

MINUTES OF THE 85th MEETING OF FORUM OF REGULATORS

Venue: Dharamshala, Himachal Pradesh

Date/ Day: 18th April, 2023 (Tuesday)

Timing: 9.30 A.M

List of Participants: Annexure – I

The 85th meeting of the Forum of Regulators (FOR) was held under the chairmanship of Shri Jishnu Barua, Chairperson, CERC/FOR.

At the outset, Chairperson, Himachal Pradesh ERC welcomed Chairperson, CERC/FOR and other Chairpersons/Members of the FOR to Dharmshala in Himachal Pradesh to the 85th FOR meeting. He informed the Forum that HPERC had put together a short documentary on the power sector in Himachal Pradesh. He added that Himachal Pradesh has the distinction of being the first hill State in India where target of 100 percent electrification of census villages was achieved in the year 1988 itself and that no peak load restriction has been imposed on the consumers in the State. Chairperson, HPERC also added that no regulatory assets have been created in Himachal Pradesh till date. For consumer protection the Consumer Grievance Redressal Forums for electricity are functional in every district in the State. Himachal Pradesh has plans to be a 'Green Energy State' by 31st March, 2026. He hoped that the Forum has fruitful and meaningful deliberations during the current meeting to guide the power sector all over the country.

1. Delivering his address, Chairperson, FOR / Chairperson, CERC welcomed the Chairpersons and Members of the Electricity Regulatory Commissions to the 85th meeting of Forum of Regulators (FOR) held at Dharamshala and extended his sincere thanks and appreciation to Shri D K Sharma, Chairperson, Himachal Pradesh Electricity Regulatory Commission for hosting the meeting. He lauded Shri Sharma and his team for the meticulous and painstaking arrangements for the meeting and the stay. He added that Himachal Pradesh being a hydro rich State has a huge potential of approximately 25,000 MW of which the harness-able potential is 23,750 MW and is thus one of the leading States contributing to green journey of the country. He also made a special mention of the active role being played by the members of the Forum in highlighting the concerns of the States and suggesting desirable action to be taken by CERC which reflects the true spirit of FOR. Chairperson, CERC/FOR also informed the Forum that as the reserves and ancillary services are a must to balance the intermittency caused by RE, at the behest of CERC, Grid-India is organizing a workshop on

21st April in New Delhi to sensitise the stakeholders especially the State entities and State gencos and urge all ERCs to advise their utilities to participate and share their thoughts on this critical issue. He also expressed pride to be part of the Forum which has worked on a wide variety of subjects ranging from consumer interest, tariffs, green energy promotion, standards of performance to competition and market, to name a few. Chairperson, CERC/FOR also welcomed Shri Suresh Chandra Mahapatra who took charge as Chairperson, Odisha ERC and Shri Alok Tandon on his taking charge as Chairperson, Joint ERC for State of Goa & UTs and were attending the FOR meeting for the first time after assuming office. He also informed the Forum that the 85th meeting of FOR was also his first FOR meeting as Chairperson CERC and earnestly looked forward to the support of all Forum members. He briefly touched upon the agenda items proposed to be discussed in the meeting and looked forward to fruitful discussions.

2. Thereafter, officials of HPERC showed a short documentary detailing the journey of the State of Himachal Pradesh in the power sector and its initiatives towards the development of green energy. It also gave details of the vast hydro potential in the State due to 4 large rivers and that 11,150 MW hydro power is currently being generated in the State through there is a potential of 24566 MW. The documentary also encapsulated the history and the journey of the Himachal Pradesh State Electricity Board, establishment of HPERC, HP State Transmission Utility, HP State Load Despatch Centre and private generation companies. It also brought out the fact that the state had enough potential to tap solar power and that all districts are being targeted to have green power in the years to come. Himachal Pradesh has also set its sights on becoming a Green State by 2026 with the introduction of Electric Vehicles, Green corridors, Green Hydrogen and other green initiatives.
3. Post the documentary, the agenda items were taken up for discussion

AGENDA 1: CONFIRMATION OF MINUTES OF 84th MEETING OF FOR HELD ON 3RD FEBRUARY 2023

4. The Forum was apprised of the discussions of the 84th FOR meeting and Action Taken Reports of the said minutes after which, the minutes of the 84th FOR meeting was confirmed.

AGENDA 2: REPORT OF FOR WORKING GROUP ON “RESTRUCTURING OF THE MEMBERSHIP FEES OF FOR

5. The FOR in its 84th meeting had discussed and observed that as the activities of the Forum have increased manifold, there was an urgent need for restructuring the Membership fees and accordingly constituted a Working Group of FOR for the same.
6. The FOR Working Group on “Restructuring of membership fees” under the Chairmanship of Shri R.P Singh, Chairperson, UPERC deliberated on various options of membership fee as also the expenditure for conducting the enhanced activities of FOR and finalized its report. The Working Group report pointed out that primary increase in expenditure vis a vis the budget was on account of capacity building programs where, travel expenses have increased substantially due to reimbursement for Chairpersons travelling as per entitled class fare, in line with the decision of FOR and big increase in airfares post Covid. Additionally, expenses towards conducting FOR meetings have also increased substantially due to increase in boarding and lodging costs post covid.
7. The Forum discussed the report of the Working Group in detail and endorsed all its recommendations. The decision of the Forum after discussion of the report are summarised as under:
 - a) Membership fee: Annual membership fee shall be increased to Rs.10 lakh for each ERC from 2023-24, with a token late fee of Rs.20,000/- if membership fee is not paid by 30th June of the financial year. In this context, Chairperson, Sikkim ERC suggested differential/reduced membership fees for smaller States to which Chairperson UPERC responded that as members of the Forum have an equal voice, the fees would also have to be equal. He also added that as the facilities and privileges for the members participating in various activities of the Forum are uniform for all, differential fees may not be a workable solution. This aspect was deliberated in the past and a view has already been taken. The Forum reiterated the practice of uniform fee for all members of FOR.
 - b) Expenses on meetings: Two meetings of the FOR may be held in Delhi and four meetings may be held outside Delhi. For the meetings outside Delhi, 70% of the total cost incurred on holding the FOR meeting outside Delhi would be reimbursed to the host SERC, subject to a ceiling of Rs 25 lacs. In this context, Chairperson, HPERC requested the Forum to implement this decision prospectively, post the 85th meeting of FOR, to which the members agreed unanimously. As regards meetings of Working Groups / Committees, two meetings may be held in Delhi and four meetings may be held outside Delhi where the host ERC would be

reimbursed 70% of the total cost incurred on holding the FOR meeting subject to a ceiling of Rs 5 lacs.

- c) Expenses towards international travel: As the Forum was incurring substantial costs towards the reimbursement of airfare for international component of the capacity building program, air tickets may be booked in advance preferably two months prior to the training program and advance bulk booking may also be availed. Efforts may be made to obtain Government approval for respective participant well in advance.
- d) Expenses towards studies etc: Funds may be sought from the Central Govt as Grant to take care of costs for studies. In this regard, Secretary, FOR/CERC updated the Forum that FOR Secretariat has already sought funds to the tune of Rs 1.25 Crores from Ministry of Power and will be seeking additional funds of Rs 1.65 Crs for taking up the activities envisaged under the Amended Rules of FOR and for conducting studies.

AGENDA 3: ACCOUNTS RELATED ITEMS

(a) Budget for the FY 2023-24.

- 8. The Budget of FOR was presented after incorporating the recommendations of the FOR WG on restructuring of membership fees.
- 9. With respect to the capacity building programs conducted under the MOU between IIT Kanpur and FOR, the members informed that they were also paying annual fees of around Rs 6 lacs to IIT Kanpur for some capacity building programs and stated there should not be duplicity of payment to IIT Kanpur. In this regard, Chief (RA), CERC clarified that all activities under the MOU between FOR and IIT Kanpur are fully funded by FOR and no further costs need be paid by SERCs. However, if SERCs take up separate and additional programs with IIT Kanpur under an MOU between the concerned SERC and IIT Kanpur, the costs will be paid by the SERC as per the said MOU.
- 10. With the above comments, the Budget of FOR including the proposal for increase in membership fees was approved.

(b) Re-appointment of Auditor and Tax Consultant for the FYs 2022-23 and 2023-24

(c) Re-appointment of GST Consultant for filing the GST returns for the FY 2023-24

- 11. The Forum decided that any firm / consultant should be retained for 3 years subject to satisfactory performance, after which the due process should be followed to appoint a new firm.

AGENDA 4: GREEN ENERGY OPEN ACCESS

(a) Reference from Haryana ERC on applicability of Green Energy Open Access Rules on 100 kw & above consumers

12. Chairperson, Haryana ERC brought to the notice of the Forum Rule 5 of the Electricity (Promoting Renewable Energy through Green Energy Open Access) Rules, 2022 notified by Ministry of Power, Government of India which provided that the consumers who have contracted demand or sanctioned load of 100 kW and above shall be eligible to take power through Green Energy Open Access and there shall be no limit of supply of power for the captive consumers taking power under Green Energy Open Access. He also informed that the existing open access regulations of HERC allow open access to the consumers with contract demand of 500 KW and above and that such consumers are required to be on independent feeder. If such consumers are not on independent feeder, they are not compensated for the under drawl, if any, on account of power cut restrictions/system constraints. He further informed that consumers with contract demand of 100 KW and above are in large number, and they may also not be on independent feeder and that the ibid rules have not mandated to impose further restrictions of independent feeder. In such a scenario, HERC felt that it will be difficult to do the accounting of energy drawl through open access and through the DISCOMs. Further, he added that the allocation of loss of energy drawn through open access, to such an open access consumer will also be a challenge.
13. Chairperson, HERC further added that compensation for under drawl is not allowed for the consumers who are not on independent feeder, as per existing open access regulations of HERC. In fact, in the ibid rules, there is no provision for the situation when there is under drawl on account of power cut restrictions/system constraints. In such a situation, the continuation of provision that no compensation for the under drawl shall be admissible, may be difficult to implement. On these issues, he sought the views of the Forum.
14. In this aspect, Chairperson, JERC (J&K & Ladakh) stated that they have the same problem in Ladakh where Ladakh airport has sought for Green energy open access (GEOA) for 500 kW for solar panel.
15. Chairperson, UPERC stated that this issue is linked to OA regulations. UPERC Regulations in this matter have fixed the limit of 1 MW which is as per the Electricity Act 2003.

Therefore, the same should be allowed only as per the Regulations through a dedicated feeder.

16. Chairperson, KERC stated that their regulations do not stipulate any limits and that only normative losses are considered. Chairperson, TNERC stated that this is already permitted in Tamil Nadu for the past 12 years. For losses, the regulations have detailed at various levels of drawl.
17. The Forum noted the suggestions of HERC and felt that it is desirable to have a dedicated and independent feeder for Open Access but there are practices in other States where accounting of energy as well as losses is possible even where are no independent feeders. The best practices in this regard, specially from TNERC and KERC are attached at **Annexure II & III** respectively.

(b) Reference from Ministry of Power on FOR Model regulations on Green Energy Open Access

18. The Forum was apprised of a reference from the Ministry of Power (MOP) in connection with the FOR Model Regulations on “Calculation of Open Access charges and banking charges for Green energy Open Access consumers”.
19. In this context, the Forum deliberated the suggestions of MoP and decided as under:
 - i) MOP has suggested that *Banking charges for off-peak-to-off-peak transactions shall be charged @ 5% (in kind) which is sufficient to cover the effect on fixed charge liability of distribution company, power management costs and incidental administrative costs in procuring additional energy when the banked energy is returned/ drawn by the Green Open Access Consumer.* In this context, Chairperson, UPERC opined that 5% will not take care of distribution losses of discoms. In fact, even 8% is not sufficient as the discom has to bear transaction charges for purchase and sale of power on the exchange. Chairperson, TNERC added that Prayas had made a study for Karnataka, which was presented before the Forum and they had recommended 8% for Karnataka, but related to market and acknowledged that the cost on discom is high. The Forum after deliberations decided that the banking charges of 8% is adequate and further reduction would lead to resistance from the discoms .

- ii) MOP suggested that *There shall not be any additional charges on banking charges for off-peak to peak transactions. Instead, a single banking charge @ 8% (in kind) may be charged to take care of extra costs involved in procuring power during peak period.* The Forum observed that the peak charges / average MCP during peak hours were very high (nearly 2.5 times) compared to off-peak charges / average MCP during off-peak hours. These aspects need be examined before deciding on the off-peak to peak banking charges.
- iii) MOP suggested that *Transmission and wheeling charges/ losses shall be levied only once. If transmission and wheeling charges/losses had been levied on full quantum of banked energy during injection, then no further transmission and wheeling charges/ losses shall be levied on banked energy during drawl.* The Forum agreed to the suggestion and directed that suitable modifications be made in the Model Regulations.
- iv) MOP suggested that *the credit for banked energy shall not be permitted to be carried forward to subsequent banking cycles and shall be adjusted during the same banking cycle. The banked power remaining at the end of the banking cycle shall be credited to the Green Open Access Consumer at the rate of 80% of the tariff discovered in the last competitive bidding in the State or the last competitive bidding held by SECI, whichever is lower.* Some members highlighted the adverse impact of this on the discom. The Forum after detailed discussion felt that the existing provision in the Model Regulations for compensation by granting Renewable Energy Certificates is adequate.

AGENDA 5: PROPOSAL OF CEA REGARDING ENCADREMENT OF CENTRAL POWER ENGINEERING SERVICE (CPES) OFFICERS

- 20. The Forum was apprised of the proposal and reminder sent by CEA to all ERCs on encadrement of CPES officers for posting in various ERCs and requested for comments on manpower requirement, total sanctioned technical strength as well as number of officers and their level which can be considered for posting of CPES officers. CEA has further stated that the Central Power Engineering Services (CPES), administratively controlled by Ministry of Power have domain expertise in all areas of power sector development and hence will be able to meet the requirement of expertise needed for effective functioning of regulators among other agencies.
- 21. Members of the Forum opined that the ERCs are the appointing authorities in respect of their staff. The officials from CPES may apply for positions in ERCs when applications are called

for and their selection will be decided on merit and as per the need of the ERCs. Encadrement may not be required.

**AGENDA 6: REVIVAL OF GAS BASED POWER PLANTS IN INDIA -
REFERENCE FROM TERC**

22. Chairperson, Tripura ERC brought to the notice of the Forum that in view of the increasing demand of power in the country, one should effectively utilise the existing 25000 MW stranded capacities of gas based power plants in the country and that FOR may constitute a Working Group who can study aspects such as an operational financial model , reducing Return on Equity , operationalising a Viability Gap Funding (VGF) scheme, explore alternative sources of gas such as import on a long term basis, run these plants on a Must run principle , introduce gas based obligations similar to RPO, SPO, HPO or through SPVs etc. These steps could help revive the 25000 MW gas-based power plants.
23. Chairperson, UPERC observed that as the thrust is more on increasing RE generation , the same is displacing other sources of fuel. He added that stranding capacity can be revived only if the load increases vis a vis the installed capacity. In recent past, the international gas prices were very high due to the war in Ukraine. However, it is also observed that the prices are reducing gradually. He also opined that it is not the authority of the regulators to revive / promote any particular source of fuel plants as Regulators are technology neutral. Rather, this is in the domain of the Government. In fact, the Government has already taken a pragmatic view and is rationalising the gas prices. Chairperson, UPERC further added that as the international prices of gas reduce and demand increases, the prices of gas will stabilise on its own without any push either from the Regulators or from the Government. Chief (RA), CERC opined that as the Regulatory Commissions have an advisory role, they may give their advice on reviving such plants to the Government under Sections 79(2) and 86(2) of the Electricity Act 2003. In fact, many reports of FOR have been accepted by Government of India.
24. Member (Technical), CERC observed that in view of the situation of shortage of power, it is important to bring gas-based plants into Ancillary services.
25. The Forum noted the proposal of TERC for consideration by the FOR Working Group on Resource Adequacy.

**AGENDA 7: RELATIVELY HIGHER TRADING MARGIN OF TRADING
LICENSEE IN LOW RISK PROJECTS- REFERENCE FROM RERC**

26. Chairperson, Rajasthan ERC brought to the notice of the Forum the relatively higher trading margin of trading licensee in low risk projects. He referred to the CERC Trading Regulations which has provided that a higher trading margin can be agreed to by the parties where the trading licensee has certain risks for which it is entitled to a higher consideration as may be agreed to. Hence, he stated that in all such cases where Discom provides unconditional LC back to back to trading licensee (such as SECI,) and the cost of opening the LC is being borne by the discom, the trading margin should be restricted to 2.0 paise/KWh or 1% of tariff and requested CERC to consider this aspect.
27. Chairperson, HERC also felt that the traders do not face any risk if the Discoms submit unconditional and back to back LC and hence, they need not be paid 7 paise/unit.
28. Chairperson, UPERC remarked that as the RFP issued by MOP in 2020 mentions 7 paise/unit to be the trading margin, it becomes the right of the trader to claim the said trading margin. Therefore, if the trading margin has to be reduced, the relevant changes in the SBD need be made by MOP. Another alternative is that the discoms may approach the Appropriate Commission to take approval of the trading margin before going ahead with the bidding.
29. Chairperson, TERC informed that trading margin of 7 paise/unit corresponds to a huge amount whereas traders do not have any financial involvement in the entire gamut of activities.
30. Member (Technical), CERC clarified that 7 paise/unit is allowed in CERC Regulations in cases where the traders open LCs in favour of the generators inter alia to take care of the LC related charges. In cases where the traders do not open LCs in favour of the generators the trading margin is restricted to 2 paise/unit. The risks are two-fold, one generator to trader and the other trader to buyer/discom. Both aspects need be considered before deciding on this issue.
31. The Forum deliberated and decided that CERC may examine and take necessary action . The Forum Secretariat may write to MOP and MNRE to amend the SBD/RFP and leave the

trading margin to be decided by the Appropriate Commission so that there is competition in the market.

AGENDA 8: GST ON LICENCE FEE/PETITION FEE / ERC - REFERENCE FROM KSERC & TSERC

32. Chairperson, Kerala ERC updated the Forum that similar to GST notices received by other SERCs, Kerala ERC also received a notice/summons from Goods & Taxes Department, Kerala intimating KSERC to pay GST on licence fee/ petition fee w.e.f 1st July 2017 which may include interest arrears. He added that if interest is demanded on the same, then many ERCs will not be in a financial position to pay the same. He remarked that as State Commissions are deemed to be a Civil Court and its functions are quasi – judicial in nature, ERCs need not pay GST. He requested the FOR to take up the same with the GST Council.
33. Chairperson, Telangana ERC also informed the Forum that they too had received a similar notice from the GST authorities and it is apprehended that they will also impose penalty. He requested the Forum for a discussion whether Commission being regulator and statutory quasi-judicial authority by discharging sovereign functions, having trappings of a court, is amenable to levy of GST.
34. Chairperson, UPERC informed that even UPERC received notice from the GST authorities to which they had filed a reply in the matter and also simultaneously filed a Writ in the High Court pleading that license fee is a State Government fund and legally, State income is not taxed. He also opined that the Forum should approach the Ministry of Finance for this issue.
35. In this matter, Member (Finance), CERC updated the Forum that this issue had also come up in CERC and CERC had written to Finance Secretary and the proposal was also referred to the Fitment Committee of the GST Council. CERC being a quasi-judicial body, also maintained the same stand for exemption from GST being opined by the Forum members.. However, the Fitment Committee segregated the functions of CERC into quasi-judicial functions and regulatory functions and decided that while GST is not applicable to quasi-judicial role, the same will be applicable to the regulatory functions. Added to it, the CAG has also raised objection in the audit of CERC.

36. The Forum perused the provisions of the Electricity Act 2003, Electricity Regulatory Commission Act 1998 to understand the financial provisions of Commissions and the types of fees which they can levy and where would the same be deposited.
37. Chairperson, Andhra Pradesh ERC opined that SERCs need to pursue the cases already filed in the High Courts to arrive at a final decision. He also added that the Electricity Act clearly provides that all proceedings before the Commission are judicial in nature.
38. After discussion, the Forum unanimously decided that the artificial delineation of the functions of the Regulatory Commission, as regulatory functions, quasi-judicial functions and administrative functions is not correct as all functions of the Regulatory Commissions flow from the Electricity Act 2003. It was suggested that Chairperson, FOR/CERC may write to GST Council, Ministry of Power and Finance Secretary highlighting the issue and substantiated by case laws suggested by Kerala ERC.

AGENDA NO 9: MINISTRY OF POWER DIRECTION UNDER SECTION 11 TO THE GENERATING COMPANIES HAVING DOMESTIC COAL BASED PLANTS SUPPLYING ELECTRICITY UNDER SECTION 63 OF THE ELECTRICITY ACT 2003- REERENCE FROM KERALA ERC

39. Chairperson, Kerala ERC brought to the notice of the Forum the directions issued under Section 11 by Ministry of Power to the Generating stations having imported coal-based plants and also the consequent benchmark electricity prices worked out by a Committee constituted by the Ministry of Power for such plants. He added that while section 11(1) of the Act confers power to the Appropriate Government only to issue such directions for operating and maintain the generating station, Section 11(2) of the Act confers powers to the Appropriate Commission to fix the tariff offsetting the adverse financial impact of the directions given by the Government under Section 11(1). Hence, the directions given by the Government under Section 11(1) on tariff matters are not legally binding on the State ERCs. He further added that in case of inter State generation and supply, the generator needs to approach CERC if the tariff is inadequate while for intra State supply, they need to approach the State Commission for fixing the compensation. As Section 79(1)(b) and 86(1)(b) state that Central / State Commission will regulate electricity purchase including prices, the MOP cannot issue directions under section 11(1) for fixing compensatory tariff.
40. Chairperson, TNERC informed that TNERC has received petitions from some generators

claiming the prices fixed by the Committee is insufficient due to which the Commission will determine the tariff.

41. Chairperson, UPERC also maintained that Central Government through a Committee is not empowered to fix tariff for Generating Companies, which is the sole domain of the ERCs. Chairperson, Andhra Pradesh ERC also reiterated that Section 11 (2) empowers the Regulators to fix compensation to such generators who are aggrieved under direction given by the Government under section 11(1) of the Act.
42. Member (Technical), CERC clarified that such tariff determined by the Committee for imported coal-based plants is only interim. If any party is aggrieved by the said tariff suggested by the committee, they will anyway approach the Appropriate Commission for relief .
43. The Forum noted and decided that the Regulators may decide accordingly.

**AGENDA NO 10: AMENDMENT TO MOP, GOI GUIDELINES DATED 30TH MARCH 2016
TO SHORT TERM POWER PROCUREMENT AND AMENDMENT TO
MODEL BIDDING DOCUMENT ISSUED ALONGWITH MOP, GOI
GUIDELINES DATED 29.1.2019 RELATED TO MEDIUM TERM
PROCUREMENT OF POWER – REFERENCE FROM DELHI ERC**

44. Member, Delhi ERC informed the Forum that despite Orders and LOA of DERC in petitions for approving supply of RTC power by few generators/ traders to Discoms of Delhi, some generators have refused to honour the existing contractual obligations and backed out from the supply of committed power. As they were bound by the Government of India Guidelines dated 30.3.2016 related to Short term power procurement issued by MOP and by the Guidelines related to Medium term power procurement dated 29.1.2019, the amount of EMD or CPG to be forfeited in such cases is miniscule and is not a deterrent to back out from such contracts. In fact, the discoms are forced to pay much higher costs to make alternate arrangements for such power. In this matter, DERC has written to MOP to consider suitable modifications in the Guidelines of short term and medium-term supply to ensure that generators do not backout from their contractual obligations. He also requested the Forum to consider blacklisting such traders / generators who resort to such tactics and to also take up this issue with MOP so that the Guidelines are modified.

45. Chairperson, UPERC agreed to the suggestion of Member, DERC and opined that such traders who resort to such profiteering by backing out from low cost contracts and then selling such power on the Power exchanges at high cost should be blacklisted / barred. Such instances have happened in UP also which needs to be discouraged.
46. Member (Technical), CERC brought to the notice of the Forum the LPS Rules issued by MOP in 2022 which mentioned that *in case a generating company fails to offer the contracted power as per the agreement to a distribution licensee and sells the contracted power without its consent to any other party, the said generating company, on a complaint to this effect by the licensee to the load dispatch centre concerned, shall be debarred from participating in Power Exchanges and on the Discovery of Efficient Electricity Pricing portal and scheduling of any new short-term contracts from that generating station for a period of three months from the date on which the default has been taken cognizance by the concerned load dispatch centre. The period of debarment shall increase to six months for second default and shall be one year for each successive default.* He added that some cases have come to CERC wherein some generating companies / traders terminate the PPA on the grounds that the licensee has not submitted unconditional LC and then sell the power on the exchange. . Commission is adjudicating such matters.
47. The Forum noted the same.

VENUES FOR NEXT MEETINGS OF FOR:

48. Chairperson, Tamil Nadu ERC offered to host the next FOR meeting in Ooty, Tamil Nadu in the last week of June 2023.
49. Thereafter, Chairperson, Tripura ERC offered to host the meeting in Agartala, Tripura in the last week of August 2023.
50. Chairperson In-charge, Uttarakhand offered to host the FOR meeting in October in Uttarakhand.

CONCLUSION

51. At the end of the meeting, Secretary, FOR/CERC thanked all members of the Forum for participation in the 85th FOR meeting and for taking up all agenda items for detailed discussion,. He requested FOR members to share the proposed agenda items in advance so that the FOR Secretariat is able to share a consolidated agenda for the perusal of the Members. He also thanked Chairperson, CERC/FOR who i chairing his maiden FOR meeting and for his guidance. He also thanked Chairperson, Members, Secretary and Officers of Himachal Pradesh ERC for their painstaking efforts to host and organise the FOR meeting in Dharmshala. He also thanked the efforts of the officials of FOR Secretariat in coordinating with HPERC to smoothly conduct the meeting.

52. The meeting ended with a Vote of thanks to the Chair.

LIST OF PARTICIPANTS OF THE 85TH FORUM OF REGULATORS MEETING

DAY / DATE: TUESDAY, 18TH APRIL, 2023.

**VENUE: DHARAMSHALA,
HIMACHAL PRADESH**

S. No.	NAME	ERC
01.	Shri Jishnu Barua Chairperson	CERC/FOR – in Chair.
02.	Justice (Shri) C.V. Nagarjuna Reddy Chairperson	APERC
03.	Shri Hemant Verma Chairperson	CSERC
04.	Shri R.K. Pachnanda Chairperson	HERC
05.	Shri D.K. Sharma Chairperson	HPERC
06.	Justice (Shri) Amitav Kumar Gupta Chairperson	JSERC
07.	Shri Alok Tandon Chairperson	JERC for State of Goa & UTs
08.	Shri Lokesh Dutt Jha Chairperson	JERC for UTs of J&K and Ladakh
09.	Shri Lalchharliana Pachuau Chairperson	JERC for Manipur & Mizoram
10.	Shri P. Ravi Kumar Chairperson	KERC
11.	Shri T.K. Jose Chairperson	KSERC
12.	Shri S.P.S. Parihar Chairperson	MPERC
13.	Shri Sanjay Kumar Chairperson	MERC
14.	Shri P. W. Ingty Chairperson	MSERC
15.	Shri Khose Sale Chairperson	NERC
16.	Shri Suresh Chandra Mahapatra Chairperson	OERC
17.	Shri Viswajeet Khanna Chairperson	PSERC
18.	Dr. B.N. Sharma Chairperson	RERC
19.	Shri K.B. Kunwar Chairperson	SSERC

20.	Shri M. Chandrasekar Chairperson	TNERC
21.	Shri T. Sriranga Rao Chairperson	TSERC
22.	Shri D. Radhakrishna Chairperson	TERC
23.	Shri Raj Pratap Singh Chairperson	UPERC
24.	Dr. M.V. Rao Chairperson	WBERC
25.	Shri D.P. Gairola Incharge Chairperson	UERC
26.	Shri Mehul M. Gandhi Incharge Chairperson	GERC
27.	Shri Satyendra Nath Kalita Member	AERC
28.	Dr. Akhilesh Kumar Ambasht Member	DERC
29.	Shri Harpreet Singh Pruthi Secretary	CERC/FOR
30.	Dr. Sushanta Kumar Chatterjee Chief (Regulatory Affairs)	CERC
SPECIAL INVITEES		
ERC		
31.	Shri I.S. Jha Member	CERC
32.	Shri Arun Goyal Member	CERC
33.	Shri Pravas Kumar Singh Member	CERC
34.	Shri Yashwant Singh Chogal Member	HPERC
35.	Shri Shashi Kant Joshi Member	HPERC
FOR SECRETARIAT		
36.	Ms. Rashmi Somasekharan Nair Dy. Chief (Regulatory Affairs)	CERC

ANNEXURE – II

GREEN ENERGY OPEN ACCESS (TAMIL NADU)

1. The Electricity Act, 2003, provides the State Commission to introduce the Open Access to all consumers who require the supply from a generating company or any licensee other than the supplying licensee and to come out with the Regulations by every State Commission.
2. The Open Access under Wheeling arrangement is permitted by the Tamil Nadu Electricity Board from 1990s i.e., even before introduction of the Electricity Act 2003. However, it was well streamlined within the frames and the provisions of the Act, under a specific Tariff Order dated 15th May 2006.
3. Under section 42(2) of the Electricity Act, 2003, the Open Access is to be permitted on payment of charges (Wheeling charges, Transmission charges, Additional Surcharge, etc., and all relevant factors including such cross subsidies and other operational constraints.
4. The Open access is thus permitted to such consumers who are requiring to wheel the generated from the Green energy (Non-conventional) as well as Conventional sources. The wheeling of power is permitted to the Green Energy Open Access consumers with a concessional rate of Wheeling/Transmission/Scheduling / System Operation charges / Cross subsidy surcharge. The present rate of Open Access charges levied to the OA consumers is detailed below:-

	Transmission Charges	Wheeling Charges	Cross Subsidy Surcharge	Scheduling & System Operation charges
	(Rs.in Cr.)			
Renewable Energy Sources:	5159.26/MW/day	Re.0.96/kWh	Rs.1.79 (Industry)	Sys.Opn- Rs.69.84/MW/day
				Sche.charge - Rs.161/day / transaction

Wind	50%	50%	60%	50%
Solar	50%	50%	70%	50%
Bagasse	70%	70%	60%	70%
Biomass	60%	60%	60%	60%

5. Though the Electricity Act permits the Open access to such consumers who require a supply of electricity where the maximum power to be made available at any time exceeds one megawatt, the State Commission had a compelling background during the period when “Restriction & Control measures” (Power cut) was severely imposed in the State during 2007, to reduce the same to permit the NCES based generators to have wheeling agreement even less than such ‘one megawatt’ as prescribed in the Act. Such third-party Open Access leniently permitted to the HT consumer on 30.12.2008 and 17.07.2009 with a connected load upto 500 kW and 250 kW respectively.
6. Apart from the charges levied towards the recovery of Distribution & Transmission cost, there will be losses when point of drawal from point of injection irrespective of the voltage levels of injection and drawal. Hence, recovery of such loss of energy during wheeling of power is unavoidable one and the generated energy net of Transmission & Distribution loss in transit to be compensated by the OA consumers. The Open access consumers are, therefore, required to compensate the average transmission/distribution loss from the point of injection to the point of drawal.
7. The scenario for separate feeder for evacuation and utilisation of Green Energy, though it is wide over spoken to be required, it is overcome by the State of Tamil Nadu by adopting the average loss % for different level of Injection & Drawal Voltage EHT/HT lines from the year of 2006. Such recovery of average loss component is accepted by all the generators as well as the licensee so far.
8. Being pioneer in evacuation of Green Energy, in line with the motive to promote the generation of power from Renewable energy-based sources under section 86(1)(e), the State Commission always endeavoured to encourage the Green energy-based

generators and succeeded in solving the discrepancies between the OA consumers and the licensees. The power generation from Green energy sources like wind / solar are starting even from 250 kW to more than 1 MW; there are so many OA captive users from the capacity of 1 MW, therefore, separate feeder for all Green Energy sources are considered through pooling stations. In this circumstance, adoption of average loss component for wheeling of green energy would be the most suitable method for recovery of T&D loss from the OA wheeling consumers. The very same concept is hitherto followed in respect of OA consumers by the State of Tamil Nadu. This average loss component applicable to the Open access is arrived by the State Commission while determining the T&D loss in respect of the Distribution licensee's Tariff petition. The applicable losses adopted for Open Access transactions is detailed below:

Injection Voltage (kV)	Drawal Voltage (kV)	Applicable losses for Open Access transactions (%)
230	230	0.77%
	110	2.34%
	33	3.06%
	22	4.24%
	11	4.29%
110	230	2.34%
	110	3.91%
	33	4.63%
	22	5.81%
	11	5.86%
33	230	3.06%
	110	4.63%
	33	5.35%
	22	6.53%
	11	6.58%
22	230	4.24%
	110	5.81%
	33	6.53%
	22	7.71%
	11	7.76%
11	230	4.29%
	110	5.86%
	33	6.58%

Injection Voltage (kV)	Drawal Voltage (kV)	Applicable losses for Open Access transactions (%)
	22	7.76%
	11	7.81%

9. As enumerated above, the Energy Accounting for this Green energy OA transactions is done as below: -

Illustration: -

		<u>If Injection is 22 kV & Drawal is 110 kV</u>	<u>If Injection is 11 kV & Drawal is 11 kV</u>
Gross generation	-	1,38,019 units	1,38,019 units
Loss component	-	8,019 units (5.81%) (138019 x 5.81%)	10,779 units (7.81%) (138019 x 7.81%)
		-----	-----
Net energy available for adjustment against consumption in User end		- 1,30,000 units -----	1,27,240 units -----

10. Aforesaid loss component recovery is made applicable to all the Open Access transactions including the conventional based Open access. As the average loss component arrived at for various voltage levels based on the overall input energy and drawal, which would well reflect the system's loss level. This has been well accepted by the OA consumers as well as the Distribution licensee since the feasibility of separate feeder for all Green energy based generating sources like Windmills (which are mostly scattered) is remote. Around 16700 Million Units (~ 9000 MW installed capacity – Wheeling alone) are wheeled and adjusted under this method at their respective Consumer user end. This well settled method is followed in the State of Tamil Nadu for about two decades.

ANNEXURE – III

85th FoR meeting

Agenda 4(a): Reference from Haryana ERC on applicability of Green Energy Open Access Rules on 100KW and above consumers.

With reference to the above subject the practice in Karnataka in terms of KERC Regulations and the approved WBA is as follows:

Haryana Regulations	Karnataka Regulations / WBA
Regulation 8(2): (2) Any consumer of a distribution licensee having a contract demand of 0.5 MVA or above and connected to the distribution system of the licensee or to the transmission system of STU or of a transmission licensee other than STU at 11 kV or above, shall be entitled for seeking open access provided he is connected through an independent feeder emanating from a grid sub-station. In case of more than one consumer on such independent feeder, the conditions as in (3) below shall apply.	Regulation 4(4) of KERC (Terms and Conditions for Open Access) Regulations, 2004: Subject to operational constraints and other relevant factors, open access shall be allowed to the consumers by the transmission licensee/s and/or distribution licensee/s in the following phases: Phase-1 All HT installations with Contract Demand of 15 MW and above and with voltage level of 66 kV and above from 10th June 2005. Phase-2 All HT Installations with Contract Demand of 5MW & above and with voltage level 33 kV and above from 1st April 2006. Phase-3 All HT Installations with Contract Demand of 3 MW & above and with voltage level 11 kV and above from 1st April 2007. Phase-4 All HT Installations with Contract Demand of 1 MW & above from 1st April 2008. Thus, in Karnataka Open Access was allowed from 01.04.2008 for all HT installations with CD of 1MW and above, irrespective of whether they are on independent feeder or not. Further, as per the Clause-4(2) of GEOA Regulations, all consumers (except captive consumers) who have CD or sanction load of 100kW and above are eligible for open access and there is no restriction on capacity for captive consumers. Thus, as per GEOA Regulations all consumers irrespective of voltage level having CD or sanction load of 100kW and above, are allowed open access, irrespective of whether they are on independent feeder or not.

<p>Regulations 8(5):</p> <p>(5) The consumers of a distribution licensee with contract demand of 0.5 MVA or above who are not on independent feeders may be allowed open access subject to the condition that they agree to the system constraints as well as the power cut restrictions imposed by the distribution licensee serving them. In such cases, under drawl, if any, on account of power cut restrictions shall not be compensated.</p>	<p>Relevant Clauses of WBA approved by KERC :</p> <p>3.2 Obligations of Corporation/ESCOs</p> <p>The Corporation/ESCOs shall:</p> <p>(i) Subject to system constraints, wheel the Electricity generated by the Company up to the Drawal Point in accordance with the provisions of the Act, Rules and Regulations in force from time-to-time.</p> <p>[Explanation: “System constraint” means a condition or situation under which the electrical system of the Corporation/ESCO/s is unable to evacuate and transmit fully or partly the energy generated from the project due to unforeseen breakdown of network elements like lines, switchgears or due to frequency/voltage constraints in the system or for any other reasons beyond the control of the Corporation/ESCOs.]</p> <p>6.1.6 In the event of system constraints, captive consumers, Exclusive and Non -Exclusive Consumers shall be subjected to power cuts or load shedding as deemed necessary by the Corporation/ESCOs.</p> <p>6.1.7 The Corporation/ESCOs reserve the right to withdraw the facility of banking and wheeling either wholly or partly in case of any breach of conditions of this agreement or under force majeure conditions. In such an event, Corporation/ESCOs shall not be liable to pay any compensation or damages to the Company.</p> <p>Thus, as per the above Clauses of the WBA licensees are not obligated to wheel energy and the OA consumers are subjected to power cuts / load shedding, and in such events no compensation is paid by the licensees.</p>
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ANNEXURE – IV

**COMPARISON OF FOR MODEL REGULATIONS ON GREEN ENERGY OPEN ACCESS AND PROVISIONS AS
PER MOP LETTER DATED 23.3.2023**

<u>REG. NO.</u>	<u>FOR MODEL REGULATIONS</u>	<u>MOP LETTER</u>	<u>FOR COMMENTS</u>
10. c.	The Banking Charges shall be adjusted in kind @ 8% of the energy banked.	Banking charges for off-peak-to-off-peak transactions shall be charged @ 5% (in kind) which is sufficient to cover the effect on fixed charge liability of distribution company, power management costs and incidental administrative costs in procuring additional energy when the banked energy is returned/ drawn by the Green Open Access Consumer.	8% is adequate and it should not be further reduced as it would increase the resistance of discoms to adopt the same
10. d. 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.	There shall not be any additional charges on banking charges for off-peak to peak transactions. Instead, a single banking charge @ 8% (in kind) may be charged to take care of extra costs involved in procuring power during peak period.	The suggestion has not been agreed to. The provision for additional charges would be decided by Appropriate SERC .

6.b.	<p>6. Transmission Charges</p> <p>b. For use of intra-State transmission system:</p> <p>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.</p>	<p>Transmission and wheeling charges/ losses shall be levied only once. If transmission and wheeling charges/losses had been levied on full quantum of banked energy during injection, then no further transmission and wheeling charges/ losses shall be levied on banked energy during drawl.</p>	<p>The suggestions have been agreed to.</p>
7.d.	<p>7. Wheeling Charges</p> <p>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:</p> <p>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;</p> <p>Provided that if feeder-wise data</p>		

	of losses is not available, the Commission shall consider the voltage-wise sample feeder for determining the wheeling losses.		
10. d.	<p>The Banking of energy shall be permitted only on monthly basis as per Calendar month:</p> <p>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;</p> <p>.....</p> <p>The un-utilised surplus banked energy at the end of the month, shall be considered as lapsed at the end of each month:</p> <p>Provided that, the RE Generating Station would be entitled to Renewable Energy Certificates to that extent.</p>	<p>The credit for banked energy shall not be permitted to be carried forward to subsequent banking cycles and shall be adjusted during the same banking cycle. The banked power remaining at the end of the banking cycle shall be credited to the Green Open Access Consumer at the rate of 80% of the tariff discovered in the last competitive bidding in the State or the last competitive bidding held by SECI, whichever is lower.</p>	<p>The Forum feels that the existing mechanism of granting RECs to the RE Generating Station is adequate and the same will continue</p>

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-

CHAPTER 1

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.

CHAPTER 2

GREEN ENERGY OPEN ACCESS CHARGES

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.
- vi. Such transmission charges and losses shall be levied only once.

Explanation:

If transmission charges and losses had been levied on full quantum of banked energy during injection, then no further transmission charges and losses shall be levied on banked energy during drawl.

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:

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

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

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 ensuing 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.

Such wheeling charges and losses shall be levied only once.

Explanation-

If wheeling charges and losses had been levied on full quantum of banked energy during injection, then no further wheeling charges and losses shall be levied on banked energy during drawl.

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;

Provided also that additional surcharge shall not be applicable in case electricity produced from offshore wind projects, which are commissioned upto December, 2025 and 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 at least on a monthly basis

Provided that the credit for banked energy shall not be permitted to be carried forward to subsequent banking cycles and the credit for energy banked shall be adjusted during the same banking cycles 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

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

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