

**BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION
BAYS No. 33-36, SECTOR-4, PANCHKULA- 134112, HARYANA**

HERC/Petition No. 30 of 2025

Date of Hearing	:	06.08.2025
Date of Order	:	12.08.2025

In the Matter of

Petition under Section 86(b) of the Electricity Act, 2003, read with Regulations 74, 76 & 77 of the HERC (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2021 ("RE Regulations, 2021"), read with Regulation 65, 67, 69 & 70 of the Haryana Electricity Regulatory Commission (Conduct of Business) Regulations, 2019 and all powers enabling the Hon'ble Commission in this behalf, seeking clarification regarding the scope and applicability of Regulation 3 of the RE Regulations, 2021 mandating the use of "new plant and machinery" to the case of M/s Oasis Ethanol Industries Pvt. Ltd. being the sole bidder in the RfS No. 117/HPPC/Biomass/LTP-III/100 MW dated 14.06.2024 floated by the Petitioner.

Petitioner

Haryana Power Purchase Centre (HPPC), Panchkula

Present on behalf of the Petitioner

1. Ms. Sonia Madan, Advocate
2. Mr. Lovepreet Singh, Advocate
3. Sh. Gaurav Gupta, XEN/HPPC

Quorum

**Shri Nand Lal Sharma
Shri Mukesh Garg**

**Chairman
Member**

ORDER

Brief background of the case

1. The present petition has been filed by Petitioner-HPPC seeking clarification regarding the scope and applicability of Regulation 3 of the HERC (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2021 (for brevity "RE Regulations, 2021") to the case of the Petitioner so as to ascertain whether the Bidder M/s Oasis Ethanol Industries Private Limited meets the qualification requirement, as mandated under Clause 1.3 of the RfS No. 117/HPPC/Biomass/LTP-III/100 MW dated 14.06.2024 floated by the Petitioner herein.
2. The details of the petition filed is reproduced as under:
 - 2.1 That the peculiar facts and circumstances which have led to the filing of the present petition are as under:

- a. The Petitioner- HPPC floated a Tender bearing RfS No. 117/HPPC/Biomass/LTP-III/100 MW dated 14.06.2024 (for brevity "RfS"), for procurement of 100 MW power from Biomass/ Cogeneration based power projects (with single maximum capacity less than 10 MW by any single generator to be set up in State of Haryana) at the tariff discovered through competitive bidding (e-reverse auction) under the following two categories:-

i. Category-1: 50 MW from Biomass based power plants using any technology as per HERC RE Regulation.

ii. Category-2: 50 MW from non-fossil based cogeneration power plants.

One of the clauses of the RfP relating to the eligible projects, relevant for the purposes of present adjudication is reproduced below:

"1.3 Eligible Projects

1.3.1 The Projects to be selected under this tender for aggregate capacity of 100 MW to be installed anywhere in the State of Haryana with maximum capacity to be less than 10 MW from single power developer. Only commercially established and operational technologies can be used, to minimize the technology risk and to achieve the timely commissioning of the Projects.

1.3.2 Projects under construction and projects which are not yet commissioned will be eligible. The bidder shall provide the documentary evidence and undertaking (on stamp paper) regarding the same."

(Emphasis Supplied)

- b. As on 22.07.2024, being the last date of submission of bid, only one bid of M/s Oasis Ethanol Industries Pvt. Ltd. was received. Though, it is pertinent to mention here that one M/s Haryana Green Energy Pvt. Ltd. and one M/s Haryana Liquors Pvt. Ltd. had previously bid in the RfS No. 109/HPPC/Biomass/LTP-III/100 MW dated 07.12.2023 and consented to consider their bids in the present RfS as well, however, except M/s Oasis Ethanol Industries Pvt. Ltd. (hereinafter referred to as "Bidder"), no other individual/ firm etc. had submitted the bid afresh.
- c. Since, only a single bid was received against the RfS floated by the Petitioner, as such, the matter was placed before the Steering Committee for Power Planning (hereinafter referred to as "SCPP") in its 78th meeting dated 14.08.2024, whereby it was decided as under:

"SCPP deliberated the agenda. Since, single bid has been received against the recent tender for procurement of power from biomass based power projects.

SCPP directed HPPC to approach HERC for opening of the single bid as per RFS.”

In view of the decision of the SCPP, the Petitioner vide its letter dated 30.08.2024 requested the Hon'ble Commission to accord approval for opening of the single bid received.

- d. The Hon'ble Commission was pleased to hear the matter on 19.09.2024 and subsequently, an email dated 07.10.2024 was addressed to the Petitioner herein whereby the consent of the Hon'ble Commission for opening the sole bid was conveyed, in the following terms:

“Please refer to your memo no. Ch-97/CE/HPPC/SE/C&R-I/LTP-III/RE-Policy dated 30.08.2024 regarding the captioned subject.

In this regard, the Hon'ble Commission has consented to your request for opening the bid of the single bidder received against NIT no. 117/HPPC/Biomass/LTP-III/100 MW. However, HPPC may carry out proper due diligence regarding the fact that no cheaper power from biomass generating station is available.

This issues with the approval of Hon'ble Commission.”

- e. Pursuant to the receipt of the email dated 07.10.2024, the technical bid of the Bidder was opened on 10.10.2024, wherein the Bidder had submitted its bid under Category-II (50 MW from Non-fossil Fuel based cogeneration power plants) for a capacity of 6 MW.

It is submitted that as per Clause 1.3.2. of RfS, the projects under construction and the projects which are yet to be commissioned will be eligible. As such, the Petitioner vide an email dated 18.10.2024, asked the Bidder to submit documentary proof alongwith undertaking on a stamp paper, in terms of the said Clause no.1.3.2 of RfS.

- f. In response to the email dated 18.10.2024, the Bidder submitted an undertaking dated 23.10.2024, wherein it was stated as under:

“I, Sanjay Kumar Shukla, Assistance Vice President (HR & Admin), M/s Oasis Ethanol Industries Private Limited having its registered office at Village-Jatwar, Block-Shahzadpur, Tehsil- Naraingarh, District- Ambala, Haryana undertake as follows:

1. That we, M/s Oasis Ethanol Industries Private Limited, have proposed Expansion of Ethanol Plant by addition of 180 KLD Grain based Ethanol Plant (under EBP) CPP located at Village- Jatwar, Block- Shahzadpur, Tehsil- Naraingarh, District- Ambala, Haryana by M/s Oasis Ethanol Industries Private Limited.

2. Undertaking for under construction project as per clause 1.3.2 Bid for procurement of power from Biomass/ Cogeneration power projects on long term basis through tariff based competitive bidding process in response to the RfS no. 117/HPPC/BIOMASS/LTP-111/100MW.

We hereby undertake to certify in line with clause 1.3.2 our project is under erection stage and not yet commissioned. In this regard we hereby declare that, we got the approval with ret no IA/HR/IND2/489492/2024 for installation of 180 KLPD Ethanol plant. Approval for installation of new 180 KLPD plant is attached with this undertaking. Our 14.4 MW power plant partially commissioned and running at 8 MW load. After erection and commissioning of our 180 KLPD plant, power plant will be commission on 14.4 MW and we will have surplus power 6 MW for export to HPPC”

(Emphasis Supplied)

A perusal of the undertaking shows that the plant of the Bidder is partially commissioned, however, the part through which the power is to be supplied to HPPC is yet to be commissioned.

- g. HPPC vide its letter dated 22.10.2024 had requested the Chief Inspector Boiler (hereinafter referred to as “CIB”) to provide the Certificate of Boiler issued by CIB, if any, to the Bidder for its 14 MW cogeneration based power plant. In reply, CIB vide its letter dated 22.10.2024 intimated that the registration number of boiler used by Bidder is HA-8001 and it was also informed that the Bidder was permitted to use the boiler from 06.03.2024.
- h. HPPC vide its email dated 21.10.2024 had also requested Haryana Renewable Energy Development Agency (hereinafter referred to “HAREDA”) to intimate whether the 14 MW cogeneration based power plant of the Bidder has been commissioned or not. In reply thereto, HAREDA vide its email dated 23.10.2024, stated as under:

“In reference to your trailing mail, it is informed that M/s Oasis Ethanol Industries Pvt. Ltd had submitted a project proposal for approval of a 14.4 MW cogen project with a proposal to sell 8 MW surplus power to Discoms. However, in the meeting of the High Powered Committee under the Chairmanship of the then PSNRE held on 21.12.2022 it was decided that a meeting may be held between Haryana Power Purchase Centre and the Project Developer, within two weeks, to discuss the feasibility options in the case and a report may be submitted on the same to PS, NRE by MD, UHBVN for further consideration.

Thereafter, the firm withdrew the proposal. The firm has not approached this office since then. The list of Commissioned Biomass projects is enclosed.”

(Emphasis Supplied)

- i. Faced with the situation, the matter was once again placed before SCPP in its 81st Meeting held on 21.02.2025, wherein it was decided as under:
“SCPP deliberated the agenda and directed HPPC to seek clarification from HERC regarding applicability of clause no. 3 of HERC RE-regulations 2021 in respect of M/s Oasis Ethanol Industries Pvt Ltd. It was further directed to seek clarification whether M/s Oasis Ethanol Industries Pvt Ltd qualifies as per clause no. 1.2.5 and 1.3.2 of RfS under NIT-117.”
- j. In pursuance to direction of SCPP, a letter dated 11.03.2025, annexed with the petition was addressed by the Petitioner herein to the Hon’ble Commission requesting to clarify the applicability of Regulation 3 of RE Regulation 2021 mandating the use of “new plant and machinery” to the case of the Bidder and whether the Bidder qualifies as per Clause 1.3.2 of the RfS floated by the Petitioner.
- k. At this stage, the Hon’ble Commission vide letter dated 24.03.2025, annexed with the petition has directed the Petitioner to file appropriate Petition in case such clarification is required.

2.2 That as such, the Petitioner by way of the present petition is seeking clarification regarding the scope and applicability of Regulation 3 of the RE Regulations, 2021 to the case of the Bidder. The relevant part of Regulation 3 is reproduced below for ready reference:

“3. Eligibility Criteria. – For the purpose of these regulations, a project shall be treated as renewable energy power project, as acknowledged by MNRE only, meeting the following criteria:-

... ..

(c) Biomass power project – Biomass power projects using new plant and machinery using biomass fuel sources.

(d) Non-fossil fuel based co-generation project – The project that uses new plant and machinery, and is based on topping cycle mode of co-generation.

... ..

Explanation:

The necessity of new plant and machinery shall be applicable where tariff is determined by the Commission under Section 62 of the Act as well as procurement of power by the Distribution Licensee(s) under Section 63 of the Act in case the

bidding documents / guidelines so provides. The dispensation shall include the RE Projects where capital subsidy is claimed by the project developer.”

(Emphasis Supplied)

Further, the relevant clauses of RfS are also reproduced below:

“1.3 Eligible Projects

...

3.2 Projects under construction and projects which are not yet commissioned will be eligible. The bidder shall provide the documentary evidence and undertaking (on stamp paper) regarding the same.

... ..

2.1 Definitions

... ..

“Biomass Power Project” The project that uses new plant and machinery, is based on Rankine cycle technology, and does not use any fossil fuel.

... ..

Draft

Power Purchase Agreement (PPA)

....

1.2 All other expressions used herein but not specifically defined herein but defined in the Act shall have the meaning assigned to them in the Act. The other expressions used herein but not specifically defined in this Agreement or in the Act but defined under the Indian Electricity Grid Code or the Haryana Grid Code or the Haryana Electricity Regulatory Commission (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2021, as amended / re-enacted from time to time, shall have the meanings assigned to them respectively, provided that such definitions are not inconsistent with the provisions of the Electricity Act, 2003.

ARTICLE 7

GENERATION FACILITIES – OPERATION & MAINTENANCE:

7.1 The Seller shall be responsible for obtaining and keeping in force at its own cost, all consents, clearances and permits required for establishing and operating the generation facility including but not limited to:

- (i) NOC/Approval from HAREDA certifying installation of new plant & machinery as per HERC Regulations;*
- (ii) NOC from village Gram Panchayat;*
- (iii) Clearance from Environmental Department / Pollution Control Board Haryana;*
- (iv) NOC from District Fire Officer;*
- (v) Approval from Town & Country Planning;*
- (vi) Clearance from State Inspector of Boilers;*
- (vii) Clearance from Chief Electrical Inspector; or any other agency.*

And all other permits/NOCs/approvals required for establishing the power plant in operation and ensuring statutory compliance throughout the operative period of plant.”

(Emphasis Supplied)

As per the undertaking given by the Bidder, the plant has already been partially commissioned. Further, CIB vide its letter dated 22.10.2024 intimated that the registration number of boiler used by Bidder is HA-8001 and it was also informed that the Bidder was permitted to use the boiler from 06.03.2024. It is submitted that though an undertaking has been given by the Petitioner stating that the part of the plant through which the power is planned to be supplied to HPPC is yet to be commissioned, however, it is unclear whether the said project of the Bidder can be stated to be one – *“that uses new plant and machinery”* as mandated under Regulation 3 of the RE Regulations, 2021. As such, clarification is required regarding the scope and interpretation of the term *“new plant and machinery”* and whether the same is applicable to the case at hand i.e. where the partial capacity of the plant has been commissioned, however, the balance capacity to be used for supplying power to Procurer is yet to be commissioned.

- 2.3 That the above referred Regulation 3 of the RE Regulations, 2021 has been incorporated as per CERC RE Regulations. The CERC mandated new plant and machinery for biomass power projects with an intent to ensure the use of modern, efficient technologies and to promote the development of renewable energy sources. By requiring new plant and machinery, CERC aimed to encourage the adoption of the latest technologies in biomass power generation, leading to improved efficiency and reduced environmental impact. RE Regulations prioritize renewable energy sources, and the requirement for new machinery ensures that biomass power projects are designed and built with renewable energy principles in mind. Considering this rationale behind the incorporation of condition of using new plant and machinery, the uncommission capacity of the Bidder's plant can be treated as new plant and machinery subject to them confirming the use of latest technology in biomass power generation, leading to improved efficiency and reduced environmental impact.

THE HON'BLE COMMISSION HAS AMPLE POWERS TO PASS THE REQUISITE CLARIFICATORY ORDERS:

- 2.4 The Hon'ble Commission has ample power to grant the relief sought i.e. pass a clarificatory order. The relevant provisions conferring such enabling powers on the Hon'ble Commission are reproduced below:

The Electricity Act, 2003

“Section 86. (Functions of State Commission): --- (1) The State Commission shall discharge the following functions, namely:

... ..

(b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating

companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;

...

(k) discharge such other functions as may be assigned to it under this Act.

... ..

Section 94. (Powers of Appropriate Commission): --- (1) The Appropriate Commission shall, for the purposes of any inquiry or proceedings under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely: -

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) discovery and production of any document or other material object producible as evidence;

(c) receiving evidence on affidavits;

(d) requisitioning of any public record;

(e) issuing commission for the examination of witnesses;

(f) reviewing its decisions, directions and orders;

(g) any other matter which may be prescribed.

(2) The Appropriate Commission shall have the powers to pass such interim order in any proceeding, hearing or matter before the Appropriate Commission, as that Commission may consider appropriate.

... ..”

RE Regulations, 2021:

74. Issue of orders or directions. – Subject to the provisions of the Act and these regulations, the Commission may, from time to time, issue orders and procedural directions with regard to the implementation of these regulations and specify the procedure to be followed on various matters, which the Commission has been empowered by the regulations to direct and matters incidental thereto.

76. Power to remove difficulties. – If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may, by general or special order, make such provisions, which in the opinion of the Commission are necessary or expedient to do so.

77. Savings. – Nothing in these Regulations shall limit the inherent power of the Commission to make such orders as may be necessary to meet the ends of justice or to prevent abuses of the process of law / statutes. Nothing in these Regulations shall bar

the Commission from adopting, any other procedure, which may be at variance with any of the provisions of these Regulations, as long as they are in conformity with the provisions of the Electricity Act, 2003 and the policies framed by the Central / State Government thereto.

Provided that the reasons for any such deviating shall be recorded in writing.

Provided also that nothing in these regulations shall, expressly or implicitly, bar the Commission from dealing with any matter under these Regulations or exercising any power under the Act for which no regulations have been framed.

Haryana Electricity Regulatory Commission (Conduct of Business) Regulations, 2019:

“Saving of inherent power of the Commission

65 Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for ends of justice or to prevent the abuse of the process of the Commission.

...

General power to amend

68 The Commission may, at any time and on such terms as to costs or otherwise as it may think fit, amend any defect or error in any Proceedings before it, and all necessary amendments shall be made for the purpose of determining the real question or issue arising in the Proceedings.

...

Power to remove difficulties

69 If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, do anything not being inconsistent with the provisions of the Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty.”

Further, similar provisions relating to the power to amend/ remove difficulties etc. have been consciously added by the Hon'ble Commission in the various Regulations notified by it with the intention that, in case of difficulty, smooth functioning is ensured. In the present case, requisite clarifications are essential to ensure that the Bidder meets the qualification requirement as per the RfS. Even otherwise, this Hon'ble Commission has been conferred with inherent power to pass necessary orders as may be necessary for ends of justice, which may kindly be invoked in the present case.

- 2.5 PRAYER: In view of the facts and circumstances enumerated above, the Petitioner-HPPC humbly prays that the present petition may kindly be allowed and the Hon'ble Commission may kindly be pleased to issue appropriate orders/directions clarifying the scope and applicability of Regulation 3 of the RE Regulations, 2021 to the case of the Petitioner so as to ascertain whether the Bidder meets the qualification requirement, as mandated under Clause 1.3 of the RfS No. 117/HPPC/Biomass/LTP-III/100 MW dated 14.06.2024.

and/or

The Hon'ble Commission may pass any other order(s) and or direction(s), which the Hon'ble Commission may deem fit and proper in the facts and circumstances of the case may be passed, in the interest of justice.

Proceedings of the Case

3. The case was first taken up for hearing on 03.06.2025, as scheduled. The Commission, vide its Interim Order dated 10.06.2025, sought the following information from the petitioner:

- i. Total components of the Plant & Machinery required for commissioning of a non-fossil fuel-based cogeneration power plant and their tentative cost.
- ii. The percentage of the cost of boiler in the total cost of plant and machinery.
- iii. The scope of technological advancements in various components of Plant & Machinery used in a non-fossil fuel based cogeneration power plant.
- iv. The status of subsidy as mentioned in clause 1.2.2 of the RfP, on the 6 MW power offered by the bidder to HPPC.

4. In response to the information sought by Commission in its Interim Order dated 10.06.2025, HPPC filed its reply along with an affidavit dated 01.07.2025, submitting as under:

I. TOTAL COMPONENTS OF THE PLANT & MACHINERY REQUIRED FOR COMMISSIONING OF A NON-FOSSIL FUEL BASED COGENERATION POWER PLANT AND THEIR TENTATIVE COST –

4.1 That as per the data submitted by Oasis Ethanol Industries Private Limited, the total components of the Plant & Machinery required for the commissioning of the proposed 6 MW non-fossil fuel based cogeneration power plant along with their tentative cost are detailed below:

S.no	Section	Qty	Rate (Lakh)	Amount (Lakh)
1	Boiler	1	2210	2210
2	Turbine	1	765	765
3	ESP	1	255	255
4	Cooling tower	1	25	25
5	Fuel handling	1	280	280
6	Transformer & Panels	1	250	250
7	Cables & compressor	1	150	150
8	Civil	1	800	800
9	Shed	1	420	420
10	Ash Handling	1	50	50

II. PERCENTAGE OF THE COST OF BOILER IN THE TOTAL COST OF PLANT AND MACHINERY –

4.2 That the percentage of the cost of the boiler with respect to the total cost of the Plant & Machinery (limited to the power plant component) is approximately 75%.

III. SCOPE OF TECHNOLOGICAL ADVANCEMENTS IN VARIOUS COMPONENTS OF PLANT & MACHINERY USED IN A NON-FOSSIL FUEL BASED COGENERATION POWER PLANT –

4.3 That as per the information provided by *Oasis Ethanol Industries Private Limited*, the proposed non-fossil fuel-based cogeneration power plant incorporates several technological advancements across its major components to ensure efficient and sustainable operation. The key highlights are as under:

- i. **Project Configuration:** The power plant is designed with a capacity of 14.44 MW, powered by a 90 TPH Atmospheric Fluidized Bed Combustion (AFBC) boiler using rice husk as biomass fuel, and a SIEMENS make bleed-cum-extraction type steam turbine. This cogeneration setup enables both power generation and steam supply to the ethanol process plant.
- ii. **AFBC Boiler Technology:** The AFBC boiler represents an advanced combustion system wherein fuel particles are fluidized in a bed of inert material using forced air. This provides:
 - Uniform combustion
 - Efficient heat transfer
 - Capability to burn a wide range of low-grade biomass fuels
 - In-situ **SOx and NOx** control through limestone addition and lower operating temperatures
- iii. **Steam Turbine:** The SIEMENS bleed-cum-extraction steam turbine is engineered for flexible operation, ensuring high efficiency and suitability for industrial cogeneration setups.
- iv. **Fuel Feeding System Upgrade:** The plant initially employed an under-bed drag chain feeder, which currently limits boiler performance to around 65% load. In order to enable 100% load operation, an over-bed rotary fuel feeding system has been designed by the boiler OEM (TBWES), and the modification work is in progress.

4.4 That in the letter dated 20.06.2025, Oasis Ethanol Industries Private Limited has also contended that as per Clause 1.3.2 of the Request for Proposal (RfP), projects which are under construction or not yet commissioned are eligible to participate. The relevant portion of Clause 1.3.2 of the RfP is reproduced hereunder for ready reference of the Hon'ble Commission:

“1.3 Eligible Projects

1.3.2 Projects under construction and projects which are not yet commissioned will be eligible. The bidder shall provide the documentary evidence and undertaking (on stamp paper) regarding the same.”

- 4.5 That the plant has been partially commissioned, and the details of the proposed versus commissioned capacity of the various components of the project, as given by Oasis Ethanol Industries Private Limited is stipulated as under for the ready reference of the Hon'ble Commission:

S. No.	Component	Proposed Capacity	Commissioned Capacity	Under Construction	Remark
1.	Stream Turbine	14.4MW	14.4	---	Currently running at 55% load(log book & DCS screen shot attached for ref)
2.	Boiler	90TPH	90TPH	---	Currently running at 65-70% load (log book & DCS screen shot attached for ref)
3.	Ethanol Plant	590KLPD	320KLPD	180KLPD	
4.	Transformation Capacity	18MVA	3150kVA 3150kVA 3150kVA 2000kVA	3750kVA	2800KVA Pending
5.	Power Evacuation	14.4MW	8.4MW Inhouse consumption	Grid connectivity pending	

- 4.6 That it has been further contended by Oasis Ethanol Industries Private Limited that the steam turbine and boiler have already been installed with their full rated capacities; however, due to the absence of key supporting infrastructure, the installed equipment cannot presently be operated at full capacity. The 180 KLPD ethanol plant, which is an essential part of the cogeneration system, is still under construction, and the transformers with the required aggregate capacity are yet to be fully installed. Moreover, the Oasis Ethanol Industries Pvt. Ltd. has not yet applied for grid connectivity, and the erection work for the power grid and transmission line is currently 100% pending. As a result, the power plant is presently partially commissioned and operating at approximately 55% of its rated turbine capacity, generating around 8 MW. Upon completion of the following two key milestones— the 180 KLPD ethanol plant, and the modification of the boiler's fuel feeding system—full commissioning will be achieved, resulting in surplus power generation of approximately 6 MW for export to HPPC. To substantiate the foregoing, Oasis Ethanol Industries Private Limited has submitted copy of log book for the boiler and the turbine, which is annexed with reply. Further, consent to establish dated 19.06.2025 given by Haryana State Pollution Control Board, for the setting up of balance capacity of plant, as provided by Oasis Ethanol Industries Private Limited, is annexed with reply.

- 4.7 That further Oasis Ethanol Industries Pvt. Ltd. has provided documents containing photographs of the installed equipment, such as the boiler and turbine system, as well as the ongoing erection work of the 180 KLPD ethanol project alongwith supporting documents including flow charts and approval letter from Ministry of Environment, Forest and Climate Change.

IV. STATUS OF SUBSIDY AS MENTIONED IN CLAUSE 1.2.2 OF THE RFP, ON THE 6 MW POWER OFFERED BY THE BIDDER TO HPPC -

- 4.8 That as per Clause 1.2.2 of the RfP, Oasis Ethanol Industries Pvt. Ltd. has informed that no subsidy has been claimed or availed for the whole capacity and also for 6 MW power offered to HPPC under the proposed cogeneration project.

Commission's Analysis and Order

5. The petition was taken-up again for hearing on 06.08.2025 in the court room of the Commission. Ms. Sonia Madan, the learned counsel present on behalf of the petitioner, briefed the contents of the petition and placed all the documents on record and sought clarification regarding the scope and applicability of Regulation 3 of the HERC (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2021 to the case of the Petitioner so as to ascertain whether the Bidder M/s Oasis Ethanol Industries Private Limited meets the qualification requirement, as mandated under Clause 1.3 of the RfS No. 117/HPPC/Biomass/LTP-III/100 MW dated 14.06.2024 floated by the Petitioner herein.
6. On consideration of the facts placed on record and deliberations made by the petitioner, the Commission observed that provisions of the explanation to regulation clause 3 of HERC RE Regulations, 2021, provides as under:-

"The necessity of new plant and machinery shall be applicable where tariff is determined by the Commission under Section 62 of the Act as well as procurement of power by the Distribution Licensee(s) under Section 63 of the Act in case the bidding documents / guidelines so provides. The dispensation shall include the RE Projects where capital subsidy is claimed by the project developer."

In this regard, it is apposite to note the relevant provisions of Request for Selection (RfP) No. 117/HPPC/BIOMASS/LTP-III/100MW dated 14.06.2024, issued by HPPC, as reproduced hereunder:-

Clause 1.2.5 of RfP provides as under:-

1.2.5 The successful bidders shall install its plant with new plant & machinery as per HERC RE Regulations in vogue.

Clause 1.3.2 of RfP provides as under:-

“1.3.2 Projects under construction and projects which are not yet commissioned will be eligible. The bidder shall provide the documentary evidence and undertaking (on stamp paper) regarding the same.”

7. The Commission further observes that the RfP also provides for the eligibility of incentives/subsidy along with its factoring in the offered tariff by the bidders, as reproduced hereunder:-

“1.2.2 Further, the bidders shall be eligible for incentives like a capital subsidy of 25% upto Rs. 1 Crore per MW equivalent, maximum of Rs. 2.5 Crore, investment subsidy, employment generation subsidy, stamp duty refund, EDC exemption, electricity duty exemption etc as per Industries and Commerce Department, Haryana notification dated 12.05.2023 and Haryana Enterprises & Employment Policy 2020. The capital subsidy, if granted to the bidder, shall be factored into the tariff payable to the bidder for supply of power under this RfS. Further, the bidders shall also be eligible for incentives as per Haryana Ex-situ Management of Paddy Straw Policy, 2023 notified by New & Renewable Energy Department dated 30.10.2023.”

8. The Commission further observes that Section 86 of the Electricity Act, 2003 outlines the powers and functions of the State Electricity Regulatory Commission. These include determining tariffs for various electricity services, regulating electricity purchase and procurement, facilitating intra-state transmission and wheeling, issuing licenses to electricity traders and utilities, which also includes the resolution of disputes between licensees and other parties related to electricity generation, transmission or distribution. The relevant provisions are reproduced hereunder:

“86(1) The State Commission shall discharge the following functions, namely:

- 1. determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State:*

Provided that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;

- 2. regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;*

3. *facilitate intra - State transmission and wheeling of electricity;*
4. *issue licences to persons seeking to act as transmission licensees, distribution licensees and electricity traders with respect to their operations within the State;*
5. *promote cogeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;*
6. ***adjudicate upon the disputes between the licensees and generating companies and to refer any dispute for arbitration;***
7. *levy fee for the purposes of this Act;*
8. *specify State Grid Code consistent with the Grid Code specified under clause (h) of sub - section (1) of section 79;*
9. *specify or enforce standards with respect to quality, continuity and reliability of service by licensees;*
10. *fix the trading margin in the intra - State trading of electricity, if considered, necessary;*
11. *discharge such other functions as may be assigned to it under this Act.*

(Emphasis supplied)

9. The Commission, on the plain reading of section 86 of the Electricity Act, is of the considered view that the functions of the State Commission is in its regulatory capacity. The Commission cannot restrict the decision making and administrative working of HPPC. Further, RE Regulations 2021 as well as Haryana Electricity Regulatory Commission (Conduct of Business) Regulations, 2019 bestows unbridled power on the Regulatory Commission to amend or to remove difficulties in giving effect to the relevant regulations. However, it does not encompasses the power to issue clarifications particularly when the Regulations in unambiguous terms has provided that the provisions relating to 'new plant and machinery' shall be shall be governed by the relevant provisions in bidding documents / guidelines, where procurement of power is initiated by the Distribution Licensee(s) under Section 63 of the Act.
10. In view of the above discussions, the Commission is of the considered view that HPPC has to act strictly in accordance with the relevant provisions of the Act/Rules as well as Regulations framed thereunder and while doing so they can also be guided by the terms & conditions of RfP floated by them. Accordingly, the HPPC may take its own prudent decision, considering the facts and circumstances of the case and the principles of equal opportunity offered to all such generator, if any. The

HPPC, being not aggrieved by its own decision, does not have any locus-standi to seek clarification on the provisions of the Electricity Act, 2003 or Regulations framed under the powers vested by the Electricity Act. Rather than HPPC seeking clarification, the generator may, if still aggrieved with the decision/findings of the HPPC, approach this Commission under the relevant provisions of the Electricity Act, 2003 and regulations of this Commission framed thereunder.

11. In terms of the above, the present petition is dismissed in limine, without going into the merits of the case.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 12.08.2025.

Date: 12.08.2025
Place: Panchkula

(Mukesh Garg)
Member

(Nand Lal Sharma)
Chairman

HERC