

**MINUTES OF THE 82nd MEETING OF
FORUM OF REGULATORS (FOR)**

**Venue : Nautica Hall, Hotel Novotel
Vishakhapatnam, Andhra Pradesh**
Date / Day : 16th September 2022; Friday
Timings : 9.00 A.M.

1. Chairperson, Uttar Pradesh ERC being the senior most among the Chairpersons of SERCs / JERCs, chaired the meeting in accordance with the Rules of FOR as the post of Chairperson, FOR / CERC is vacant. He welcomed all members to the 82nd meeting of the FOR. He also welcomed Dr M.V. Rao who had taken over as Chairperson of West Bengal ERC and was attending the FOR meeting for the first time. He also thanked Chairperson, Andhra Pradesh ERC for hosting the FOR meeting at Visakhapatnam and for making excellent arrangements.
2. Chairperson, APERC welcomed all the members of the FOR and thanked the members for the opportunity given to APERC to host the FOR meeting in Visakhapatnam. Thereafter, a presentation (**Annexure-I**) on the Andhra Pradesh power sector and key regulatory initiatives taken by APERC was made by the team of APERC.

List of participants is at **Appendix**

Thereafter, the Forum took up the agenda items of the meeting for discussion

AGENDA 1: CONFIRMATION OF MINUTES

a) 81ST FOR MEETING HELD ON 8TH JULY 2022.

3. Dy Chief (RA), CERC apprised the members on the action taken on the decisions in the aforesaid meeting after which the Forum confirmed the minutes of the 81st FOR meeting.

b) SPECIAL FOR MEETING HELD ON 29-30TH AUGUST 2022

4. Dy Chief (RA), CERC apprised the Forum that post the Special FOR meeting held on 29th and 30th August, 2022 to discuss the Electricity (Amendment) Bill 2022 and circulation of the consolidated document to the members of the Forum, comments were received from DERC, HERC, KERC, UERC and JERC (Goa & UTs), who inter-alia, among other issues, requested for inclusion of the following:
 - i) Maximum age of 67 years to be made applicable to the existing Chairperson/ Members.
 - ii) The power of prescribing payment security should be given to State Government also in addition to Central Government for Intra State generation, Transmission, Distribution and retail supply of Electricity, so that, such payment security would be prescribed keeping in view the State specific issues.
 - iii) The Act to stipulate that the SERCs may specify a timeframe for moving towards cost reflective tariff.
 - iv) Power to prescribe criteria for distribution licensee should be with the State Governments, as they are more equipped and aware of modalities of electricity distribution in the respective States.
 - v) The existing provision for appointment of Retd. High Court Judge as Chairperson of SERC may be retained. In the event a Retd. High Court Judge is appointed as Chairperson, the requirement for appointment of a Legal Member shall be dispensed with.
 - vi) The definition of “Chairperson” may mean the Chairperson or in his/her absence, senior most member of the Authority or Appropriate Commission or the Appellate Tribunal as the case may be. The words “in his absence senior most Member” be added after the word “Chairperson”.
5. After discussion, the final comments of FOR on the Electricity (Amendment) Bill 2022 were approved as placed at **Annexure-II**. It was also decided that the final comments as approved will be sent by FOR Secretariat to the Standing Committee on Energy once a request is received.

AGENDA NO. 2: SIMPLIFYING THE PROCESS OF AMENDING SUPPLY CODES NOTIFIED BY SERCS

6. Dy Chief (RA), CERC apprised the Forum about a reference received from Ministry of Power vide letter dated 28th July, 2022 regarding simplifying the

process of amending Supply Codes notified by SERCs. The Forum was also apprised that FOR had evolved a Model Supply Code in May 2011.

7. The Forum opined that as the Model Supply Code framed by FOR was rather old, it decided to constitute a Working Group (WG) who would update the said Supply Code by incorporating the latest developments and thereafter present the same before the FOR. The Forum also decided that the Working Group would be headed by Chairperson, TERC with other members of the Working Group being Chairpersons of TNERC, KERC, MPERC and DERC.

AGENDA 3: FUNDS IN RESPECT OF JERC FOR MANIPUR AND MIZORAM

8. The Forum was apprised about the reference received from JERC for Manipur and Mizoram regarding their fund requirement not being met by the State Government of Manipur and Mizoram in accordance with the MOA (between the Ministry of Power and the State Govts of Manipur and Mizoram) and suggested that the Forum request the Central Government to adjust these dues from the grant given by them. It was also informed that JERC (Manipur & Mizoram) had taken up this issue with the Ministry of Power, but there was no positive response.
9. The Forum expressed concern about shortage of funds for the JERC to discharge its functions and opined that JERC may once again take up the matter with Ministry of Power / Central Government in pursuance to the MOA.

AGENDA 4: FOR WORKING GROUP REPORT ON “DEVELOPING MODEL REGULATIONS ON METHODOLOGY FOR CALCULATION OF OPEN ACCESS CHARGES AND BANKING CHARGES FOR GREEN ENERGY OPEN ACCESS CONSUMERS”

10. The Forum was apprised that as per Rule 12 of the Electricity (Promoting Renewable Energy through Green Energy Open Access) Rules, 2022, FOR was mandated to frame model regulations on methodology for calculation of open access charges and banking charges. Accordingly, in the 81st FOR meeting held on 8th July 2022, the Forum constituted a Working Group under the Chairmanship of Chairperson, Uttar Pradesh ERC to formulate the Model Regulations.

11. After discussions of the WG, the report of the WG was placed before the Forum. The Working Group also highlighted certain conflicts in the Rules with the Tariff Policy and the Electricity Act and opined that the same may be conveyed to Ministry of Power for necessary action at their end.
12. After threadbare discussions on the Model Regulations, the Forum approved the suggestions to be sent to Ministry of Power on the areas of conflict (**Annexure III**) and the Model Regulations (**Annexure-IV**).
13. Dy. Chief, (RA) also informed the Forum that as per Rule 7 of the Green Energy Open Access Rules, POSOCO has been entrusted with the responsibility to prepare a common format for application for grant of Green Energy Open Access in consultation with FOR. Accordingly, when the same was referred in the 81st FOR meeting, the Forum had then decided that POSOCO should consult the SLDCs wrt common format and procedure and thereafter approach the FOR for approval of the same, in line with Rule 7. Subsequently, POSOCO by way of its e-mail dt 14.9.2022 submitted the detailed procedure and sought directions of the Forum in this matter.
14. The Forum directed that the communication of POSOCO be shared with all the members of the Forum and thereafter, POSOCO may be asked to present the same in a special meeting of the FOR for discussion and finalization.

AGENDA 5: DRAFT MODEL MYT REGULATIONS.

15. Secretary, FOR/CERC informed the Forum that based on a reference from Ministry of Power, the FOR Secretariat had worked on revising the Model Tariff Regulations already issued by the FOR in 2009. Subsequently, comments received from SERCs have also been incorporated in the draft and sought for discussion and approval of the same.
16. The Forum decided that as the Model Tariff Regulations is an elaborate document which needs detailed discussion, the same may be taken up in a special meeting of the FOR which can be held in a virtual mode.

AGENDA NO. 6: FOR WORKING GROUP REPORT ON “COMMENTS ON ELECTRICITY (AMENDMENT) RULES, 2022”

17. Dy. Chief, (RA) apprised the Forum that as per the decision taken in the Special FOR meeting held on 29th and 30th August 2022, a Working Group (WG) under the chairmanship of Chairperson, Bihar ERC was constituted to examine various provisions of the draft Electricity (Amendment), Rules 2022. The WG had since then finalized its comments and submitted its report which was placed for consideration of the Forum.
18. Some members of the Forum raised concerns regarding Rule 19 on Implementation of Uniform RE Tariff for Central Pool. The Central Pool proposed in the draft Rules would have dynamic monthly tariff due to addition of any new RE project and this would have a bearing on approving ARR of the concerned Distribution companies by the Appropriate Commission due to varying monthly tariff to be paid by the utilities. It was also highlighted that implication of ‘Change in Law’ of one Renewable energy project would have an impact on other RE generators in the Pool. The Forum felt that the central pool proposed in the draft Rules was open ended and would result in different monthly tariffs depending on addition or removal of any RE project in the Pool.
19. After discussion, the Forum finalized its comments (Annexure-V) and directed the FOR Secretariat to forward the same to the Ministry of Power.

AGENDA NO. 7: FOR WORKING GROUP REPORT ON “REGULATORY FRAMEWORK FOR ENERGY STORAGE & ELECTRIC VEHICLES”

20. Senior Advisor (RE), CERC apprised the Forum about the report submitted by the Working Group constituted as per the decision in 76th Meeting of the FOR held on 1st October 2021, to examine the cases of Energy Storage and study the impact of penetration of Electric Vehicles while suggesting a regulatory framework.
21. The Forum noted the key recommendations on legal status, asset categorization based on the business model, scheduling and tariff determination of ESS and EVs in the Indian Power Sector. The Forum also observed Energy Storage System (ESS) could be an important tool in integrating the intermittent sources like wind and solar into the system.

22. After discussion, it was decided that the report needs to be analysed in detail and that the same may be deliberated in the next meeting of the FOR.

AGENDA NO. 8: FOR REPORT ON “DEVELOPING MODEL REGULATIONS FOR IMPORT OF POWER FROM CAPTIVE GENERATORS USING OPEN ACCESS “

23. Dy. Chief, (RA) apprised the Forum that, in the 74th FOR meeting held on 9th April, 2021 it was decided to form a WG headed by Chairperson, Uttar Pradesh ERC to frame model regulations for the verification of Captive Generating Plants and Captive Consumers. The WG subsequently deliberated on relevant judgements of APTEL, various aspects associated with the legal connotations on the consumption and equity norms for CGP and finalised its report.

24. The report of the WG along with the model regulation was placed for consideration of the Forum. The Forum discussed the criteria specified for the consumption and equity norms wherein various classes of captive users such as Partnership, Company, SPV, Association of persons etc were analyzed.

25. After discussion, the Forum approved the report of the Working Group report along with the Model Regulation (**Annexure-VI**) for verification of Captive Generating Plants and Captive Consumers.

ANY OTHER AGENDA ITEMS:

AGENDA NO 9: FORUM OF REGULATORS (AMENDMENT) RULES, 2022

26. The Forum discussed the FOR (Amendment) Rules 2022 notified by Ministry of Power on 8th September, 2022 wherein Rule 4 of the Principal Rules were amended to include additional functions to FOR regarding data collection and analysis, subsidy accounting, and monitoring of renewable purchase compliance.

27. The Forum, after discussion decided that a proposal for strengthening the FOR by way of funds / manpower etc and seeking necessary funding from Ministry of Power should be presented by FOR Secretariat in the next FOR meeting.

AGENDA NO 10: REFERENCE FROM HARYANA ERC ON RPO TRAJECTORY AND ENERGY STORAGE OBLIGATION TRAJECTORY

28. The Forum discussed a reference received from HERC on the MoP Order dated 22.07.2022 which specified Renewable Purchase Obligation (RPO) and Energy Storage Obligation Trajectory till 2029-30 and alignment of RPO targets with MoP trajectory.
29. The Forum observed that as per Section 86(1)(e) of the Electricity Act 2003, it is the function of the State Commission to specify the percentage of RPO to be fulfilled by the obligated entities in its State.
30. After discussion, it was decided that SERCs/JERCs will take appropriate decision for implementation of the same.

AGENDA NO 11: PROPOSAL OF INDIA SMART GRID FORUM

31. The Forum discussed the proposal received from ISGF who requested the FOR to convene its next meeting on 16th -18th November 2022 in Bhubaneswar, Odisha so that the same may be in conjunction with Distribution Utility Meet (DUM) 2022 being organized by them. They had opined that it would provide an opportunity for the State Regulators to learn about the experiences of utilities in implementing new technologies as well as interacting with the technology providers who will be participating in the program as exhibitors. ISGF further proposed that while they would take care of all logistics for the FOR meeting, they also conveyed negotiated rates for the stay of FOR members (which the Forum would bear).
32. Chairperson (I/c), Odisha ERC informed the Forum that they were not in receipt of any proposal from ISGF to this effect.
33. After discussion, the Forum decided that SERCs/JERCs may take appropriate decision individually to associate with the event.

AGENDA NO 12: ANNUAL REPORT OF FOR

34. The Forum appreciated the exemplary work done by all the Working Groups of FOR on various important and critical issues concerning power sector that contributed to smooth and consistent power regulation in the country. The Forum opined that the Annual Report of FOR should also include details of the work done by various Working Groups of FOR and directed the FOR Secretariat to henceforth present Annual Reports of FOR in the FOR meetings for its approval.

CONCLUSION

35. Secretary, CERC/FOR thanked all the members of the Forum for participating in the meeting. He also thanked the officials of the FOR Secretariat for coordinating and organizing the meeting. Special thanks were conveyed to the Commission and officers of APERC and APEPDCL for their painstaking efforts in organizing the meeting in Visakhapatnam
36. Chairperson, Haryana ERC informed the Forum that HERC would like to host the next FOR meeting in Chandigarh in November 2022. He also informed that a formal proposal will be sent to the FOR Secretariat in this regard.
37. The meeting ended with vote of thanks to the Chair.

APPENDIX

LIST OF PARTICIPANTS OF THE
82ND MEETING OF THE FORUM OF REGULATORS
HELD ON FRIDAY, 16TH SEPTEMBER, 2022
AT NAUTICA HALL, HOTEL NOVOTEL,
VISHAKHAPATNAM, ANDHRA PRADESH

S. No.	NAME	ERC
01.	Shri Raj Pratap Singh Chairperson	UPERC – in Chair.
02.	Justice (Shri) C.V. Nagarjuna Reddy Chairperson	APERC
03.	Shri Kumar Sanjay Krishna Chairperson	AERC
04.	Shri Shishir Sinha Chairperson	BERC
05.	Shri Hemant Verma Chairperson	CSERC
06.	Shri R.K. Pachnanda Chairperson	HERC
07.	Shri D.K. Sharma Chairperson	HPERC
08.	Shri P. Ravi Kumar Chairperson	KERC
09.	Shri S.P.S. Parihar Chairperson	MPERC
10.	Shri Sanjay Kumar Chairperson	MERC
11.	Shri P. W. Ingty Chairperson	MSERC
12.	Shri Khose Sale Chairperson	NERC
13.	Shri Viswajeet Khanna Chairperson	PSERC
14.	Dr. B.N. Sharma Chairperson	RERC
15.	Shri K.B. Kunwar Chairperson	SSERC
16.	Shri M. Chandrasekar Chairperson	TNERC

17.	Shri T. Sriranga Rao Chairperson	TSERC
18.	Shri D. Radhakrishna Chairperson	TERC
19.	Dr. M.V. Rao Chairperson	WBERC
20.	Shri Gajendra Mohapatra Member/Officiating Chairperson	OERC
21.	Shri D.P. Gairola Member/Chairperson I/c.	UERC
22.	Shri Mehul M. Gandhi Member	GERC
23.	Shri Atul Kumar Member	JSERC
24.	Ms. Jyoti Prasad Member	JERC for State of Goa & UTs
25.	Shri Harpreet Singh Pruthi Secretary	FOR/ CERC
SPECIAL INVITEES		
ERC		
26.	Shri I.S. Jha Member	CERC
27.	Shri Arun Goyal Member	CERC
28.	Shri Pravas Kumar Singh Member	CERC
29.	Shri P. Raja Gopal Reddy Member	APERC
30.	Shri T. Rama Singh Member	APERC
FOR SECRETARIAT		
31.	Ms. Rashmi Somasekharan Nair Dy. Chief (RA)	CERC
32.	Shri Ravindra Kadam Sr. Advisor (RE)	CERC



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Andhra Pradesh Electricity Regulatory Commission

Annexure-I

82nd

Forum of Regulators' (FoR)

Meeting

at Visakhapatnam

Date:16.09.2022





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About Andhra Pradesh State

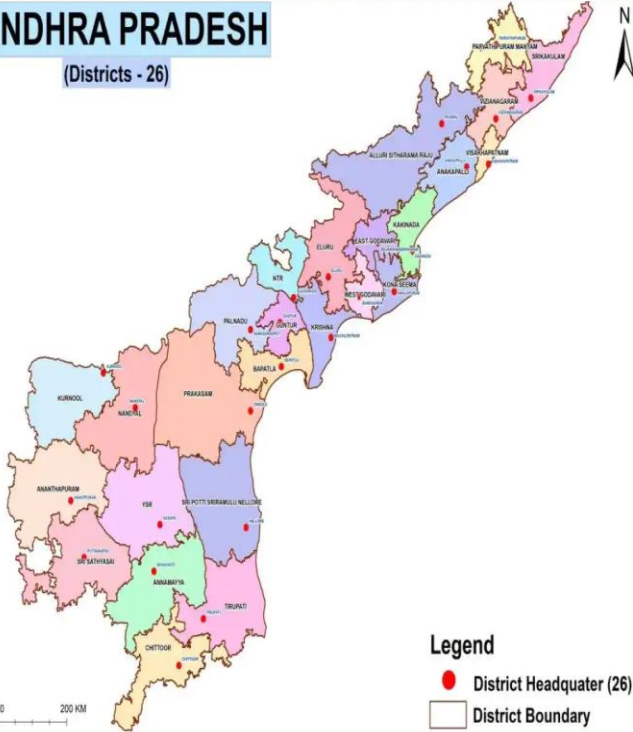


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Andhra Pradesh Electricity Regulatory Commission

ANDHRA PRADESH

(Districts - 26)



- It shares borders with Tamil Nadu, Orissa, Telangana and Karnataka and Union territory Yanam, a district of Puduchherri.
- Capital City : Amaravathi
- Districts : 26
- Population : 49.67 millions (2011 census)
- It comprises three major regions, viz Rayalaseema in the south-west, Central coastal Andhra bordering the Bay of Bengal in the east and North coastal andhra.
- 10th most populous state in India.



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Andhra Pradesh Electricity Regulatory Commission

Andhra Pradesh Demography continued...

- **Demonyms** : Andhrulu or Teluguvaru
- **Mother Tongue** : Telugu
- **Area** : 1.67 lakh Square kilometers
- **Major rivers** : Godavari, Krishna, Tungabhadra and Penna
- **Literacy Rate** : 67.41 % (2011)
- **Coast line** : 974 Km (Second longest coast in the country)
- **Sex Ratio** : 993/1000 (2011)
- **Airports** : **International:** Visakhapatnam, Vijayawada & Tirupati,
Domestic: Rajahmundry, Kadapa and Kurnool
and **one public use airport at Puttaparthi**
- **Seaports** : **Operational:** Visakhapatnam, Gangavaram, Kakinada
and
Krishnapatnam

Proposed: Machilipatnam, Nizampatnam and Ramayapatnam



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Andhra Pradesh Electricity Regulatory Commission

Some of the famous temples in Andhra Pradesh:

- [Simhachalam](#), Visakhapatnam District.
- [Venkateswara Swamy in Tirupati](#) and [Shiva](#) temple [Kalahasti](#) in Balaji District.
- [Kanaka Durga at Vijayawada](#) in NTR district.
- [Sun temple at Arasavalli](#) in Srikakulam District.
- [Draksharamam](#), [Antarvedi](#) in Dr.B.R.Ambedkar Konaseema District.
- [Annaram](#) in Kakinada District.
- [Mangalagiri](#) in Guntur District.
- [Ahobilam](#), [Srisailem](#) and [Mahanandi](#) in Nandyal District.

All of them are structures of great antiquity and possess rare architectural values.

The some other important visiting places are [Nandi lepakshi temple](#) Hindupur, [Antimitta Ramalayam](#) in YSR (Kadapa) district, [Papi hills in Godavari River](#), and [Ajayana Buddha Statue](#) in Amaravathi capital city. [A video](#)





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About Visakhapatnam District & City



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Andhra Pradesh Electricity Regulatory Commission

Andhra Pradesh Power Sector Overview



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Andhra Pradesh Electricity Regulatory Commission

Power Sector hierarchy - Andhra Pradesh

Energy department :

- Transmission Corporation of Andhra Pradesh Ltd (APTRANSCO) - STU
- Generation Corporation of Andhra Pradesh Ltd (APGENCO)
- Southern Power Distribution Company of Andhra Pradesh Ltd (APSPDCL)
- Eastern Power Distribution Company of Andhra Pradesh Ltd (APEPDCL)
- Central Power Distribution Company of Andhra Pradesh Ltd (APCPDCL)
- New & Renewable Energy Development Corporation of AP Ltd (NREDCAP)
- AP Solar Power Corporation Ltd.

All the above companies are owned by the Government

AP Power Coordination Committee is headed by the Special Chief Secretary, Energy. CMDs of the DISCOMS and APTRANSCO are members. It oversees the procurement of power on behalf of the three DISCOMS in the State.





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Andhra Pradesh Electricity Regulatory Commission

Installed Capacity tied up by the DISCOMS as on 31.03.2022:

APGENCO Thermal	:	3410 MWs
APGENCO Hydel	:	1797 MWs
APGENCO Solar	:	405 MWs
APPDCL Thermal	:	1600 MWs
GGPS Gas	:	216 MWs
Total State Sector	:	7023 MWs
Wind Private	:	3767 MWs
Solar Private	:	3755 MWs
Biomass & Bagasee Private	:	197 MWs
Wasteheat & MSW Private	:	58 MWs
Small Hydro Private	:	24 MWs
IPPs Gas based (Stranded) private	:	1961 MWs
Total Private Sector	:	9762 MWs
CGS Thermal Share	:	1980 MWs
Total Installed Capacity	:	19170 MWs
* Max Demand of the State so far	:	12293 MWs



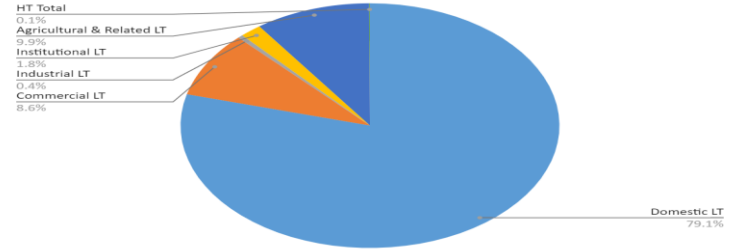
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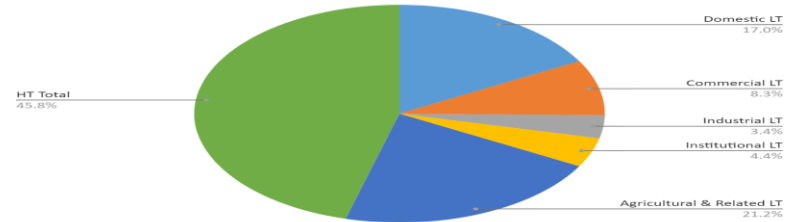
Consumers' number & their revenue mix in the State for FY22:

S. No.	Category	No. in K	Revenue in Cr.
1	Domestic LT	14631.74	6757.11
2	Commercial LT	1599.41	3284.82
3	Industrial LT	81.66	1355.14
4	Institutional LT	341.66	1740.11
5	Agri & Related LT including subsidy	1825.20	8436.31
LT total		18479.67	21573.50
HT Total		12.46	18217.07
Grand total		18492.12	39790.57

Number of Consumers (Billed)



Revenue in Crores



Maximum Grid consumption so far during the day : 234.15 MUs

- Per Capita Consumption - 1285 units (FY 2021-22)



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Important Statistics as per the Retail Supply Tariff Order for FY2022-23

Sl.No.	Item	APSPDCL	APCPDCL	APEPDCL	Total for State
1	Sales MUs	25937.54	15226.54	24665.48	65829.55
2	Loss percentage	10.15	10.90	8.55	9.73
3	Energy Purchase MUs	28868.49	17089.60	26970.82	72928.91
4	PP cost Rs.per Unit	4.40	4.24	4.24	4.31
5	AAR Cr.	18612.55	10797.20	16562.95	45972.70
6	Subsidy u/s 65 Cr.	5559.99	2664.04	2899.18	11123.21
7	ACoS Rs per Unit	7.18	6.72	7.09	6.98



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Andhra Pradesh Electricity Regulatory Commission

Petitions disposed of by the APERC

Sl.No.	Financial Year	Number of petitions
1	2019-20	44
2	2020-21	32
3	2021-22	87





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Andhra Pradesh Electricity Regulatory Commission

Important decisions of the present Commission:

- No regulatory asset is created
- All the True-up petitions of the DISCOMS and APTRANSCO have been disposed of and no pendency up to FY 2020-21.
- Made a provision for payment of automatic Compensation in the service areas of fuse off calls, processing of applications, and release of new connections and wrongful disconnection of services under SoP regulations.
- A new regulation is framed for regulating short-term power purchases by the DISCOMS.
- Framed regulation on automatic recovery of variation in quarterly fuel & power purchase cost up to 50 paise per unit w.e.f from 01.04.22 .
- Accorded conditional approval to the procurement of 7000 MW solar power from FY 25 onwards for supply to the agriculture sector exclusively at the cost of GoAP by AP DISCOMs under a tripartite agreement with SECI and GoAP.
- Resolved the long pending (24 years) dispute relating to fixation of tariff and PPA approved between Hinduja's Power Plant (1040 MW) and the DISCOMS by its Order dated 01.08.22
- kVAH billing is effected for all categories of the consumers irrespective of their connected load except for single phase services and farmers w.e.f from 01.04.22.





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Andhra Pradesh Electricity Regulatory Commission

CGRFs & Vidyuth Ombudsman

Sl. No.	Description	CGRF Location	Grievances pending as on 15.09.2022
1	CGRF for APSPDCL	APSPDCL's Headquarters, Tirupathi	38
2	CGRF for APCPDCL	APCPDCL's Headquarters, Vijayawada	17
3	CGRF for APEPDCL	APEPDCL's Headquarters, Visakhapatnam	33
4	Ombudsman for State	Vijayawada, adjacent to the State Capital Amaravathi.	2



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Thank
You

COMMENTS OF FOR ON THE ELECTRICITY (AMENDMENT) BILL, 2022

GENERAL COMMENTS

1. Electricity lies in the concurrent list of the Constitution of India, thus making both the State and the Central Government responsible for the development of the sector. In view of this, the Electricity Act 2003 made a fine balance between the role and responsibilities of the State and the Central Governments. However, the proposed amendments to the Act, at several places, tend to shift this balance towards the Central Government.

Another objective of the Electricity Act 2003 was to distance the Government from process of determination of tariff . This was ensured through the establishment of Regulatory Commission at the Central and State levels, who were responsible for regulating the sector. However, through the proposed amendments, this basic premise of the Electricity Act is getting diluted, as Central Government interventions have been suggested on various regulatory matters, which may create avoidable confusion in the sector. Such amendments should ideally be dropped in the interest of smooth functioning of the power sector.

2. During the finalization of this Act and subsequent Rules and Policies based on the amended Act, Government should remain sensitive towards the desirable balance in terms of burden to be borne by the electricity rate payers vs tax payers. For the benefit of the electricity consumers, it should be ensured that rate paying electricity consumers are not subjected to adverse impact for subsidizing development of any other sector.

CLAUSE WISE COMMENT ON THE ELECTRICITY (AMENDMENT) BILL, 2022

SECTIONS	PRINCIPAL ACT (THE ELECTRICITY ACT, 2003)	THE ELECTRICITY (AMENDMENT) BILL, 2022	Remarks
Section 1. (Short title, extent and commencement)	<p>(1) This Act may be called the Electricity Act, 2003.</p> <p>(2) It extends to the whole of India except the State of Jammu and Kashmir.</p> <p>(3) It shall come into force on such date as the Central Government may, by notification, appoint:</p> <p>Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.</p>	<p>(1) <u>This Act may be called the Electricity (Amendment) Act, 2022.</u></p> <p>(2) <u>It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint</u></p> <p>Provided that different dates may be appointed for different <u>provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.</u></p> <p>Omitted</p>	<p><u>It would be desirable to bring into effect all related provisions simultaneously to ensure the desired reforms are rolled out uniformly.</u></p>
Section 2. (Definitions)	<p>(13) "company" means a company formed and registered under the Companies Act, 1956 and includes anybody corporate under a Central, State or Provincial Act;</p> <p>(31) "Government company" shall have the meaning assigned to it in clause (45) of section 2 section 617 of the Companies</p>	<p>(13) "company" means a company formed and registered under <u>the Companies Act, 2013</u> and includes anybody corporate under a Central, State or Provincial Act;</p> <p>(31) "Government company" shall have the meaning assigned to it in <u>clause (45) of section 2 of the Companies Act, 2013</u></p>	

	<p>Act, 2013 the Companies Act, 1956;</p> <p>(50) "power system" means all aspects of generation, transmission, distribution and supply of electricity and includes one or more of the following, namely:-</p> <ul style="list-style-type: none"> a. generating stations; b. transmission or main transmission lines; c. sub-stations; d. tie-lines; e. load despatch activities; f. mains or distribution mains; g. electric supply-lines; h. overhead lines; i. service lines; j. works <p>(60) "schedule" means the Schedule to this Act;</p>	<p>(50) "power system" means all aspects of generation, transmission, distribution and supply of electricity and includes one or more of the following, namely:-</p> <ul style="list-style-type: none"> a. generating stations; b. transmission or main transmission lines; c. sub-stations; d. tie-lines; e. load despatch activities; f. mains or distribution mains; g. electric supply-lines; h. overhead lines; i. service lines; <u>j. works;</u> <u>j-k. energy storage system;</u> <p>(60) "schedule" means the Schedule to this Act;</p> <p><u>(60a) "security of payment" means such security of payment as may be prescribed by the Central Government;</u></p>	<p>Energy storage system may be defined as "any system or device capable of storing electrical energy in any form using any technology and delivering it back in the form of electrical energy"</p> <p>The objective of the Act is to distance Governments from regulation. Accordingly, the following modification is suggested in clause 60(a) "security of payment" means such security of payment as may be prescribed specified by the Central GovernmentAppropriate Commission;</p>
Section 8. (Hydro-electric generation)	<p>(1) Notwithstanding anything contained in section 7, any generating company intending to set-up a hydro- generating station shall prepare and submit to the Authority for its concurrence, a scheme</p>	<p>(1) Notwithstanding anything contained in section 7, any generating company intending to set-up a hydro-generating station shall prepare and submit to the Authority for its concurrence, a scheme estimated to</p>	

	estimated to involve a capital expenditure exceeding such sum, as may be fixed by the Central Government, from time to time, by notification.	involve a capital expenditure exceeding such sum, as may be fixed by the Central Government, from time to time, by notification. <u>(1A) The Authority shall, after examining the scheme, concur on the scheme in such manner as may be prescribed by the Central Government.</u>	<u>CEA is a technically competent specialized body. The Central Government may only prescribe the time lines.</u>
Section 14. of (Grant licence)	<p>The Appropriate Commission may, on an application made to it under section 15, grant a licence to any person -</p> <p>(a) to transmit electricity as a transmission licensee; or</p> <p>(b) to distribute electricity as a distribution licensee; or</p> <p>(c) to undertake trading in electricity as an electricity trader, in any area as may be specified in the licence:</p> <p>Provided also that the Appropriate Commission may grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area, subject to the conditions that the applicant for grant of licence within the same area shall, without prejudice to the other conditions or requirements under this Act, comply with the additional requirements relating to the capital adequacy, credit-worthiness, or code of conduct] as may be prescribed by the Central Government, and no such applicant, who complies with all the requirements for grant of licence, shall be</p>	<p>The Appropriate Commission may, on an application made to it under section 15, grant a licence to any person -</p> <p>(a) to transmit electricity as a transmission licensee; or</p> <p>(b) <u>to distribute electricity as a distribution licensee in an area of supply in accordance with such criteria as may be prescribed by the Central Government;</u> or</p> <p>(c) to undertake trading in electricity as an electricity trader, in any area as may be specified in the licence:</p> <p>Provided also that the Appropriate Commission may grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area, subject to the conditions that the applicant for grant of licence within the same area shall, without prejudice to the other conditions or requirements under this Act, comply with the additional requirements relating to the capital adequacy, credit-worthiness, or code of conduct] as may be prescribed by the Central Government, and no such applicant, who complies with all the requirements for grant of licence, shall be refused grant of licence on the ground that there already exists a licensee in the same area for the</p>	<p><u>The 6th proviso to section 14 already empowers the Central Government to prescribe additional requirement for 2nd/ subsequent licence. Accordingly, the proposed insertion “as a distribution licence in an area of supply in accordance with such criteria as may be prescribed by the Central Government” in clause (b) of section 12 appears redundant and therefore should be deleted.</u></p> <p><u>If at all it is considered necessary, it should be in the form of guidelines.</u></p> <p><u>With the proposed deletion of the expression “through their own distribution system” in the 6th proviso to section 14, there would be two categories of distribution licence (a) with distribution system (b) without distribution system. In such a situation, the questions as to whether and how the provisions of section 15(2), section 20, section 21, section 22 and section 24 would apply, need be addressed.</u></p>

	refused grant of licence on the ground that there already exists a licensee in the same area for the same purpose:	same purpose:	
Section 15. (Procedure for grant of licence):	<p>(6) Where a person makes an application under sub-section (1) of section 14 to act as a licensee, the Appropriate Commission shall, as far as practicable, within ninety days after receipt of such application, -</p> <p>(a) issue a licence subject to the provisions of this Act and the rules and regulations made thereunder; or</p> <p>(b) reject the application for reasons to be recorded in writing if such application does not conform to the provisions of this Act or the rules and regulations made thereunder or the provisions of any other law for the time being in force:</p> <p>Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.</p>	<p>(6) Where a person makes an application under sub-section (1) of section 14 to act as a licensee, the Appropriate Commission shall, as far as practicable, within ninety days after receipt of such application, -</p> <p>(a) issue a licence subject to the provisions of this Act and the rules and regulations made thereunder; or</p> <p>(b) reject the application for reasons to be recorded in writing if such application does not conform to the provisions of this Act or the rules and regulations made thereunder or the provisions of any other law for the time being in force:</p> <p>Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.</p> <p><u>Provided further that if the Appropriate Commission fails to grant the licence or reject the application, as the case may be, within the time so provided, the applicant shall be deemed to have been granted the licence.</u></p>	<p><u>The deeming provision proposed to be inserted under section 15 has its consequences. Accordingly, the following modification is suggested:</u></p> <p><u>“Provided further that if the Appropriate Commission fails to grant the licence or reject the application, as the case may be, within the time so provided, within the period of 90 days or such other period as may be considered necessary by the appropriate Commission, not exceeding 120 days, the applicant shall be deemed to have been granted the licence.”</u></p>

Section 26. (National Load Despatch Centre) :	<p>(2) The constitution and functions of the National Load Despatch Centre shall be such as may be prescribed by the Central Government:</p> <p>Provided that the National Load Despatch Centre shall not engage in the business of trading in electricity.</p>	<p>(2) The constitution of the National Load Despatch Centre shall be such as may be prescribed by the Central Government:</p> <p>Provided that the National Load Despatch Centre shall not engage in the business of trading in electricity <u>except as mandated by the Central Government for implementation of any scheme to ensure the stability of the power system.</u></p>	
Section 26. (National Load Despatch Centre) :	<p>Nil</p>	<p>(4) <u>The National Load Despatch Centre shall—</u></p> <p><u>(a) be the apex body to ensure integrated operation of the power system in the country;</u></p> <p><u>(a)(b) be responsible for optimum scheduling and despatch of electricity in the country across different States and regions in accordance with the contracts entered into with the licensees or the generating companies;</u></p> <p><u>Provided that no electricity shall be scheduled or despatched under such contract unless adequate security of payment, as may be prescribed by the Central Government, has been made;</u></p> <p><u>(b)(c) monitor grid operations and ensure security of the electricity grid and for this purpose give directions as necessary to the Regional Load Despatch Centre or State Load Despatch Centre, as the case may be;</u></p> <p><u>(d) exercise supervision and control over the</u></p>	<p>Proviso to 4(b) may be deleted. <u>The system operator should be responsible primarily for scheduling and despatch and not with contractual arrangement between two parties.</u></p> <p><u>The contractual arrangements are defined in the PPA and the disputes arising out of the contract are settled by the Appropriate Commission by</u></p>

		<p><u>inter-regional and inter-State transmission network; and</u></p> <p><u>(e) have overall authority for carrying out real time operations of the electricity grid of the country.</u></p> <p><u>(5) The National Load Despatch Centre shall give such directions and exercise such supervision and control over the power system as may be required for the safety and security of the electricity grid of the country, for ensuring the stability of grid operation and for achieving maximum economy and efficiency in the operation of the power system throughout the country.</u></p> <p><u>(6) The National Load Despatch Centre shall give such directions to the State Load Despatch Centre, as may be necessary through the Regional Load Despatch Centre concerned.</u></p> <p><u>(6)(7) Every Regional Load Despatch Centre, State Load Despatch Centre, licensee, generating company, generating station, sub-station and any other person connected with the operation of the power system shall comply with the directions issued by the National Load Despatch Centre from time to time.</u></p>	<p><u>following the process of natural justice. The system operator does not have the competence and jurisdiction and hence may be liable for consequential liabilities arising out of dispute, if any. In such a situation, the system operator cannot be indemnified.</u></p> <p>Power purchase is governed through the conditions in the bilateral agreement executed between the generating company/ trader and the licensee/ buyer, and it will be settled between them. The payment security mechanism will be part of that Power Purchase Agreement (PPA). The scheduling of SLDC need not be linked with this. This may lead to system power availability and grid stability. The generator should have the freedom to schedule the power to the licensee/ buyer, provided they are satisfied with the terms and conditions executed among them.</p> <p>In the case of transactions through Power Exchanges, the exchange ensures the payment for the energy supplied by the generator.</p> <p><u>The direction from NLDC to SLDC should come through RLDC as proposed in clause 6. Accordingly, clause 4 (c) may also be modified to align with clause 6.</u></p>
Section 28. (Functions of Regional Load Despatch Centre):	<p>(3) The Regional Load Despatch Centre shall -</p> <p>a. be responsible for optimum scheduling and despatch of electricity within the region, in accordance with the contracts</p>	<p>(3) The Regional Load Despatch Centre shall -</p> <p>a. be responsible for optimum scheduling and despatch of electricity within the region, in accordance with the contracts entered into</p>	<p>Proviso to sub-section (3), clause (a) may be deleted.</p> <p><u>The system operator should be responsible primarily for scheduling and despatch and not with contractual arrangement between two</u></p>

	entered into with the licensees or the generating companies operating in the region;	with the licensees or the generating companies operating in the region; <u>Provided that no electricity shall be scheduled or despatched under such contract unless adequate security of payment, as may be prescribed by the Central Government, has been made;</u>	<u>parties.</u> <u>The contractual arrangements are defined in the PPA and the disputes arising out of the contract are settled by the Appropriate Commission by following the process of natural justice. The system operator does not have the competence and jurisdiction and hence may be liable for consequential liabilities arising out of dispute, if any. In such a situation the system operator cannot be indemnified.</u> The power purchase is governed through the conditions in the bilateral agreement executed between the generating company/ trader and the licensee/ buyer, and it will be settled between them. The payment security mechanism will be part of that Power Purchase Agreement (PPA). The scheduling of SLDC need not be linked with this. This may lead to system power availability and grid stability. The generator should have the freedom to schedule the power to the licensee/ buyer, provided they are satisfied with the terms and conditions executed among them.
Section 32. (Functions of State Load Despatch Centres):	(2) The State Load Despatch Centre shall - (a) be responsible for optimum scheduling and despatch of electricity within a State, in accordance with the contracts entered into with the licensees or the generating companies operating in that State;	(2) The State Load Despatch Centre shall - (a) be responsible for optimum scheduling and despatch of electricity within a State, in accordance with the contracts entered into with the licensees or the generating companies operating in that State; <u>Provided that no electricity shall be scheduled or despatched under such contract unless adequate</u>	Proviso to sub-section (2), clause (a) may be deleted. <u>The system operator should be responsible primarily for scheduling and despatch and not with contractual arrangement between two parties.</u> <u>The contractual arrangements are defined in the PPA and the disputes arising out of the contract are settled by the Appropriate Commission by</u>

		<u>security of payment, as may be prescribed by the Central Government, has been made;</u>	<p><u>following the process of natural justice. The system operator does not have the competence and jurisdiction and hence may be liable for consequential liabilities arising out of dispute, if any. In such a situation the system operator cannot be indemnified.</u></p> <p>The power purchase is governed through the conditions in the bilateral agreement executed between the generating company/ trader and the licensee/ buyer, and it will be settled between them. The payment security mechanism will be part of that Power Purchase Agreement (PPA). The scheduling of SLDC need not be linked with this. This may lead to system power availability and grid stability. The generator should have the freedom to schedule the power to the licensee/ buyer, provided they are satisfied with the terms and conditions executed among them.</p> <p><u>The proposed amendment in section 32 may also conflict with Section 37 of the Act.</u></p>
Section 38. (Central Transmission Utility and functions):	Provided further that the Central Government may transfer, and vest any property, interest in property, rights and liabilities connected with, and personnel involved in transmission of electricity of such Central Transmission Utility, to a company or companies to be incorporated under the Companies Act, 1956 to function as a transmission licensee, through a transfer scheme to be effected in the manner specified under Part XIII and such company or companies shall be deemed to be transmission licensees under this Act.	Provided further that the Central Government may transfer, and vest any property, interest in property, rights and liabilities connected with, and personnel involved in transmission of electricity of such Central Transmission Utility, to a company or companies to be incorporated under <u>the Companies Act, 2013</u> to function as a transmission licensee, through a transfer scheme to be effected in the manner specified under Part XIII and such company or companies shall be deemed to be transmission licensees under this Act.	

Section 39. (State Transmission Utility and functions):	<p>Provided further that the State Government may transfer, and vest any property, interest in property, rights and liabilities connected with, and personnel involved in transmission of electricity, of such State Transmission Utility, to a company or companies to be incorporated under the Companies Act, 1956 to function as transmission licensee through a transfer scheme to be effected in the manner specified under Part XIII and such company or companies shall be deemed to be transmission licensees under this Act.</p>	<p>Provided further that the State Government may transfer, and vest any property, interest in property, rights and liabilities connected with, and personnel involved in transmission of electricity, of such State Transmission Utility, to a company or companies to be incorporated under <u>the Companies Act, 2013</u> to function as transmission licensee through a transfer scheme to be effected in the manner specified under Part XIII and such company or companies shall be deemed to be transmission licensees under this Act.</p>	
Section 40. (Duties of transmission licensees)	<p>It shall be the duty of a transmission licensee -</p> <p>c. to provide non-discriminatory open access to its transmissionsystem for use by-</p> <p>(i) any licensee or generating company on payment of the transmission charges; or</p> <p>(ii) any consumer as and when such open access is provided by the State Commission under sub-section (2) of section 42, on payment of the transmission charges and a surcharge thereon, as may be specified by the State Commission:</p> <p>Provided that such surcharge shall be utilised for the purpose of meeting the requirement of current level cross-subsidy:</p>	<p>It shall be the duty of a transmission licensee -</p> <p>c. to provide non-discriminatory open access to its transmissionsystem for use by-</p> <p>(i) any licensee or generating company on payment of the transmission charges; or</p> <p>(ii) any consumer as and when such open access is provided by the State Commission under sub-section (2) of section 42, on payment of the transmission charges and a surcharge thereon, as may be specified by the State Commission:</p> <p>Provided that such surcharge shall be utilised for the purpose of meeting the requirement of current level cross-subsidy:</p> <p>Provided further that such surcharge and cross</p>	

	<p>Provided further that such surcharge and cross subsidies shall be progressively reduced in the manner as may be specified by the Appropriate Commission:</p> <p>Provided also that the manner of payment and utilisation of the surcharge shall be specified by the Appropriate Commission:</p> <p>Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.</p>	<p>subsidies shall be progressively reduced in the manner as may be specified by the Appropriate Commission:</p> <p>Provided also that the manner of payment and utilisation of the surcharge shall be specified by the Appropriate Commission:</p> <p>Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.</p> <p><u>Provided also that a consumer who requires supply of electricity where the maximum power to be made available at any time exceeds one megawatt shall be entitled to get open access to inter-State transmission system in accordance with the regulations made by the Central Commission, on payment of the transmission charges and a surcharge thereon, as may be specified by the State Commission.</u></p> <p><u>Explanation.—For the purposes of this section and section 42, the expression “megawatt” means ten lakh watts.</u></p>	
<p>Section 42. (Duties of distribution licensee and open access):</p>	<p>(1) It shall be the duty of a distribution licensee to develop and maintain an efficient, co-ordinated and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in this Act.</p>	<p><u>(1) It shall be the duty of all distribution licensees to,—</u></p> <p>(a) <u>ensure an efficient, co-ordinated and economic distribution system in their area of supply:</u></p>	<p><u>Section 42(a) is suggested to be amended as follows:</u></p> <p><u>“(a) develop, maintain and ensure an efficient, co-ordinated and economic distribution system in their area of supply.”</u></p>

	<p>(4) Where the State Commission permits a consumer or class of consumers to receive supply of electricity from a person other than the distribution licensee of his area of supply, such consumer shall be liable to pay an additional surcharge on the charges of wheeling, as may be specified by the State Commission, to meet the fixed cost of such distribution licensee arising out of his obligation to supply.</p>	<p><u>Provided that a distribution licensee may use the distribution systems of other licensees in the area of supply for supplying power through the system of non-discriminatory open access;</u></p> <p>(b) <u>give non-discriminatory open access to other distribution licensees on payment of wheeling charges; and</u></p> <p>(c) <u>provide supply of electricity to the consumers,</u></p> <p><u>in accordance with the provisions of this Act and the rules made thereunder by the Central Government and the regulations made by the Appropriate Commission and in accordance with the model regulations laid down by the Forum of Regulators.</u></p> <p>(4) Where the State Commission permits a consumer or class of consumers to receive supply of electricity from a person other than the distribution licensee of his area of supply, such consumer shall be liable to pay an additional surcharge on the charges of wheeling, as may be specified by the State Commission, to meet the fixed cost of such distribution licensee arising out of his obligation to supply.</p> <p><u>(4A) A distribution licensee shall provide non-discriminatory open access through its distribution system to all distribution licensees having licence within the same area of supply, subject to payment of wheeling charges and in accordance with the regulations specified by the Appropriate Commission.</u></p>	<p><u>Provisions related to “develop and maintain an efficient” has been modified to “(a) ensure an efficient.....” by deleting word ‘develop and maintain’ in the proposed amendments in the Electricity Act, 2003. However, in case of generating company and transmission licensee, same has been retained. To bring more clarity regarding development of distribution network and to avoid any confusion, the word ‘develop and maintain’ should be retained.</u></p> <p><u>The expression “and surcharge” may be inserted after the words “wheeling charges” in the proposed amendment (4A)</u></p>
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		<u>(4B) In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that a distribution licensee has knowingly failed to provide open access through its distribution system to another distribution licensee or hindered it in any manner from using its distribution network, the Appropriate Commission may, after giving the distribution licensee an opportunity of being heard, issue such directions as it considers necessary and impose the penalties in accordance with the provisions of this Act.</u>	
Section 59. (Information with respect to levels of performance)	<p>(1) Every licensee shall, within the period specified by the Appropriate Commission, furnish to the Commission the following information, namely:-</p> <p>(a) the level of performance achieved under sub-section (1) of the section 57;</p> <p>(b) the number of cases in which compensation was made under sub-section (2) of section 57 and the aggregate amount of the compensation.</p>	<p>(1) Every licensee shall, within the period specified by the Appropriate Commission, furnish to the Commission the following information, namely:-</p> <p>(a) the level of performance achieved under sub-section (1) of the section 57;</p> <p>(b) the number of cases in which compensation was made under sub-section (2) of section 57 and the aggregate amount of the compensation.</p> <p>(c) <u>the status of compliance of the guidelines issued by the Central Government regarding corporate governance.</u></p>	
Section 60. (Market domination)	The Appropriate Commission may issue such directions as it considers appropriate to a licensee or a generating company if such licensee or generating company enters into any agreement or abuses its dominant position or enters into a combination which is likely to	The Appropriate Commission may issue such directions as it considers appropriate to a licensee or a generating company if such licensee or generating company enters into any agreement or abuses its dominant position or enters into a combination which is likely to cause or causes an	

	<p>cause or causes an adverse effect on competition in electricity industry.</p>	<p>adverse effect on competition in electricity industry.</p> <p><u>60A</u></p> <p><u>(1) Notwithstanding anything contained in this Act, on the issuance of licence to more than one distribution licensee in an area of supply, the power and associated costs from the existing power purchase agreements with the existing distribution licensee, as on the date of issuing licence to another distribution licensee, shall be shared among all the distribution licensees in the area of supply as per such arrangements as may be specified by the State Commission in accordance with the provisions of this Act and the rules made thereunder by the Central Government:</u></p> <p><u>Provided that the State Commission shall periodically review the sharing of power as provided in the existing power purchase agreements:</u></p> <p><u>Provided further that a distribution licensee may enter into additional power purchase agreements, after meeting the commitments of the existing power purchase agreements, to meet any additional requirement of power without sharing with other distribution licensees.</u></p>	<p><u>The expression “Central Government” and may be substituted by “State Government” as the liability lies with the respective State Government and State Discoms.</u></p>
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Section 61. (Tariff regulations)	(g) that the tariff progressively reflects the cost of supply of electricity and also, reduces cross-subsidies in the manner specified by the Appropriate Commission;	<p>i. <u>the tariff recovers all prudent costs incurred for supply of electricity</u></p> <p><u>(ga) the tariff reduces cross subsidies in the manner specified by the Appropriate Commission;</u></p>	

<p>Section 62. (Determination of tariff)</p>	<p>(1) The Appropriate Commission shall determine the tariff in accordance with the provisions of this Act for –</p> <p>(a) supply of electricity by a generating company to a distribution licensee:</p> <p>Provided that the Appropriate Commission may, in case of shortage of supply of electricity, fix the minimum and maximum ceiling of tariff for sale or purchase of electricity in pursuance of an agreement, entered into between a generating company and a licensee or between licensees, for a period not exceeding one year to ensure reasonable prices of electricity;</p> <p>(4) No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified.</p>	<p>(1) The Appropriate Commission shall determine the tariff in accordance with the provisions of this Act for –</p> <p>(a) supply of electricity by –a –generating company- to a distribution licensee:</p> <p><u>Provided that in case of distribution of electricity in the same area of supply by two or more distribution licensees, the Appropriate Commission shall, for promoting competition among such distribution licensees, fix the maximum ceiling of tariff and the minimum tariff for retail sale of electricity in accordance with the provisions of this Act and the rules made thereunder by the Central Government:</u></p> <p><u>Provided further that in such ceiling tariff, the cross subsidy, wheeling charges and adjustment in tariff pertaining to the period prior to the introduction of ceiling tariff, if any, shall be indicated separately by the Appropriate Commission.</u></p> <p>(4) No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified.</p> <p><u>Provided that the Appropriate Commission may, by an order and for reasons to be recorded in writing, allow the licensee to effect the changes due to amendment in tariff, not exceeding in four stages, during a year in accordance with the Tariff Policy.</u></p>	
<p>Section 64.</p>	<p>(1) An application for determination of tariff</p>	<p>(1) <u>An application for determination of tariff under</u></p>	

<p>(Procedure for tariff order)</p>	<p>under section 62 shall be made by a generating company or licensee in such manner and accompanied by such fee, as may be determined by regulations.</p> <p>(3) The Appropriate Commission shall, within one hundred and twenty days from receipt of an application under sub-section (1) and after considering all suggestions and objections received from the public,-</p> <p>(a) issue a tariff order accepting the application with such modifications or</p>	<p><u>section 62 shall be made by a generating company or licensee at such time and in such manner and accompanied by such fee, as may be specified by the Appropriate Commission:</u></p> <p><u>Provided that the time specified should be such that the new tariff comes into effect from the beginning of the following financial year:</u></p> <p><u>Provided further that if an application is not made by a generating company or licensee on time, the State Commission shall, not later than thirty days of the last date specified in the regulations, initiate proceedings for determination of tariff and call for such information, details and documents as may be required for such determination with the objective of determining the tariff before the beginning of the financial year:</u></p> <p><u>Provided also that, where two or more distribution licensees operate in the same area of supply, the State Commission shall fix the maximum ceiling of tariff and the minimum tariff, suo motu, after calling for requisite information from such distribution licensees.</u></p> <p>(3) The Appropriate Commission shall, within <u>ninety days from the date of receipt of the application or initiation of proceedings</u> under sub-section (1) and after considering all suggestions and objections received from the public,-</p>	<p><u>The principles for determination of maximum and minimum tariff need to be evolved by the Appropriate Commission after the enactment.</u></p> <p>The time period for issuance of tariff order may be retained as one hundred and twenty days from the date of accepting the application from the licensee. <u>Accordingly, sub section 3 may not need any amendment.</u></p>
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	such conditions as may be specified in that order;	<p>(a) issue a tariff order accepting the application with such modifications or such conditions as may be specified in that order;</p> <p><u>Provided that if tariff order cannot be issued due to any reasons which are to be recorded in writing, the Appropriate Commission shall issue the order for interim tariff within the said period of ninety days from the date of receipt of such application or initiation of such proceedings:</u></p> <p><u>Provided further that the interim tariff shall remain in operation till issue of final tariff order which shall be issued within such period not exceeding one hundred and fifty days of receipt of such application for determination of tariff or initiation of such proceedings.</u></p>	
Section 77. (Qualifications for appointment of Members of Central Commission):	<p>(1) The Chairperson and the Members of the Central Commission shall be persons having adequate knowledge of, or experience in, or shown capacity in, dealing with, problems relating to engineering, law, economics, commerce, finance or, management and shall be appointed in the following manner, namely:-</p> <p>a) one person having qualifications and experience in the field of engineering with specialisation in generation, transmission or distribution of electricity;</p> <p>b) one person having qualifications and experience in the field of finance;</p> <p>c) two persons having qualifications and experience in the field of economics, commerce, law or management:</p>	<p>(1) <u>The Chairperson of the Central Commission shall be a person of ability, integrity and standing, who is or has been,—</u></p> <p>i. <u>head of an organisation dealing with generation, transmission or distribution of electricity; or</u></p> <p>ii. <u>Secretary to the Government of India or its equivalent;</u></p> <p><u>Provided that preference shall be given to a person having adequate knowledge and experience of not less than two years in the power sector.”;</u></p>	<p><u>The expression “head of the organisation” in the proposed amendment 77 (1) (i) may be substituted as “Managing Director or Director or C.E.O.”</u></p>

	<p>Provided that not more than one Member shall be appointed under the same category under clause (c).</p> <p>(2) Notwithstanding anything contained in sub-section (1), the Central Government may appoint any person as the Chairperson from amongst persons who is, or has been, a Judge of the Supreme Court or the Chief Justice of a High Court:</p> <p>Provided that no appointment under this sub-section shall be made except after consultation with the Chief Justice of India.</p>	<p><u>(2) The Members, other than the Chairperson of the Central Commission shall be persons of ability, integrity and standing, having adequate knowledge of and experience in the fields of engineering, law, economics, commerce, finance, public policy or public administration or management and shall be appointed as follows:—</u></p> <p><u>(a) one person having adequate qualifications and experience in the field of engineering with specialisation in generation, transmission or distribution of electricity;</u></p> <p><u>(b) one person having adequate qualifications and experience in the field of finance, economics, commerce, public policy, public administration or management; and</u></p> <p><u>(c) one person, who is, or has been holding a judicial office or is a person possessing adequate professional qualifications and experience in law.</u></p>	
Section 78. (Constitution of Selection Committee to recommend Members)	<p>(1) The Central Government shall, for the purposes of selecting the Members of the Appellate Tribunal and the Chairperson and Members of the Central Commission, constitute a Selection Committee consisting of –</p> <p>(a) Member of the Planning Commission incharge of the energy sector (Chairperson)</p> <p>(2) For the purposes of clause (d) of sub-section (1), the Central Government shall nominate from amongst persons holding the post of chairperson or managing director, by</p>	<p>(1) The Central Government shall, for the purposes of selecting the Members of the Appellate Tribunal and the Chairperson and Members of the Central Commission, constitute a Selection Committee consisting of –</p> <p>(a) Member of the <u>Niti Aayog</u> incharge of the energy sector ... (Chairperson)</p> <p>(2) For the purposes of clause (d) of sub-section (1), the Central Government shall nominate from amongst persons holding the post of chairperson or managing director, by whatever name called, of any public financial institution</p>	

	<p>whatever name called, of any public financial institution specified in section 4A of the Companies Act, 1956.</p> <p>(9) No appointment of the Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee:</p> <p>Provided that nothing contained in this section shall apply to the appointment of a person as the Chairperson of the Central Commission where such person is, or has been , a Judge of the Supreme Court or the Chief Justice of a High Court.</p>	<p><u>defined in clause (72) of section 2 of the Companies Act, 2013 .</u></p> <p>(9) No appointment of the Chairperson or other Member shall be invalid merely by reason of any <u>vacancy, other than that of Chairperson, in the Selection Committee.</u></p>	
Section 79. (Functions of Central Commission)	<p>(1) The Central Commission shall discharge the following functions, namely:-</p> <p>(f) to adjudicate upon disputes involving generating companies or transmission licensee in regard to matters connected with clauses (a) to (d) above and to refer any dispute for arbitration;</p> <p>(j) to fix the trading margin in the inter-State trading of electricity, if considered, necessary;</p>	<p>(1) The Central Commission shall discharge the following functions, namely:-</p> <p>(f) <u>to adjudicate upon the disputes including those relating to performance of obligations under a contract related to sale, purchase or transmission of electricity, involving generating companies or licensees in regard to matters connected with clauses (a) to (d);</u></p> <p><u>(fa) to adjudicate upon the disputes involving the National Load Despatch Centre or the Regional Load Despatch Centre in regard to matters connected with sections 26, 28 and 29;</u></p> <p>(j) to fix the trading margin in the inter-State trading of electricity, if considered, necessary;</p>	

	(k) to discharge such other functions as may be assigned under this Act.	<p><u>(ja) to grant licence for distributing electricity in more than one State;</u></p> <p>(k) to discharge such other functions as may be assigned under this Act.</p> <p><u>Provided that the Chairperson of the Central Commission shall constitute a Bench consisting of a Member appointed under clause (c) of sub-section (2) of section 77 and not more than one Member, as may be nominated by the Chairperson, who shall discharge the functions as provided in clauses (f) and (fa).</u></p>	<p><u>The proposed insertion of Clause (ja) will lead to avoidable confusion and duplication of jurisdiction between CERC and SERCs. As such this provision should ideally be deleted.</u></p> <p><u>If at all it is considered necessary, the provision should be modified as under</u></p> <p><u>“(ja) to regulate licence of deemed licences referred to in 3rd proviso and 4th proviso to section 14 of the Act, for distributing electricity in more than one State;”</u></p> <p><u>The proviso under clause (k) of 79 (1) may be modified as under:</u> “Provided that the Chairperson of the Central Commission shall<u>may</u> constitute a Bench consisting of a Member appointed under clause (c) of sub-section (2) of section 77 and not more than one<u>two</u> Members, as may be nominated by the Chairperson, who shall discharge the functions as provided in clauses (f) and (fa).”</p>
Section 82. (Constitution)	(4) The State Commission shall consist of not more than three Members, including the	(4) <u>The State Commission shall consist of a Chairperson and three other Members.</u>	

of State Commission)	Chairperson		
Section 82. (Constitution of State Commission)	Nil	(6) <u>If any State Commission is unable to perform its functions on account of vacancies, the Central Government may, in consultation with the State Government concerned, entrust its functions to any other State Commission or Joint Commission, as it deems necessary.</u>	<u>The proposed insertion of section 82(6) may be modified as under:</u> “If any State Commission is unable to perform its functions on account of vacancies, the Central Government may, in consultation with <u>with the consent of</u> the State Government concerned, entrust its functions to any other State Commission or Joint Commission, as it deems necessary.”
Section 84. (Qualification s for appointment of Chairperson and Members of State Commission)	<p>(1) The Chairperson and the Members of the State Commission shall be persons of ability, integrity and standing who have adequate knowledge of, and have shown capacity in, dealing with problems relating to engineering, finance, commerce, economics, law or management.</p> <p>(2) Notwithstanding anything contained in sub-section (1), the State Government may appoint any person as the Chairperson from amongst persons who is, or has been, a Judge of a High Court:</p> <p>Provided that no appointment under this sub-</p>	<p>(1) <u>The Chairperson of the State Commission shall be a person of ability, integrity and standing, who is or has been,—</u></p> <p>(i) <u>the head of an organisation dealing with generation, transmission or distribution of electricity; or</u></p> <p>(ii) <u>a Principal Secretary to the State Government or its equivalent:</u></p> <p><u>Provided that preference shall be given to a person having adequate knowledge and experience of not less than two years in the power sector.</u></p> <p>(2) <u>The Members, other than the Chairperson of the State Commission, shall be persons of ability, integrity and standing having adequate knowledge of and experience in the fields of engineering, law, economics, commerce, finance, public policy, public administration or management and shall be appointed as follows:—</u></p>	<p><u>The expression “head of the organisation” in the proposed amendment 84 (1) (i) may be substituted as “Managing Director or Director or Chief Executive Officer.”</u></p> <p><u>The existing provision for appointment of Retd. High Court Judge as Chairperson of SERC may be retained. In the event a Retd. High Court Judge is appointed as Chairperson, the requirement for appointment of a Legal Member shall be dispensed with.</u></p>

	<p>section shall be made except after consultation with the Chief Justice of that High Court.</p> <p>(3) The Chairperson or any other Member of the State Commission shall not hold any other office.</p> <p>(4) The Chairperson shall be the Chief Executive of the State Commission.</p>	<p><u>(a) one person having adequate qualifications and experience in the field of engineering with specialisation in generation, transmission or distribution of electricity;</u></p> <p><u>(b) one person having adequate qualifications and experience in the field of finance, economics, commerce, public policy, public administration or management; and</u></p> <p><u>(c) one person, who is, or has been holding a judicial office or is a person possessing adequate professional qualifications and experience in law.</u></p>	
<p>Section 85. (Constitution of Selection Committee to select Members of State Commission)</p>	<p>(1) The State Government shall, for the purposes of selecting the Members of the State Commission, constitute a Selection Committee consisting of –</p> <p>.....</p> <p>(c) the Chairperson of the Authority or the Chairperson of the Central Commission Member:</p> <p>(6) No appointment of Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection</p>	<p>(1) The State Government shall, for the purposes of selecting the Members of the State Commission, constitute a Selection Committee consisting of –</p> <p>.....</p> <p>(c) <u>a nominee of the Central Government not below the rank of Additional Secretary to the Government of India Member;</u></p> <p>(6) No appointment of Chairperson or other Member shall be invalid merely by reason of any <u>vacancy, other than that of Chairperson, in</u></p>	<p><u>The existing provision in the 2003 Act may be retained.</u></p>

	Committee.	<u>the Selection Committee</u>	
Section 86. (Functions of State Commission)	<p>(1) The State Commission shall discharge the following functions, namely: -</p> <p>(a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case maybe, within the State:</p> <p>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;</p> <p>(e) promote co-generation 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;</p>	<p>(1) The State Commission shall discharge the following functions, namely: -</p> <p>(a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case maybe, within the State:</p> <p><u>Provided that the tariff recovers all prudent costs incurred for supply of electricity and also provide reasonable returns on investment and take necessary steps to ensure financial stability of the licensees:</u></p> <p><u>Provided further that</u> 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;</p> <p>(e) <u>promote 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 person, a percentage of the total consumption of electricity in the area of supply of a distribution licensee which shall not be less than such percentage as may be prescribed by the Central Government;</u></p>	<p><u>The proposed insertion in form of 1st proviso to section 86(1) (a) appears redundant. The guiding principles under section 61 are wider in scope and adequately take care of this aspect as well as several other factors like efficiency, consumer interest etc. Accordingly, this provision may be deleted.</u></p> <p><u>The proposed amendment to 86(1) (e) may be modified as under:</u></p> <p><u>(e) “promote non-fossil fuel based co-generation, 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 person, a percentage of the total consumption of electricity in the area of supply of a distribution licensee which shall not be less than such percentage</u></p>

	<p>(f) adjudicate upon the disputes between the licensees, and generating companies and to refer any dispute for arbitration;</p> <p>Nil</p>	<p><u>(ea) promote co-generation of electricity;</u></p> <p><u>(f) adjudicate upon the disputes including those relating to performance of obligations under contracts related to sale, purchase or transmission of electricity involving generating companies or licensees;</u></p> <p><u>Provided that in case of reneging of Power Purchase Agreement by a generating company or a licensee, the dispute shall be adjudicated along with appropriate compensation to the affected party, within ninety days from the date of submission of petition to the Appropriate Commission;</u></p> <p><u>(fa) adjudicate upon the disputes involving the State Load Despatch Centre in regard to matters connected with section 32 and section 33;</u></p> <p>(j) fix the trading margin in the intra-State trading of electricity, if considered, necessary; and</p> <p><u>(ja) issue directions or guidelines or specify regulations to secure consumer choice and an efficient, coordinated and economical use of the distribution system, where there are more than one distribution licensee in an area of supply;</u></p>	<p>as may be prescribed by the Central Government;”</p> <p><u>(ea) promote fossil fuel based co-generation of electricity</u></p>
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	<p>(k) discharge such other functions as may be assigned to it under this Act.</p>	<p><u>(jb) review the resource adequacy at intervals of every six months for each of the distribution licensees in accordance with the guidelines issued by the Central Government;</u></p> <p>(k) discharge such other functions as may be assigned to it under this Act <u>by the Central Government or the State Government</u>.</p> <p><u>Provided that the Chairperson of the State Commission shall constitute a Bench consisting of a Member appointed under clause (c) of sub-section (2) of section 84 and not more than one Member, as may be nominated by the Chairperson, who shall discharge the functions provided in clauses (f) and (fa).</u></p>	<p><u>The insertion in clause (k) viz., “Central Government” may be deleted.</u></p> <p><u>The proviso to the clause (k) may be modified as under:</u></p> <p>“Provided that the Chairperson of the State Commission shall constitute a Bench consisting of a Member appointed under clause (c) of sub-section (2) of section 84 and not more than one <u>two</u> Members <u>including Chairperson</u>, as may be nominated by the Chairperson, who shall discharge the functions provided in clauses (f) and (fa).”</p>
<p>Section 89. (Term of office and conditions of service of Members)</p>	<p>(1) The Chairperson or other Member shall hold office for a term of five years from the date he enters upon his office:</p> <p>Provided that the Chairperson or other Member in the Central Commission or the State Commission shall not be eligible for re-appointment in the same capacity as the Chairperson or a Member in that Commission in which he had earlier held office as such :</p> <p>Provided further that no Chairperson or Member shall hold office as such after he has attained the age of sixty-five years.</p>	<p>(1) The Chairperson or other Member shall hold office for a term of five years from the date he enters upon his office:</p> <p>Provided that the Chairperson or other Member in the Central Commission or the State Commission shall not be eligible for re-appointment in the same capacity as the Chairperson or a Member in that Commission in which he had earlier held office as such :</p> <p>Provided further that no Chairperson or Member shall hold office as such after he has attained the age of <u>sixty-seven</u> years.</p>	<p><u>In order to maintain continuity and avoid any confusion / interpretation, it may be added that the upper age limit of 70 years shall be applicable to the Chairperson or Member(s)</u></p>

			<u>already serving in the Central / State Electricity Regulatory Commission.</u>
Section 90. (Removal of Member)	<p>(2) The Central Commission, in the case of a Member of the Central Commission, and the State Government, in the case of a Member of the State Commission, may by order remove from office any Member, if he-</p> <p>Provided that no Member shall be removed from his office on any ground specified in clauses (d), (e) and (f) unless the Chairperson of the Appellate Tribunal on a reference being made to him in this behalf by the Central Government, or the State Government, as the case may be, has, on an inquiry, held by him in accordance with such procedure as may be prescribed by the Central Government, reported that the Member ought on such ground or grounds to be removed.</p>	<p>(2) The Central Commission, in the case of a Member of the Central Commission, and the State Government, in the case of a Member of the State Commission, may by order remove from office any Member, if he-</p> <p>(g) <u>has wilfully violated or overlooked the provisions of this Act or the rules or regulations made thereunder; or</u></p> <p>(h) <u>has been grossly negligent in performing one or more functions assigned to him or the Commission under this Act or the rules or regulations made thereunder;</u></p> <p>Provided that no Member shall be removed from his office on any ground specified in <u>clauses (d), (e), (f), (g) and (h)</u> unless the Chairperson of the Appellate Tribunal on a reference being made to him in this behalf by the Central Government, or the State Government, as the case may be, has, on an inquiry, held by him in accordance with such procedure as may be prescribed by the Central Government, reported that the Member ought on such ground or grounds to be removed.</p>	<p><u>The Commission is a collegiate body and the decision is taken by majority. Moreover, the orders of the Commission are appealable have before the APTEL and Supreme Court and involves legal interpretations which might differ from one another. The decision of the superior court even in cases completely overruling the subordinate court does not lead to removal of the members of the subordinate court. Accordingly, the proposed insertions of clauses (g) and (h) may be deleted.</u></p>
Section 94. (Powers of Appropriate Commission)	Nil	<u>(4) An order made by the Appropriate Commission or its Bench shall be executable as a decree of a civil court and, for this purpose, such Commission or Bench shall have all the powers of a civil court including but not limited to powers of attachment and sale of property</u>	

		<p><u>and appointment of a receiver.</u></p> <p>(4)(5) <u>Notwithstanding anything contained in sub-section (4), the Appropriate Commission or Bench referred to in that sub-section may transmit an order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.</u></p>	
Section 112. (Composition of Appellate Tribunal)	(1) The Appellate Tribunal shall consist of a Chairperson and three other Members.	(1) The Appellate Tribunal shall consist of a Chairperson and <u>such number of other Members, not less than three, as may be prescribed by the Central Government.</u>	
Section 128. (Investigation of certain matters)	(2) Notwithstanding anything to the contrary contained in section 235 of the Companies Act, 1956, the Investigating Authority may, at any time, and shall, on being directed so to do by the Appropriate Commission, cause an inspection to be made, by one or more of his officers, of any licensee or generating company and his books of account; and the Investigating Authority shall supply to the licensee or generating company, as the case may be, a copy of his report on such inspection.	(2) Notwithstanding anything to the contrary contained in <u>section 210 of the Companies Act, 2013</u> the Investigating Authority may, at any time, and shall, on being directed so to do by the Appropriate Commission, cause an inspection to be made, by one or more of his officers, of any licensee or generating company and his books of account; and the Investigating Authority shall supply to the licensee or generating company, as the case may be, a copy of his report on such inspection.	
Section 131. (Vesting of property of Board in State Government)	<p>(7) The Board shall cease to be charged with and shall not perform the functions and duties with regard to transfers made on and after the effective date.</p> <p><i>Explanation.-</i> For the purpose of this Part, -</p> <p>a. "Government company" means a</p>	<p>(7) The Board shall cease to be charged with and shall not perform the functions and duties with regard to transfers made on and after the effective date.</p> <p><i>Explanation.-</i> For the purpose of this Part, -</p> <p>a. "Government company" means a</p>	

	<p>Government Company formed and registered under the Companies Act, 1956.</p> <p>b. "company" means a company to be formed and registered under the Companies Act, 1956 to undertake generation or transmission or distribution in accordance with the scheme under this Part.</p>	<p>Government Company formed and registered under <u>the Companies Act, 2013</u>.</p> <p>b. "company" means a company to be formed and registered under <u>the Companies Act, 2013</u> to undertake generation or transmission or distribution in accordance with the scheme under this Part.</p>	
<p>Section 142. (Punishment for non-compliance of directions by Appropriate Commission)</p>	<p>In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person has contravened any of the provisions of this Act or the rules or regulations made thereunder, or any direction issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, which shall not exceed one lakh rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction.</p>	<p><u>(1) Where the Appropriate Commission is satisfied on a complaint made to it or otherwise that any person has contravened any of the provisions of this Act or the rules made thereunder, the Commission may after giving such person an opportunity of being heard, by order in writing, direct that without prejudice to any other penalty to which he may be liable under this Act, such person shall be liable to pay a penalty, which shall not exceed one crore rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six lakh rupees for each day during which the failure continues after contravention of the first such direction.</u></p> <p><u>(2) Where the Appropriate Commission is satisfied on a complaint made to it or otherwise that any person has contravened any regulation, direction or order issued by it, the Commission may after giving such person an opportunity of being heard, by order in writing, direct that without prejudice to any other penalty to which he may be liable under this Act, such person shall be liable to pay a penalty, which shall not exceed ten lakh rupees for each contravention and in case of a continuing</u></p>	<p><u>The distinction carved out between rules and the regulations in terms of enforcement of section 142 may lead to avoidable confusions as regulations are also made under or in compliance with the provisions of the Act. Accordingly, the clauses (1) and (2) may be merged.</u></p> <p><u>The penalty for shortfall in purchase of renewable energy, need to be decided by the State Commission.</u></p>

		<p><u>failure with an additional penalty which may extend to sixty thousand rupees for each day during which the failure continues after contravention of the first such direction.</u></p> <p><u>(3) Notwithstanding anything contained in sub-sections (1) and (2), where the Appropriate Commission is satisfied on a complaint filed before it or otherwise, that obligated entity has not purchased power from renewable sources of energy as 5 specified under clause (e) of sub-section (1) of section 86, the Commission shall after giving such entity an opportunity of being heard, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall be liable to pay a penalty of a sum calculated at a rate of—</u></p> <p><u>i. not less than twenty-five paisa per kilowatt-hour and not more than thirty-five paisa per kilowatt-hour for the shortfall in purchase in the first year of default;</u></p> <p><u>ii. not less than thirty-five paisa per kilowatt-hour and not more than fifty paisa per kilowatt-hour for the shortfall in purchase continuing after the first year of default.”.</u></p>	
Section 146. (Punishment for non-compliance of orders or directions)	Whoever, fails to comply with any order or direction given under this Act, within such time as may be specified in the said order or direction or contravenes or attempts or abets the contravention of any of the provisions of this Act or any rules or regulations made thereunder, shall be punishable with imprisonment for a term	Whoever, fails to comply with any order or direction given under this Act, within such time as may be specified in the said order or direction or contravenes or attempts or abets the contravention of any of the provisions of this Act or any rules or regulations made thereunder, <u>shall be punishable with fine which may extend to one crore rupees, in respect of each offence</u>	

	<p>which may extend to three months or with fine, which may extend to one lakh rupees, or with both in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to five thousand rupees for every day during which the failure continues after conviction of the first such offence:</p> <p>Provided that nothing contained in this section shall apply to the orders, instructions or directions issued under section 121.</p>	<p><u>and in the case of a continuing failure, with an additional fine which may extend to one lakh rupees for every day</u> during which the failure continues after conviction of the first such offence:</p> <p>Provided that nothing contained in this section shall apply to the orders, instructions or directions issued under section 121.</p>	
Section 152. (Compoundin g of offences)	<p>(1) Notwithstanding anything contained in the Code of Criminal Procedure 1973, the Appropriate Government or any officer authorized by it in this behalf may accept from any consumer or person who committed or who is reasonably suspected of having committed an offence of theft of electricity punishable under this Act, a sum of money by way of compounding of the offence as specified in the Table below:</p>	<p>(1) Notwithstanding anything contained in the Code of Criminal Procedure 1973, the Appropriate Government or any officer authorized by it in this behalf <u>shall accept</u> from any consumer or person who committed or who is reasonably suspected of having committed an offence of theft of electricity punishable under this Act, a sum of money by way of compounding of the offence as specified in the Table below:</p>	
Section 166. (Coordinatio n Forum)	<p>(3) The Chairperson of the Central Commission shall be the Chairperson of the Forum of regulators referred to in sub-section (2).</p>	<p>(3) The Chairperson of the Central Commission shall be the Chairperson of the Forum of regulators referred to in sub-section (2).</p> <p><u>(3A) The Forum of Regulators referred to in sub-section (2) shall discharge the following functions, namely:—</u></p> <p><u>(a) prepare and lay on model regulations for the guidance of State Commission for the purposes of sub-section (1) of section 42, sub-section (1) of section 43, sub-sections (1) and (2) of</u></p>	

		<p><u>section 60A, section 61 and the first proviso to sub-section (1) of section 62, in accordance with the provisions of this Act and the rules made thereunder;</u></p> <p><u>(b) monitor the status of compliance of the provisions of clause (e) of sub-section (1) of section 86 by distribution licensees on annual basis and submit a report to the Central Government; and</u></p> <p><u>(c) any other functions, as may be prescribed by the Central Government.</u></p>	<p><u>The proposed insertion in clause (b) restricts FOR to monitoring the compliance. Ideally the FOR should decide the monitoring requirement through consensus. Accordingly, the clause (b) should be deleted.</u></p>
<p>Section 176. (Power of Central Government to make rules)</p>	<p>(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -</p> <p>(a) the time within which the objection and suggestions on the draft National Electricity Plan to be invited by the Authority under the proviso to sub-section (4) of section 3</p>	<p>(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -</p> <p>(a) <u>the security of payment under clause (60a) of section 2;</u></p> <p><u>(aa) the time within which the objection and suggestions on the draft National Electricity Plan to be invited by the Authority under the proviso to sub-section (4) of section 3;</u></p> <p><u>(ab) the manner of concurrence by the Authority under sub-section (1A) of section 8;</u></p> <p><u>(ac) the criteria for area of supply under clause (b) of section 14;</u></p> <p><u>(ia) the percentage of total consumption of electricity in the area of supply of distribution licensee under clause (e) of sub-section (1) of section 86;</u></p>	<p><u>In view of the modification suggested in 86(1) (e) clause (ia) may be deleted.</u></p>

		<p><u>(qa) the number of members of the Appellate Tribunal under sub-section (1) of section 112;</u></p> <p><u>(xa) any other functions to be discharged by the Forum of Regulators under clause (c) of sub-section (3A) of section 166;</u></p>	
Section 178. (Powers of Central Commission to make regulations)	<p>(2) In particular and without prejudice to the generality of the power contained in sub-section (1), such regulations may provide for all or any of following matters, namely:-</p> <p>(v) the manner of making an application before the Central Commission and the fee payable therefor under sub-section (1) of section 64;</p>	<p>(2) In particular and without prejudice to the generality of the power contained in sub-section (1), such regulations may provide for all or any of following matters, namely:-</p> <p>(v) <u>the time, manner of making an application</u> before the Central Commission and the fee payable therefor under sub-section (1) of section 64;</p>	
Section 181. (Powers of State Commissions to make regulations)	<p>Nil</p> <p>Nil</p> <p>Nil</p> <p>(zg) the manner of making an application before the State Commission and the fee payable therefor under sub-section (1) of section</p>	<p><u>(la) the payment of transmission charges and a surcharge thereon by the consumer under proviso to sub-clause (ii) of clause (c) of section 40;</u></p> <p><u>(zba) the arrangements for sharing of power and associated costs amongst the distribution licensees in the area of supply under sub-section (1) of section 60A;</u></p> <p><u>(zbb) the managing of cross subsidy balancing fund by a Government company under sub-section (2) of section 60A;”;</u></p> <p>(zg) <u>the time, manner of making an application</u> before the State Commission and the fee payable therefor under sub-section (1) of section 64;</p>	

	64; Nil	<u>(zia) securing the consumer choice under clause (ja) of sub-section (I) of section 86;</u>	
Section 183. (Power to remove difficulties)	(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:	<p>(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:</p> <p><u>(1A) Notwithstanding anything contained in sub-section (I), if any difficulty arises in giving effect to the provisions of this Act as amended by the Electricity (Amendment) Act, 2022, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:</u></p> <p><u>Provided that no such order shall be made under this section after the expiry of a period of two years from the date of commencement of the Electricity (Amendment) Act, 2022.</u></p>	

SUGGESTIONS OF FORUM OF REGULATORS ON VARIOUS CLAUSES OF GEOA RULES

SL. NO.	ISSUE/PARAMETER	GEOA CLAUSES	SUGGESTIONS
1	Interpretation of Monthly Banking, permitted quantum of banked energy and determination of Banked Energy	<p>8(1) Banking shall be permitted at least on a monthly basis on payment of charges to compensate additional costs, if any, to the distribution licensee by the Banking and the Appropriate Commission shall fix the applicable charges.</p> <p>8(2) The permitted quantum of banked energy by the Green Energy Open Access consumers shall be at least 30% of the total monthly consumption of electricity from the distribution licensee by the consumers</p> <p>Explanation: For the purposes of this rule, the expression—Banking means the surplus green energy injected in the grid and credited with the distribution licensee energy by the Green Energy Open Access consumers and that shall be drawn along with charges to compensate additional costs if any:</p> <p>Provided that the credit for banked energy shall not be permitted to be carried forward to subsequent months and the credit of energy banked during the month shall be adjusted during the same month.</p>	<p>The words ‘at least’ on monthly basis under Rule 8(1) may be deleted, as it contradicts with provisions stipulated under Proviso to Rule 8 (2):</p> <p>Provided that the credit for banked energy shall not be permitted to be carried forward to subsequent months and the credit of energy banked during the month shall be adjusted during the same month.</p> <p>Further, since this is monthly banking, no percentage needs to be fixed. Hence, Rule 8(2) may be deleted</p>
2	Implicit waiver from DSM charges for GEOA	<p>9 (1) The charges to be levied on Green Energy Open Access consumers shall be as follows: -</p> <p>(a) Transmission charges;</p> <p>(b) Wheeling charges;</p> <p>(c) Cross subsidy Surcharge;</p> <p>(d) Standby charges wherever applicable; and</p> <p>(e) No other charges except the charges above, shall be levied</p>	<p>Rule 9(1)(e) does not include SLDC/ RLDC fees/ charges, scheduling /rescheduling charges, DSM/ Deviation charges etc. and these charges cannot be avoided.</p> <p>Therefore, the following point may be added under Rule 9(1) (e) and current Rule 9(1)(e) may be renamed as Rule 9 (1)(f) and read as under:</p>

			(e) Applicable scheduling Fees/ Charges of SLDC/ RLDC and DSM/ Deviation charges
3	Cross-subsidy surcharge & conditions for GEOA not aligned with Cross-subsidy surcharge formulation under Tariff Policy	<p>9(2) The Cross-subsidy surcharge shall be as per the provisions of tariff policy notified by the Central Government under the Act:</p> <p>Provided that the cross-subsidy surcharge for Green Energy Open Access, Consumer purchasing green energy, from a generating plant using renewable energy sources, shall not be increased, during twelve years from the date of operating of the generating plant using renewable energy sources, by more than fifty percent of the surcharge fixed for the year in which open access is granted;</p>	<p>As per the Tariff Policy formulation, CSS is computed in such a way that it compensates the distribution licensee, for the loss of cross-subsidy as provide in the formula as under:</p> $S=T-[C (1+L/100)+D+R]$ <p>Further, there are other conditions/provisions stipulated under the Electricity Act and Tariff Policy for determination of ‘Surcharge’ as under:</p> <ul style="list-style-type: none"> ○ Since single formula may not work for all states, the SERCs while keeping overall objectives of Electricity Act in view, may review and vary the same taking into consideration different circumstances prevalent in the state ○ The cross-subsidy surcharge should be brought down progressively in line with cross-subsidies to various other categories of consumers, as far as possible, at linear rate to a maximum of 20% its operative level. <p>Thus, Surcharge determination is function of utility cost/tariff for consumer category and not really linked to generation cost of green energy resource and its year of commissioning.</p> <p>The 1st proviso under Rule 9(2) may be deleted as the same is inconsistent with the Electricity Act and Tariff Policy</p>

4	Treatment for Waste-to-Energy plant and scope of exemption	<p>9(2) The Cross-subsidy surcharge shall be as per the provisions of Tariff Policy notified by the Central Government under the Act:</p> <p>Provided also that cross subsidy surcharge and additional surcharge shall not be applicable in case power produced from a Waste-to-Energy plant is supplied to the Open Access Consumer.</p>	<p>There is a need to specify the type of WtE plants exempted under the Rule. Such exemption of Surcharge and Additional Surcharge may be extended only to non-fossil fuel or MSW based WtE Plants under GEOA</p> <p>The words, ‘non-fossil fuel based or MSW based’ Waste to Energy plant may be added under 3rd Proviso of Rule 9(2).</p>
5	Applicability of waiver of Open Access charges on generation or consumption of green hydrogen and green ammonia	<p>9(2) The Cross-subsidy surcharge shall be as per the provisions of Tariff Policy notified by the Central Government under the Act:</p> <p>Provided also that Cross subsidy surcharge and additional surcharge shall not be applicable if green energy is utilized for production of green hydrogen and green ammonia</p>	<p>As the cost of generation and storage of green hydrogen and green ammonia is very high, providing such waivers will result in subsidizing the industries at the cost of the other power sector consumers. Therefore, the 4th proviso under Rule 9(2) may be deleted.</p>
6	Applicability of Additional Surcharge	<p>9(2) The Cross-subsidy surcharge shall be as per the provisions of Tariff Policy notified by the Central Government under the Act:</p> <p>Provided further that the additional surcharge shall not be applicable for Green Energy Open Access Consumers, if fixed charges are being paid by such a consumer</p>	<p>The waiver of Additional Surcharge (which is resulting due to stranded capacity due to open access) just because fixed charges are being paid, does not appear to be reasonable and not aligned with regulatory principle of cost reflective recovery.</p> <p>Hence, 2nd proviso under Rule 9(2) may be deleted.</p>
7	Applicability of Standby charges and associated conditions and Explanations	<p>9(4) The standby charges, wherever applicable, shall be specified by the State Commission and such charges shall not be applicable if the Green Energy Open Access Consumers have given notice, in advance at least twenty-four hours before the time of delivery of power, for standby arrangement to the distribution licensee:</p> <p>Provided that the applicable standby charges shall not be more than Ten per cent of the energy charges</p>	<p>The proviso may be modified from : “Standby charges shall not be more than Ten per cent of the energy charges</p>

		applicable to consumer tariff category	<p>applicable to consumer tariff category” to</p> <p>“not be more than Twenty-Five per cent over and above the energy charges applicable to consumer tariff category.”</p> <p>For non-applicability of standby charges, the condition of advance notice “at least twenty-four hours before the time of delivery of power”, may be rephrased as: “atleast a day in advance before gate closure in DAM on D-1 day of delivery of power.</p>
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STATE ELECTRICITY REGULATORY COMMISSION**Model Regulation on Methodology for calculation of Open Access charges
and Banking charges for Green Energy Open Access Consumers–
(DRAFT)**

No.....

Date:

NOTIFICATION

In exercise of the powers conferred under section 181 of the Electricity Act, 2003 (36 of 2003), read with section 42, section 61 and section 86 thereof and all other powers enabling it in this behalf, and after previous publication, the.....State Electricity Regulatory Commission hereby makes the following Regulations, namely-

CHAPTER1**PRELIMINARY****1. Short Title, Extent and Commencement**

- (1) These regulations is called the State Electricity Regulatory Commission (Methodology for determination of Green Energy Open Access Charges) Regulations,2022.
- (2) These Regulations will come into force from the date of their notification in the Official Gazette.
- (3) These Regulations shall extend to the whole of the State of.....

2. Objective

The objective of these regulations is to provide a methodology for the determination of Open Access charges and Banking charges for Green Energy Open Access consumers.

3. Definitions

- (1) In these regulations, unless the context otherwise requires,
- (a) "Act" means the Electricity Act, 2003 (36 of 2003);
 - (b) "Banking" means the surplus green energy scheduled and injected into the grid and credited with the distribution licensee by the Green Energy Open Access consumers;
 - (c) 'Central Commission' means the Central Electricity Regulatory Commission referred to in sub-section (1) of Section 76 of the Act;
 - (d) "Central Nodal Agency" means a Central Nodal Agency as notified by the Central Government to set up and operate a single window green energy open access system for renewable energy;
 - (e) "Commission" means the (Name of State) Electricity Regulatory Commission constituted under the Act;
 - (f) "Day Ahead Market (DAM)" means a market where Day Ahead Contracts are transacted on the Power Exchange(s);
 - (g) "Forum of Regulators" means the Forum as referred to in sub-section (2) of section 166 of the Act;
 - (h) "Fossil Fuel" means fuels such as coal, lignite, gas, liquid fuel or combination of these as its primary source of energy, which are used in Thermal Generating Station for generating electricity;
 - (i) "Green Energy" means the electrical energy from renewable sources of energy including hydro and storage (if the storage uses renewable energy) or any other technology as may be notified by the Government of India from time to time and shall also include any mechanism that utilises green energy to replace fossil fuels including production of green hydrogen or green ammonia as per provision of clause G of sub-rule (2) of rule 4 of Green Energy Open Access Rules, 2022;
 - (j) "Green Open Access Consumer" means any person who has contracted demand or sanctioned load of 100kW or more or such other limit as may be specified by Commission from time to time, except for captive consumers, who are supplied with electricity from green energy sources for their own use by a licensee or the Government or by any other person engaged in the

business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving green energy with the works of a licensee, the Government or such person, as the case may be.

- (k) “Rules” means the Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022 and subsequent amendments;
- (l) “SERC” means the State Electricity Regulatory Commission;
- (m) “Standby charges” means the charges applicable to green energy open access consumers against the standby arrangement provided by the distribution licensee, in case such green energy open access consumer is unable to procure/schedule power from the generating sources with whom they have the agreements to procure power due to outages of generator, transmission systems and the like;

- (2) Words and expressions used and not defined in these regulations but defined in the Act or IEGC or any other regulation of the Appropriate Commission shall have the meaning assigned to them under the Act or the IEGC or the State Grid Code or any other regulation of the Commission as the case may be.

4. Scope

These regulations shall be applicable for allowing Open Access to electricity generated from green energy sources as defined under clause (1) (i) of Regulation 3 of these Regulations, including the energy from non-fossil fuel-based Waste-to-Energy plant for use of Intra-State Transmission System (InSTS) or distribution system or both, which are incidental to Inter-State Transmission of electricity.

CHAPTER2

GREEN ENERGY OPENACCESSCHARGES

5. Charges for Green Energy Open Access

The charges on Green Energy Open Access consumers shall be as follows: -

- (1) Transmission charges;
- (2) Wheeling charges;
- (3) Cross subsidy Surcharge;
- (4) Standby charges wherever applicable;
- (5) Banking Charge and
- (6) Other fees and charges such as SLDC fees and scheduling charges, deviation settlement (DSM) charges as per the relevant regulations of the Commission.

6. Transmission Charges

a) For use of inter-State transmission system: As specified by the Central Commission from time to time.

b) For use of intra-State transmission system:

- i. Transmission Charges for Long-Term/Medium-Term Green Energy Open Access, shall be as below:

$$\text{Transmission Charge} = \frac{\text{Total Transmission System Charges (TTSC)}}{\text{Peak load served (PLS)}}$$

Where, Total Transmission system Cost for InSTS shall be sum of Annual Revenue Requirement (ARR) or annual transmission service charge of Transmission Licensee(s) in the State approved or adopted by the Commission.

PLS is the Peak load served by the State transmission system during the year:

Provided that, in case of multiple transmission licensees in the States, the ARR for all the Transmission licensees shall be pooled together for computation of TTSC.

Transmission Charges will be calculated as Rs/kW/month or Rs/MW/day.

- ii. Transmission Charges for Short-Term Green Energy Open access, shall be computed as:

$$\text{Transmission Charge (STOA)} = \frac{\text{Total Transmission System Charges (TTSC)}}{\text{Energy transmitted by transmission licensee during the year}}$$

Transmission Charge for Short-Term Green Energy Open Access shall be computed in Rs/kWh and it shall be charged on the actual energy transmitted:

Provided that the existing waivers or concessions in the Transmission Charges applicable for green energy open access transactions under ___(State) SERC open Access Regulations shall continue as specified by the ___(State) SERC.

- iii. While determining transmission charges for the ensuing year, Transmission ARR will be trued up by the Commission as per provisions of the MYT Regulations and on considering the Transmission revenue recovered from the Short-term green energy Open Access Consumers for the previous year.
- iv. In case, where a dedicated transmission system used for open access has been constructed for exclusive use of an open access consumer, the transmission charges for such dedicated system shall be worked out by transmission licensee for their respective systems and get the same approved by the Commission. The charges shall be borne entirely by such open access consumer till such time the surplus capacity is allotted and used for by other persons or purposes.
- v. In addition to Transmission Charge, Intra-State Transmission loss shall be applicable to consumers seeking Green Energy Open Access. It shall be determined as average of 52-week Intra-State Transmission loss for the previous financial year as approved by the Commission.

7. Wheeling Charges

a) Wheeling Charges for Long-Term/Medium-Term/Short-Term Green Energy Open Access, shall be computed as:

$$\text{Wheeling Charge} = \frac{\text{Wheeling ARR}}{\text{Energy wheeled during the year}}$$

(i) Wheeling ARR of Distribution Licensee will be as approved by the Commission under MYT Tariff Regulations or Order as the case may be.

(ii) Distribution Licensees need to maintain separate accounting records for the Wires Business and Retail Supply Business and prepare an allocation statement based on the allocation ratio specified by the Commission in the MYT Regulations or any other Regulation or Order as the case may be, for determination of Wheeling ARR for wire business and for determination of wheeling charges thereof.

¹[(iii) In case, voltage-wise segregation (HT/LT) of assets (Gross Fixed Assets) and data of energy wheeled / loss levels over (HT/LT) network is available, separate wheeling charges (HT/LT) shall be determined as under:

$$\text{i. Wheeling Charge (HT)} = \frac{\text{Estimated/Allocated Wheeling ARR (HT)}}{\text{Energy wheeled (HT)}}$$

$$\text{ii. Wheeling Charge (LT)} = \frac{\text{Estimated/Allocated Wheeling ARR (LT)}}{\text{Energy wheeled (LT)}}$$

Where,

Estimated Wheeling ARR = Wheeling ARR (HT) + Wheeling ARR (LT)

HT (Loss) = Average of 52-week Loss at HT distribution system based on sample feeder level Energy Audit (viz. technical loss assessment)

LT (Loss) = Average of 52-week Loss at LT distribution system based on sample feeder level Energy Audit (viz. Technical loss assessment)]

¹This provision may be adopted by States where voltage-wise wheeling charges are being determined.

(iii) Wheeling Charge for Green Energy Open Access shall be computed in Rs/kWh and it shall be charged on the actual energy wheeled:

Provided that the existing waivers or concessions in the Wheeling Charges applicable for renewable energy open access transactions under __ (State) SERC open Access Regulations shall continue as specified by the __ (State) SERC.

b) While determining Wheeling Charges for the ensuring year, Wheeling ARR shall be trued up by the Commission as per the provisions of the MYT Regulations and upon considering the shortfall (excess) revenue recovered from Wheeling Charges for the previous year.

c) In case, where a dedicated distribution system used for open access has been constructed for exclusive use of an open access consumer, the wheeling charges for such dedicated system shall be worked out by distribution licensee for their respective systems and get the same approved by the Commission. Such charges shall be borne entirely by such open access consumer till such time the surplus capacity is allotted and used for by other persons:

Provided also that an open access consumer connected to the Intra State Transmission system shall be liable to pay the wheeling charges determined under this regulation, if such consumer was paying wheeling charges directly or indirectly before availing the green energy open access.

d) In addition to Wheeling Charge, Wheeling loss shall be applicable to consumers seeking Green Energy Open Access and it shall be determined as average of 52-week Wheeling loss for the previous year as approved by the Commission:

Provided that, the Wheeling loss shall include only technical loss and not Aggregate Technical and Commercial loss of that Distribution Licensee. The Commission shall consider the Average 52-week loss for HT/LT network, as applicable;

Provided that if feeder-wise data of losses is not available, the Commission shall consider the voltage-wise sample feeder for determining the wheeling losses.

8. Cross subsidy surcharge

a) If Green energy open access facility is availed by a cross-subsidising consumer of a

distribution licensee of the State, then such consumer, in addition to transmission and wheeling charges, shall pay cross subsidy surcharge determined by the Commission. Cross subsidy surcharge determined on Per Unit basis shall be payable, monthly by the green energy open access consumers based on the actual energy drawn during the month through open access. The amount of surcharge shall be paid to the distribution licensee of the area of supply from whom the consumer was availing supply before seeking open access.

b) The Cross-Subsidy Surcharge (CSS) shall be determined in accordance with the following formula specified in Tariff Policy, 2016 as amended time to time:

$$\text{CSS (S)} = T - [C / (1 - L/100) + D + R]$$

Wherein:

S – surcharge

T – Tariff payable by the relevant category of consumers, including reflecting the Renewable Purchase Obligation

C – Per unit weighted average cost of power purchase by Licensee, including meeting Renewable Purchase Obligation

L – Aggregate of transmission, distribution and commercial losses, expressed as a percentage applicable to the relevant voltage level

D – Aggregate of transmission, distribution and wheeling charge applicable to the relevant voltage level

R – Per unit cost of carrying regulatory assets.

Provided that in case the above formula gives negative value of surcharge, the same shall be zero;

c) The Cross-Subsidy Surcharge shall not exceed 20% of the tariff or Average Billing Rate (ABR) applicable to the category of the consumers seeking Green Energy Open Access:

Provided that the Commission may fix a lower surcharge in the situation of shortages and load shedding by the distribution licensee;

Provided further that such cross-subsidy surcharge shall not be levied in case distribution access is provided to a person who has been availing green power

from the plant established as captive generation plant for his own use;

Provided also that cross subsidy surcharge and additional surcharge shall not be applicable in case power produced from a non-fossil fuel-based Waste-to-Energy plant is supplied to the Open Access Consumer;

d) Cross-Subsidy Surcharge for Green Energy Open Access shall be computed in Rs/kWh and shall be charged on the actual energy consumed by the consumer under Green Energy Open Access.

9. Standby Facility and Charges

a) In case the green energy open access consumer is unable to procure/schedule power from the generating sources with whom they have the agreements to procure power due to outages of generator, transmission systems and the like, standby arrangement shall be provided to Green Energy Open Access consumer by the distribution licensee of the area of its supply.

b) The Standby Charges for Green Energy Open Access for such standby arrangement shall be 125% of normal tariff of the consumer category:

Provided that such Standby Charges shall not be applicable if the Green Energy Open Access Consumers have given notice, atleast a day in advance before gate closure in DAM on 'D-1' day, 'D' being the day of delivery of power, for standby arrangement to the distribution licensee.

c) The Standby Charges for Green Energy Open Access shall be computed in Rs/kWh and it shall be charged on the actual energy drawn by the consumer from distribution licensee during the period of standby availed by Green Energy Open Access consumer in case of outage of RE generator under Green Energy Open Access.

10. Banking Facility and Charges

a) Banking facility shall be provided to the consumers availing Green Energy Open Access. The surplus energy from a 'Green Energy' Generating Station after setoff shall be banked with the Distribution Licensee.

b) The banking facility including injection of surplus energy and drawal of banked

energy shall be subject to scheduling.

- c) The Banking Charges shall be adjusted in kind @ 8% of the energy banked.
- d) The Banking of energy shall be permitted only on monthly basis as per Calendar month:

Provided that the credit for banked energy shall not be permitted to be carried forward to subsequent months and the credit for energy banked during the month shall be adjusted during the same month as per the energy injected in the respective Time of Day ('TOD') slots determined by the Commission in its Orders determining the tariff of the Distribution Licensee;

Provided further that, the energy banked during peak TOD slots shall be permitted to draw during peak as well as off-peak TOD slot. However, the energy banked during off-peak TOD slots shall be permitted to draw during off-peak TOD slot by only paying the banking charges and from off peak TOD slot to peak TOD slot by paying additional charges as may be specified by Appropriate Commission in addition to the banking charges

- d) The un-utilised surplus banked energy at the end of the month, shall be considered as lapsed at the end of each month:

Provided that, the RE Generating Station would be entitled to Renewable Energy Certificates to that extent.

11. Other Charges

In addition to above charges, the consumer availing Green Energy Open Access shall also pay the following charges determined by the Commission as per the provisions of the relevant regulations of the Commission:

- a) Applicable SLDC fees and charges
- b) Scheduling charges
- c) RE Deviation Settlement Charges (RE-DSM)

CHAPTER 3

MISCELLANEOUS

12. Power to give directions

The Commission may from time to time issue such directions and orders as considered appropriate for implementation of these Regulations.

13. 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, may relax any of the provisions of these Regulations on its own motion or on an application made before it by an interested person.

14. Power to amend

The Commission may from time to time add, vary, alter, suspend, modify, amend, or repeal any provisions of these Regulations.

15. Power to remove difficulties

If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by an order, make such provisions, not inconsistent to the provision of the Act and these Regulations, as may appear to be necessary for removing the difficulty.

(Secretary)

SERC

THE COMMENTS OF THE FORUM OF REGULATORS ON SPECIFIC CLAUSES OF THE ELECTRICITY (AMENDMENT) RULES, 2022 ARE AS UNDER:

Following clauses of the electricity Amendment rules, 2022 need to be amended/modified:

- 1) **Rule 2(g):** Co-generation from non -fossil fuel may be added.
- 2) **Rule 10(1):** The Appropriate Commission, shall pass a final order, for resolution of dispute under Sections 79(f) and 86(f), within One Hundred and Twenty days from the date of **completion of the pleadings** in the Commission, which may be extended by thirty days for reasons to be recorded in writing.

Proviso to clause 1 may be deleted as it is not possible to pass interim orders in all proceedings.

- 3) **Rule 10(2):** The APTEL does not have concurrent original jurisdiction as per section 111 of the Act. Clause 2 should be deleted as it is not in consonance with the provisions of the Act.
- 4) **Rule 13:** The Act does not provide for surcharge exceeding 20% of ACOS.
- 5) **Rule 15:** The model regulation can be framed by FOR for subsidy accounting.
- 6) **Rule 16 (1):** It would be desirable that the guidelines on Resource Adequacy framed by the Central Government are aligned with the framework of Resource Adequacy in the Grid Code issued by CERC and framework being worked out by the FOR.
- 7) **Rule 16(3):** The State Commission shall review the resource adequacy, **every year during finalization of ARR**, for each of the distribution licensees. The State Commission may specify non-compliance charges for failure to comply with the Resource Adequacy target approved by the Commission.
- 8) **Rule 19:** The following implementation challenges need to be analysed and resolved before notification of these Rules.
 - a. The continuous addition of RE projects, as and when they are commissioned, in the pool account, would make the tariff of the RE source dynamic and unpredictable in nature, which would be changing every month. This would have implication on the calculation of consumer tariff.
 - b. The benefit/ impact of change in law on one generating company would have an impact on the tariff of the entire pool account.
 - c. The duration for which pooling arrangement is to be carried may be clarified.
- 9) **Rule 19(f):** The trading margin, as notified by the **Appropriate Commission** (or in the absence of such notification, as mutually agreed between the Intermediary Procurer and the End Procurer), shall be payable by the End Procurer to the Intermediary Procurer.

**MODEL REGULATIONS ON VERIFICATION OF STATUS OF GENERATING PLANTS
AND CAPTIVE USERS**

NOTIFICATION

In exercise of powers conferred by sub section (1) of section 181, read with section 9 of the Electricity Act 2003 (36 of 2003) and all other powers enabling it in that behalf, the “State” Electricity Regulatory Commission hereby makes the following Regulations.

1. Short Title and Commencement

- 1.1 These regulations shall be called the “State” Electricity Regulatory Commission (Verification of Captive Generating Plants and Captive Consumers) Regulations, “Notification Year”.
- 1.2 These regulations shall come into force from the date of their notification in the Official Gazette.

2. Objective

The objective of these regulations is to specify the methodology for verification of status of captive generating plants and captive users when consumers import power from their captive generator(s) located either within the State or outside the State.

3. Scope and Extent of Application

- 3.1 These regulations shall apply to all the captive generating plants (CGP) and captive users
- 3.2 These regulations shall extend to the whole of the State of [Name of the State].

4. Definitions

- 4.1 In these regulations, unless the context otherwise requires; -
 - a) “Act” means the Electricity Act, 2003;
 - b) “Captive generating plant” or CGP means a captive generating plant as defined in the Act read with Rule 3 of the Electricity Rules, 2005;
 - c) “Captive User” shall mean the end user of the electricity generated from its own Captive Generating Plant and the term “Captive Use” shall be construed

accordingly;

d) "Electricity Rules, 2005 "means the Rules notified by the Central Government vide G.S.R. 379 (E) dated 8th June 2005 and as amended from time to time;

e) 'Year' means a financial year from 1st April to 31st March.

- 4.2 Words and expressions used in these regulations and not defined herein but defined in the Act or the Electricity Rules, 2005 or any other regulations specified by the State Commission shall, unless the context otherwise requires, have the meanings assigned to them under the Act or the Electricity Rules, 2005 or any other regulation specified by the State Commission, as the case may be.

5. Verification of Status of CGP

- 5.1 Verification of status of CGP and captive users with respect to the criteria of consumption and equity share holding, as prescribed under the Electricity Rules, 2005 shall be done annually by the State Commission after the end of financial year based on the information submitted by the CGP and Captive User.
- 5.2 The CGP and the Captive User shall file affidavit in specified format(s) before the State Commission giving details regarding their electricity generation, entity-wise consumption and equity share holding during the previous year before 30th April each year.
- 5.3 The State Commission shall take assistance of the concerned RLDC, SLDC, Distribution Licensee (in whose area the CGP or Captive User is located) for the verification of captive status of CGP or Captive Users based on the affidavit submitted by such CGP and captive users.

5.4 Verification of consumption criteria

- a) Verification of criteria of consumption shall be based on the net electricity generated from the generating unit(s) in a generating station, i.e gross electricity generated less auxiliary consumption, identified for captive use.
- b) The net electricity shall be determined on annual basis at the end of the year.
- c) Verification criteria for various types of captive users shall be as follows:

Sl No	Type of captive user	Criteria
i	Single captive user	The self-consumption shall not be

		less than 51% of the net electricity generated on an annual basis.
ii	Partnership firm/Limited Liability Partnership (LLP)	The self-consumption shall not be less than 51% of the net electricity generated on an annual basis
iii	Association of Persons (AoP)	The captive users shall consume not less than 51% of the net electricity generated on annual basis for captive use in proportion to their share in the power plant within the variation not exceeding 10%.
iv	Cooperative Society	Members of Society shall collectively consume not less than 51% of the net electricity generated on annual basis
v	Special Purpose Vehicle (SPV)	The captive user(s) shall consume not less than 51% of the net electricity generated on annual basis

- d) Manner of assessment of data related to generation from CGP and consumption by captive user :

SI No	Location	Method of assessment
i	CGP and its captive user(s) are co-located	Based on net generation from the CGP and consumption by the captive user shall be based on the reading of the meter installed for recording the generation at the generation side ("generation meter") and the electricity sourced

		at the consumption side (“consumption meter”).
ii	CGP and its captive users are located within the State (but not co-located),	Based on actual generation from the CGP as per the data provided by the respective SLDC and the corresponding consumption or the actual consumption whichever is lower, based on the meter reading at the user interface with the grid as provided by the concerned SLDC and the distribution licensee in whose area the user(s) are located.
iii	The CGP and its captive user(s) is/are located in different States	Based on actual generation from the CGP as per the data provided by the respective RLDC and the corresponding consumption or the actual consumption whichever is lower, based on the meter reading at the user interface with the grid as provided by the concerned SLDC and the distribution licensee in whose area the user(s) are located.

5.5 **Verification of equity share holding criteria**

a) Verification criteria for various types of CGP shall be as follows:

Sl No	Type of captive user	Criteria	Support Document
i	Single captive user	The user shall hold not	A certificate from

		less than 26% of the equity share capital having voting rights throughout the year	the Company Secretary.
ii	Partnership firm/LLP	Ownership in the captive plant shall be with respect to not less than 26% proprietary interest and control over the generating station or power plant on annual basis.	A certificate from the Company Secretary.
iii	AoP	The captive users shall hold in aggregate not less than 26% of the ownership/paid up equity share capital with voting rights throughout the year	A certificate from a registered Chartered Accountant.
iv	Cooperative Society	Members of society shall collectively satisfy not less than 26% of the ownership on annual basis.	A certificate from District Registrar of Cooperative Society.
v	SPV/ Company	The captive user(s) shall hold in aggregate not less than 26% of the proportionate paid up equity share capital with voting rights of the units identified for captive use (i.e. the proportionate of the Equity of the company related to the	A certificate from a registered Chartered Accountant.

		generating unit or units identified as the CGP) throughout the year	
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6. Consequence of failure to meet Captive user status

- 6.1 The Captive user shall deposit by 30th April of every year, the security deposit in the form of unconditional and irrevocable Bank Guarantee equivalent to 51% captive consumption, to the concerned distribution licensee as payment security against estimated cross subsidy surcharge and additional surcharge as may be decided by the State Commission;

Provided that there shall be no exemption from Cross Subsidy Surcharge and Additional Surcharge on the electricity consumed by non-Captive consumers.

- 6.2 If the CGP or Captive User fails to meet the criteria of ownership and consumption, specified in Rule 3 of Electricity Rule 2005, as amended from time to time, by the end of the year, such CGP or Captive User shall lose its Captive status for that year leading to imposition of Cross Subsidy Surcharge and Additional Surcharge and such other charges as applicable on open access consumers.

7. Detailed Procedure

- 7.1 The State Commission shall publish the detailed procedure for verification of status of CGP and captive users in pursuance to the provision of the Electricity Rules, 2005 and these regulations.

8. Power to remove difficulties

- 8.1 If any difficulty arises in giving effect to the provisions of these Regulations, the State Commission may, by general or specific Order, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty.

(Secretary)
