accreditation to State Agency.
- One time Accreditation Charges: Rs. 5000/- per application shall be payable to the State Agency upon grant of accreditation.
- Annual Charges for Accreditation: Rs. 1000/- per annum per application shall be payable by April 10, for each fiscal year (or each anniversary date from the date of initial accreditation)

- Accreditation Charges for Revalidation/ extension of validity: Rs. 5000/- per application shall be payable at the time of revalidation/ extension of validity of existing accreditation at the end of five years.
- Taxes and duties on fee and charges shall be applicable as per prevailing norms.

All fees and charges shall be payable by way of Demand Draft or through Electronic Clearing System drawn in favour of (Name of State Agency) payable at (location).

8. EVENT OF DEFAULT AND CONSEQUENCES THEREOF

Event of Default

Following events shall constitute event of default by Eligible Entity and shall lead to revocation of Accreditation granted by State Agency:

- 8.1 Non-payment or delay in payment of annual Accreditation charges by Eligible Entity beyond 15 days from due date of payment of such annual accreditation charges.
- 8.2 Non-compliance of any of the terms/ conditions/ rules outlined under this Procedure by Eligible Entity.
- 8.3 Non-compliance of any of the directives issued by State Agency, so long as such directives are not inconsistent with any of the provisions of CERC REC Regulations or Regulations of this Commission and in accordance with the Functions and within the Powers outlined for State Agency.

Consequences for Event of default:

- 8.4 Occurrence of any of the event of default by Eligible Entity shall result into revocation of Accreditation granted to such Eligible Entity for that RE Generation Project.
- 8.5 However, the State Agency shall provide adequate notice and chance to eligible Entity to present its case before serving the Notice for Termination of Accreditation, which shall not be for period lower than 14 days.

8.6 In case Eligible Entity fails to address/ rectify the default expressed by the State Agency in the Notice within stipulated time period of 14 days, the State Agency shall proceed with revocation of Accreditation granted to such Eligible Entity.

8.7 Upon revocation of accreditation, the State Agency shall inform the same to the Commission, Central Agency, State Load Despatch Centre and concerned distribution licensee, within period of 7 days from the date of such revocation.

9. POWER TO RELAX

9.1 The Commission may be general or special order, for reasons to be recorded in writing and after giving an opportunity of hearing to the parties likely to be affected may relax or may waive any of the provisions of these Regulations on its own or on an application made before it by an interested person.

FORM - 1.1

APPLICATION FOR REGISTRATION OF RE GENERATING COMPANY AS 'ELIGIBLE ENTITY'

Owner Details

1. Name of the Company :
2. Type of the Company :
(Individual/ HUF/ Partnership/ Ltd. Co./
Pvt. Ltd. Co./ Public Ltd. Co.)
3. Name of the Owner/ Owners of the Company :

Address of the owner

Phone No.

Fax

Mobile

E.mail Address

4. Postal Address of the Company :

Town/ Suburb

State

Postal Code

5. Name of Authorized Signatory :

Position

Phone

Fax

Mobile

E-mail Address

(This is generated automatically by the Online Application System)

FORM - 1.2

RE Generating Station Details

1. Proposed Name of
Power Station (Unique Number)
2. Location of Power Station
3. Physical Address of the RE
Generating Station

Town / Suburb
State
Postal Code
4. Capacity of RE Generating Station (in kW)
5. Configuration & number of units :
6. Which Renewable Energy Resources(s) is/are
Utilized by the RE Generating Station :
7. Planned usage of Fossil Fuel^{*}
(Provide Detail Description of type and amount
of fossil fuel usage planned)
8. Details of Statutory Clearance enclosed :
9. Date of commissioning (expected)
(DD-MM-YYYY)
10. Connectivity details with STU/ DISCOM
11. Metering details

(This is generated automatically by the Online Application System)

^{*} Demonstrate Compliance with the Eligibility Conditions as prescribed by MNRE/ Competent Authority

FORM - 1.3

Details of Fee & Charges

Name of the Bank :

Bank Draft Number / ECS Reference Number :

Date of Transaction :

Details of Amount Paid (Processing Fees):

FORM - 1.4

Declaration

I/We certify that all information furnished here is/are true to the best of my/ our knowledge and belief.

I/We shall abide by such terms and conditions that the Central Electricity Regulatory Commission and West Bengal Electricity Regulatory Commission may impose to participate in the Renewable Energy Certificate Mechanism from time to time.

I/We hereby confirm the availability/ possession of land as per the details mentioned below:

- 1) Project Site (Physical Address of the Site)
- 2) Location (Town/ suburb)
- 3) Category of Land (Govt Land/ Private Land)
- 4) Land Lease (Leased/ Owned)

I/We hereby also confirm that 'no' Power Purchase Agreement has been or shall be signed to sell electricity generated from the proposed renewable energy generating station at preferential tariff determined by the West Bengal Electricity Regulatory Commission for MW of the capacity and for the period during which participation in REC scheme will be availed. I/We hereby also confirm that the electricity generated from the proposed renewable energy generating station shall be sold to the distribution licensee/s of West Bengal at a price not exceeding the pooled cost of power purchase of such distribution licensee/s . In case distribution licensee/s of the State is not willing to purchase this power then the same shall be sold to any other trading licensee or to an open access consumer at a mutually agreed price, or through power exchange.

Signature of the applicant

(Seal of the Company)

Date :

Place:

[Declaration to be Signed by the M.D./ CEO/ Authorized Signatory of the Applicant]

FORM - 2

CERTIFICATE OF ACCREDITATION

This is to certify that (Name of the Applicant) having / proposing to install its RE generating station at (Proposed Location, Physical Address/ Unique Number) with Capacity KW/ MW, utilizing (Name of the RE Resource) has been granted Accreditation for its said RE Generating Station with effect from

This accreditation is granted subject to fulfilling the Rules, Regulations and Procedures specified by the West Bengal Electricity Regulatory Commission from time to time.
The validity of this certificate is mandated through ongoing surveillance.

Issue Date

Expiration Date

Certificate Number

Authorized Signatory of the Accreditation Agency

(Name and Address of the State Agency)

By Order of the Commission

Place: Kolkata

Date: _____

**(K. L. BISWAS)
Secretary of the Commission**