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INDIAN WIND POWER ASSOCIATION
IWPA
helping mankind with energy from nature

March 20, 2017

The Secretary
Central Electricity Regulatory Commission
3rd and 4th Floor, Chanderlok Building
36, Janpath, NEW DELHI 110 001.

Dear Sir

***Sub:* CERC Petition No.02/SM/2017 dated 28.02.2017 – Determination of Forbearance and Floor Price for the REC framework to be applicable from 01 April 2017 – Comments**

We thank the Honorable Commission for posting the captioned order on their website and giving an opportunity to the stakeholders to comment on the same.

We Indian wind Power Association (IWPA) is a 1620 members strong Pan India Association of investors, generators and consumers of wind energy who have installed 14,220 MW of wind installations in India.

IWPA engaged in the interest of renewable power sector, more particularly in Wind would like to submit the following comments in the Matter of Determination of Forbearance and Floor Price for the REC framework to be applicable from 01st April 2017 as under for kind consideration.

PREAMBLE

The objective of introducing renewable energy certificate (REC) was to promote RE power plants in the Country in accordance with the Sections 61 and 66 of the Electricity Act 2003 to reduce emissions. Subsequent to the notification of REC regulations, many RE generators opted for this scheme while structuring their mode for sale of power from RE sources. The viability of the projects was worked out considering the REC revenues.

All the investments into renewable projects have been made based on the REC entitlement as per the prevailing regulations considering the floor price of RECs at minimum for establishing the economic viability of the projects and any reduction in floor price of RECs for investments made already would adversely affect the project viability.

Our comments/suggestions on the draft amendments dated 28.02.2017 are given below:

PROPOSED CHANGE IN THE FLOOR PRICE AND FORBEARANCE PRICE:

The Commission now proposes the following forbearance and floor price for dealing in Certificates under the REC Regulations with effect from 1st April 2017. The following forbearance and floor price shall be valid until further orders by the Commission.

	Non-Solar REC (Rs./ MWh)	Solar REC (Rs./ MWh)
Forbearance Price	2,900	2,500
Floor Price	1,000	1,000

COMMENTS:

Floor Price determination on the basis of Average Power Purchase Cost (APPC) price:

When REC was introduced the floor price was determined based on the APPC prices prevailed in various States. The CERC regulations provided for increase in APPC rates annually and consequently, it was envisaged to re-determine the floor and forbearance price based on the escalation in APPC over the control period. We reproduce the Commission's observations in its order dated 23.8.2011 while determining the control period in 2011.

"According to the most of the stakeholders there is a need for longer term control period as RE project developers as well as lenders seek a long term visibility to make necessary decision for participating in the REC mechanism upon evaluating price risk and off take risk. Suggested trajectories are: 3 to 5 years, 5 years (to coincide with the 12th Plan Period), 7 to 10 years (to match with average loan period), 10 to 15 years and life time of the project.

The Commission noted the suggestions and has appreciated the need for longer term visibility for certainty and comfort for financial closure of the projects. The Commission has therefore, decided that the next control period starting for REC price band shall be of 5 years from 1st April 2011. In other words, the forbearance and the floor price determined under this order will remain applicable for 5 years from 1st April 2011. The Commission is of the view that 5 years control period will reduce regulatory uncertainty and provide comfort to investors and lenders. The Commission is also of the view that the control period longer than 5 years will not recognize any possible decline in renewable energy tariff due to ***technological improvement and likely increase in APPC*** *due to marginal cost of power procurement from new facilities as well as increase in fuel cost of old facilities."*

It is submitted that the very premise of escalation in APPC rates has not materialized for generators who invested in states like Gujarat and Tamil Nadu. The benefit of the technology improvement will accrue only to new projects and not to the existing projects as they have invested already. Calculation of the floor price is based on a detailed assessment of the total revenue realization of the developer equating the realization with and without the REC mechanism. The present floor price was determined in a fair and consistent manner based on the then prevailing cost of generation. Revising the price based on the current cost of generation which is generally lower owing to improvements in technology and higher hub heights in the case of the wind sector can lead to a severe drop in the revenue stream for existing projects.

In the State of Gujarat, the a fixed APPC price of Rs.2.64 per unit since 2011 is only paid to RE generators and the benefit of APPC rate change or escalation is not being given to the RE generators.

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In the State of Tamil Nadu, the APPC price was Rs.2.54 per unit in 12-13 and although the APPC rates went up, the State commission capped through an amendment the eligibility of APPC to 75% of the preferential tariff or the actual APPC whichever is lower for the projects. The increase in APPC rates in TN over the last 4 years is hardly 10 paise per unit and if the floor price is reduced by 50 paise per unit, the RE generators would be severely affected and the viability of the project would be at stake.

Similarly, for the captive consumption, the transmission and wheeling charges are being paid at higher rates as opposed to Non-REC scheme but could not realize the RECs due to poor trading caused by lack of enforcement.

RE generators are holding RECs of nearly 2 ½ years of vintage there by losing on interest on REC which itself is about 25 paise per REC. With RPO enforcement continuing to be poor, it might take quite some time before the inventory gets liquidated in full and RECs encashed. Until then, RE generators would have to continue to incur the carrying cost of RECs which is a huge burden.
Further the approach of the Hon'ble Commission in comparing the recent rates discovered in wind competitive bidding for determination of floor price would not be proper for the following reasons,

- The projects availing RECs were established much earlier when the cost of the projects and the technology of the turbines were very different from what it is available in the market today. The modern machines are more efficient due to higher hub heights and hence the recent bidding rates cannot be compared for the old projects for determination of floor price.
- The bidding in wind has happened, very recently, that too for a 1000 MW which cannot be considered as reflective of the actual tariff.

We submit to the Hon'ble Commission to retain the Floor Price of RECs for a further period of 5 years at the existing levels for the projects commissioned up to 31.3.2017. Any reduction / revision of floor price should be made applicable for the new projects to be commissioned on or after 01.04.2017.

Impact on existing inventory on account of proposed reduction in floor price:
The proposed amendment seeks to reduce the floor price even for the existing inventories of unsold RECs. This would severely affect the cash flows of the project at a time when all of them who opted for the REC scheme are grappling with cash flow issues due to pile up of REC inventory.

- Significant loss to RECs projects on existing inventory – Non-Solar REC projects will see an estimated loss of Rs. 675 crore due to reduction in the RECs prices on existing inventory.

- Nearly all RE projects are funded by banks and financial institutions over long term periods of up to 10 years. Consequently, revenue generation from REC is factored by the lenders up to 15 years in evaluating the project's viability. Any abrupt change in the revenue pattern resulting from policy changers will result in the payment default and possible NPA classification of the RE project. This will have an adverse impact on future funding and installation of RE projects and defeat the Central Government's ambitious target of RE capacity addition by virtue of regulatory uncertainty.

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- The proposed order gives an unfair advantage to defaulting obligated entities. Some distribution licensees and / or obligated entities have not fulfilled their RPO obligations in the previous years and sought deferment from SERC's which has been approved by the SERC without imposing any penalties. The defaulting entities will now enjoy fulfilment of their old RPO obligations at 2/3rd of the price at which they should have purchased the RECs. Whereas obligated entities who have fulfilled their RPO obligations in a timely manner have paid the full price for the REC. This can lead to repetitive deferment of REC procurement by all obligated entities.

- The existing inventory is a result in lack of demand of RECs, which itself is caused by lack of RPO enforcement by the states. This represents a significant failure on the part of state regulators, the burden of which will have to be borne by RE projects.

- The Honorable CERC has itself recognized that the present state of the RECs markets is due to the lack of enforcement of RPO regulations. In its order in petition no. 266/SM/2012, dated 19.12.2012 the Commission states:

"Needless to say, the main reason for lapsing of RECs is the reluctance and/ or apathy on the part of distribution licensees to come forward to buy the RECs to meet their RPO regulations"

The final order further states:

"It is pertinent to observe that the success of the renewable energy capacity addition programme in general and REC mechanism in particular are largely dependent on enforcement of Renewable Purchase Obligation (RPO). This Commission does not have the jurisdiction to enforce the RPO on the obligated entities in the States. The responsibility of setting RPO targets and implementation thereof rests with the State Electricity Regulatory Commissions (SERCs). Therefore, SERCs would have to strictly monitor RPO compliance made by the obligated entities and enforce compliance as per their REC Regulations in order to make the REC programme successful. This Commission only hopes and expects that the SERCs will ensure and monitor compliance of RPO targets by obligated entities in their respective States."

Further, the Honourable APTEL has held the following in respect of RPO enforcement in petition no. OP1 of 2013 dated 20/4/2015.

"The State Commissions are bound by their own Regulations and they must act strictly in terms of their Regulations."

- The lack of enforcement of regulations is now resulting in a loss of Rs 675 crore to RE projects and a consequent windfall gain to defaulting entities which can procure RECs at much lower rates to meet past RPO.
- Windfall gain for the defaulters – The benefit of the price reduction will primarily go to those defaulting entities that have not followed the requirement of law so far and have not fulfilled their RPO obligations.
- Further it will lead to a situation where the lenders will not consider the REC revenues for the project cashflow's as the certainty of realizing the revenue itself will be in question. This will make most of the projects become totally unviable.

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- Without prejudice to our above submissions where we have submitted to continue with the existing floor prices for the next control period, we would like to submit that if the Commission revises the floor price downwards it shall be made applicable only for RECs to be generated on or after 1.4.2017 and not for the RECs issued earlier.

Extension of validity of RECs

In the past, the Honourable Commission has extended the validity of RECs in keeping with the argument that RECs remain unsold due to lack of enforcement of RPO regulations. We request the Commission to extend the validity of RECs as without such an extension several RECs are will expire resulting in losses for the REC projects.

Summary of our submissions

a) The revision in APPC rates annually has not been given to the RE generators in full and as a result their realization of PPA tariff remains either the same or there has been a negligible increase. Any reduction in the floor price would impact the actual realization per unit as the proposed reduction in floor price would be much more than the increase in APPC rates in the next 5 years.
b) Due to lack of enforcement of RPO, unsold RECs have accumulated to such an extent that RE generators are holding RECs of nearly 2 ½ years of vintage there by losing on interest on REC which itself is about 25 paise per REC. In essence, over the last 3 years, besides the cash flow problems, an incremental cost of 25 paise per unit has become an additional burden to the investors.
c) In view of the above we submit to continue with the existing floor price for RECs for projects commissioned already. Revision in floor price can be made applicable for new projects commissioned on or after 1.4.2017 and for the projects commissioned up to 31.3.2017 can be given a vintage multiplier so the effective realization is pegged at Rs. 1.50 for each REC.
d) The carrying cost for the existing stock of RECs shall be taken into consideration and the present non-solar floor rate of Rs.1500/MWh shall be continued beyond 31.03.2017.
e) We agree for revision in forbearance price of Non-Solar RECs.
f) We also request the Hon'ble commission to extend the validity of issued RECs which are yet to be traded due to low off-take of RECs in the market.

In view of our above submissions, we request that the existing floor rate of Rs. 1500 / Non-Solar REC shall be continued for further period of five years along with its validity.

We request the Hon'ble Commission to consider the above suggestions favourably.

Thanking you in anticipation,

With kind regards,

For Indian Wind Power Association

Prof. Dr. K Kasthurirangaian
Chairman