

CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

NOTIFICATION

New Delhi, the 27th May, 2016

No L-1/97/2016 . In exercise of powers conferred under sub-section(1)and clause (y) of sub-section (2) of section 178 read with Section 66 of the Electricity Act, 2003 (36 of 2003), paragraph 5.9 of the National Electricity Policy, sub-Rule (4) of Rule 12 and clause (b) of Rule 13 of the Energy Conservation (Energy Consumption Norms and Standards for Designated Consumers, Form, Time within which, and Manner of Preparation and Implementation of Scheme, Procedure for Issue of Energy Savings Certificate and Value of Per Metric Ton of Oil Equivalent of Energy Consumed) Rules, 2012 notified by the Ministry of Power, Government of India vide G.S.R.269(E) dated the 30th March 2012, for the development of market in energy for exchange of transferable and saleable Energy Savings Certificates and all other powers enabling it in this behalf, the Central Electricity Regulatory Commission hereby makes the following regulations , namely

1. Short title, commencement and extent of application –

- (1) These regulations may be called the Central Electricity Regulatory Commission (Terms and Conditions for Dealing in Energy Savings Certificates) Regulations, 2016.
- (2) These regulations shall come into force from the date of their publication in the Official Gazette.

2. Definitions

- (1) In these regulations, unless the context otherwise requires,
- (a) “**Act**” means the Electricity Act, 2003(36 of 2003);
 - (b) ‘**Administrator**’ means the Bureau of Energy Efficiency;
 - (c) ‘**Banking and extinguishment of ESCerts**’ means banking and extinguishment of ESCerts as provided in the PAT Rules, 2012, as amended from time to time
 - (d) ‘**Bureau**’ means the Bureau of Energy Efficiency, a statutory body established by the Government of India, under sub-section (1) of Section 3 of the Energy Conservation Act, 2001 (52 of 2001)
 - (e) ‘**Commission**’ means the Central Electricity Regulatory Commission (CERC) referred to in sub-section (1) of section 76 of the Electricity Act, 2003;
 - (f) ‘**Cycle**’ means a period as specified in PAT Rules, commencing from the 1st day of April of the starting year and ending on the 31st day of March of the target year. The first Cycle would cover a period of 3 years commencing from the 1st April, 2012 and ending on the 31st March, 2015;
 - (g) ‘**Designated Consumer**’ means any consumer notified by the Central Government under clause (e) of section 14 of the Energy Conservation Act, 2001 and for which a target is notified under the Statutory Orders issued by the Government of India from time to time ;
 - (h) “**ECAct**” means the Energy Conservation Act, 2001(52 of 2001);
 - (i) ‘**Eligible entity**’ means any designated consumer registered with Registry who has been issued or deemed to have been issued ESCerts and desire to sell or purchase such ESCerts for compliance with the

energy consumption norms and standards specified under clause (g) of section 14 of the EC Act.

- (j) **‘Energy Conservation Rules’** means the Energy Conservation (Energy Consumption Norms and Standards for Designated Consumers, Form, Time within which, and Manner of Preparation and Implementation of Scheme, Procedure for Issue of Energy Savings Certificate and Value of Per Metric Ton of Oil Equivalent of Energy Consumed) Rules, 2012 and as amended from time to time;
- (k) **‘ESCerts’** means the Energy Savings Certificates issued by the Central Government in the Ministry of Power to the designated consumer under sub-section (1) of section 14(A) of ECAct, 2001
- (l) **‘Market’** means a forum / platform where buyers and sellers , buy or sell ESCerts through a Power Exchange
- (m) **‘MoP’** means the Ministry of Power;
- (n) **‘Power Exchange’** means the power exchange as defined in Power Market Regulations of the Commission.
- (o) **‘Power Market Regulations’** means the Central Electricity Regulatory Commission (Power Market) Regulations, 2010 as amended from time to time ;
- (p) **‘Registry’** means the agency designated by Government of India in the Ministry of Power to perform such functions as defined in these regulations with respect to ESCerts.

Provided that NLDC operating under Power System Operation Corporation Limited (POSOCO) , shall function as registry for ESCerts, as notified by Government of India in the Ministry of Power

vide Notification No. 10/4/2015 dated January 05, 2016, unless the Ministry of Power decides otherwise

- (q) **‘Target Year’** means the third financial year from the starting year during which a designated consumer shall achieve compliance with the energy consumption norms and standards prescribed under clause (g) of section 14 of the ECAct;
 - (r) **‘Transaction of ESCerts’** means Sale or purchase of ESCerts under the Perform, Achieve and Trade (PAT) scheme on Power Exchanges, and includes delivery of ESCerts.
- (2) Save as aforesaid and unless repugnant to the context of the subject matter otherwise requires, words and expressions used in these regulations and not defined, but defined in the Act or EC Act or any other regulations of this Commission or any other rules issued by the Ministry of Power, Government of India shall have the meaning assigned to them respectively in the Act, or EC Act, or such other rule or regulation applicable to the Bureau.

3. Objective

The objective of these regulations is to define a framework for dealing in Energy Savings Certificate through Power Exchanges

4. Scope –

These regulations shall be applicable to ESCerts offered for transaction on Power Exchange(s) including contracts in ESCerts as approved by the Commission in accordance with the provisions of Power Market Regulations.

5. Registry –

The functions of the Registry shall be to undertake:

- (1) Registration of Eligible Entity;
- (2) Maintaining records of ESCerts viz., issuance, dealing, etc;
- (3) Dissemination of information in coordination with the Bureau ;
- (4) Assistance in development of IT Platform for maintaining database of ESCerts;
- (5) Signing of Non Disclosure Agreement with the Administrator ; and
- (6) Any other function, as assigned by the Commission in consultation with the Bureau, after assessment of the prevailing market conditions.

6. The Commission to issue directions

The Commission may, from time to time issue directions to the Administrator and the Registry in regard to the discharge of their functions related to transaction of ESCerts.

7. Functions of Administrator –

For the purpose of transaction of ESCerts issued under the ECAct, the Bureau shall act as the Administrator and subject to provisions of these regulations, it shall-

- (a) Define detailed procedure for the following, in pursuance of the Energy Conservation Rules in consultation with the Registry:
 - (i) Interface activities between Power Exchanges and Registry, Administrator and Registry and Registry and Designated Consumer (s);
 - (ii) Registration of eligible entities; and
 - (iii) Dealing, transfer and other residual matters.

Provided that the Bureau shall undertake public consultation on the proposed procedure, seek the approval of the same from the Commission and issue detailed procedure after the approval of the Commission.

- (b) provide assistance to the Commission in the matters involving transaction of ESCerts on Power Exchanges.
- (c) disseminate relevant market information to all stakeholders
- (d) monitor to ensure that transaction in ESCerts takes place in a transparent manner, and report instances of non-compliance of these Regulations to the Commission
- (e) provide relevant information regarding Designated Consumer(s) to the Registry
- (f) adhere to all compliance under EC Act pertaining to ESCerts
- (g) signing of Non Disclosure Agreement with the Registry
- (h) coordinate with the Software developer/agency who maintains the IT portal
- (i) intimate the Registry regarding the extinguishment of ESCerts from the accounts of the concerned Eligible Entity; and
- (j) coordinate with the Power Exchanges and Registry for smooth interface for transaction of ESCerts; and
- (k) discharge such other functions as may be assigned under these Regulations.

8. Value and Validity of ESCerts–

The value and validity of ESCerts shall be as specified in the Energy Conservation Rules.

9. Eligible Entity

- (1) The following entities shall be eligible for dealing in ESCerts on Power Exchanges, namely,-
 - (a) Eligible entities issued ESCerts in electronic form in a cycle period for achieving specific energy consumption less than the energy consumption norms and standards notified by the Central Government for the cycle period, under Energy Conservation Rules, and subsequent cycles, who have held such certificates in Registry accounts;
 - (b) Eligible entities whose specific energy consumption are more than the prescribed energy consumption norms and standards specified for a cycle period and subsequent cycles and who wish to comply with the prescribed energy consumption norms and standards using ESCerts in lieu of implementing energy conservation and energy efficiency improvement measures;
 - (c) Any other eligible entity, as permitted in the EC Act and on subsequent intimation by the Bureau to the Commission, shall be allowed to enlist for participating in dealing of ESCerts on Power Exchanges by the Commission, from time to time.
- (2) Power Exchanges shall permit only the Eligible entities to place either buy or sell bids subject to confirmation of availability of ESCerts by the Registry during the transaction.

10. Dealing in the Certificates –

- (1) Unless otherwise specifically permitted by the Commission by order, the ESCerts shall be dealt only through the Power Exchange and not in any other manner.
- (2) The ESCerts issued to eligible entities by the Government on the recommendation of the Bureau may be placed for dealing in any of the Power Exchanges by the ESCerts holder, and such ESCerts shall be

available for dealing in accordance with the rules and byelaws of the Power Exchanges.

- (3) The frequency of transaction of ESCerts, through Power Exchanges, shall be on monthly basis or in such periodicity for all registered and eligible entities as per the procedure approved by the Commission.
- (4) All ESCerts shall be dealt at Power Exchanges as per the provisions of EC Act, 2001, PAT Rules and these Regulations.
- (5) Power Exchanges shall obtain prior approval of the Commission, on the rules and byelaws including the eligibility criteria, transaction process, ESCert price discovery mechanism and process of interaction between exchange and Registry which *inter-alia* shall include the following -
 - (a) all eligible entities who intend to participate in the transaction of ESCerts on Power Exchange shall register themselves with the Registry and the Power Exchange;
 - (b) The ESCerts issued to the eligible entity may be placed for dealing in any of the Power Exchanges as the ESCerts holder may consider appropriate and such ESCerts shall be available for dealing in accordance with the rules and byelaws of such Power Exchange ;
- (6) In any dealing session, an eligible entity shall not place sale bids in excess of total ESCerts held in its Registry Account.
- (7) The Registry shall cross-check the cumulative sale bids placed on Power Exchanges with availability of ESCerts in respective Registry account(s) and in case breach of this sub-regulation is noticed, the Registry shall intimate the Power Exchanges to treat such eligible entities as defaulter and any bid submitted by such eligible entity shall not be considered by the Power Exchange for the purpose of price discovery. The bids submitted by such bidders shall become void and ineffective if the total sale bids submitted by eligible entity on both the Power Exchanges are more than the available ESCerts in the Registry account.

- (8) Eligible entities with more than three cases of default specified in sub-regulation 10(7) in a cycle shall be barred from transaction of ESCerts for next six months, notwithstanding any penalty due to be imposed as per the provisions of the Energy Conservation Act, 2001.
- (9) The Power Exchanges, on receipt of confirmation report shall-
- (a) aggregate all the buy bids and the confirmed sell bids and determine the market clearing price and the market clearing volume and the transaction results shall be published on the website of the concerned Power Exchange;
 - (b) send reports for dealing confirmation and financial obligation, invoices including financial settlement i.e. pay-in and pay-out shall be generated by the Power Exchanges for the executed transaction and shall be sent to respective members;
 - (c) share with the Registry after every dealing session, information on the volumes transacted by Eligible entities, including details of purchase of ESCerts. On successful transaction on Power Exchange, the Registry Accounts of the Eligible entities shall be updated whereby the sellers' accounts shall be debited and the buyers' accounts shall be credited.
 - (d) The matching mechanism on Power Exchanges for ESCerts transaction shall be closed bid double-sided auction.

11.Pricing of Certificate –

- (1) The denomination of one ESCert as mentioned in the Energy Conservation Rules shall be equal to energy consumed in terms of one metric Ton of Oil Equivalent (mtoe).
- (2) The market price of ESCerts shall be as discovered through the process of bidding at the respective Power Exchange.

12.Fees and Charges –

The Commission in consultation with the Bureau may from time to time determine, by order, the fees and charges payable by the Eligible entities to the Registry for the purpose of meeting the cost and expense towards the management of Registry and software platform.

13.Market Oversight –

The primary responsibility of monitoring of ESCerts market shall be with the Administrator and it shall be the duty of the Administrator to bring to the notice of the Commission instances of non-compliance of these Regulations, for suitable action by the Commission.

14.Power to Relax –

The Commission, may by 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 by grant of relaxation, relax any of the provisions of these regulations on its own motion or on an application made before it by an affected party.

15.Power to issue directions –

If any difficulty arises in giving effect to these Regulations, the Commission may on its own motion or on an application filed by any affected party, issue such directions as may be considered necessary in furtherance of the objective and purpose of the Regulations .

Sd/-
(T.Rout)
Chief (Legal)