

(Draft Regulation)

Andhra Pradesh Electricity Regulatory Commission

“Andhra Pradesh Electricity Regulatory Commission (Green Energy Open Access, Charges, and Banking) Regulation, 2023”.

Regulation ----- of 2023

Preamble:

The Government of India (GoI) has set an ambitious target of achieving carbon neutrality by the year 2070. In pursuit of this goal, the GoI has established a target to install a Renewable Energy (RE) capacity of 500GW by 2030. To facilitate and promote the adoption of renewable energy sources, the Ministry of Power (MoP) has issued the Electricity (Promotion of Renewable Energy Through Green Energy Open Access) Rules in 2022. These rules aim to provide regulatory clarity and simplify the process of granting Open Access to both renewable energy generators and consumers.

As per section 181 (1) of the Electricity Act, 2003, the State Commissions may, by notification, make Regulations consistent with the Act and the Rules generally to carry out the provisions of the Act. Therefore, in the interest of promoting the growth of Renewable Energy within the state of Andhra Pradesh, fostering regulatory certainty, and streamlining the Open Access process for RE generators and consumers, fulfilling the objective of the Electricity Act,2003 for the promotion of efficient and environmentally benign policies, and in the interest of ensuring a better environment for the public at large, in exercise of its powers conferred under Section 86(1)(e) of the Electricity Act, 2003, which envisages promotion of 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 read with Sections 181, 39(2)(d), 40(c), 42(2, 3), 86(1)(c) of the Electricity Act, 2003, and all other powers enabling in this behalf, the Commission has formulates the following draft Regulation

CHAPTER 1

PRELIMINARY

1. **Short title, commencement, and extent of application:**
 - i. This Regulation shall be called the Andhra Pradesh Electricity Regulatory Commission (Green Energy Open Access, Charges, and Banking) Regulation, 2023.

- ii. This Regulation shall come into force on the date the Commission approves the procedures and timelines for granting Green Energy Open Access as per this Regulation.
- iii. This Regulation shall extend to the whole State of Andhra Pradesh
- iv. This Regulation shall be applicable for allowing Open Access to electricity generated from Renewable Energy Sources, for use of Intra-State Transmission System/s (InSTS) and/or distribution system/s of licensee/s in the State, including such Intra-State Transmission and/or distribution system/s, which are incidental to Inter-State Transmission of electricity.
- v. This Regulation supersedes all the earlier Regulations/Stipulations/Guidelines/Directions issued by the Commission in the matter of Open Access to Green Energy.

2. **Definitions :**

(1) In this Regulation, unless the context otherwise, requires:

- a. **“Act”** means the Electricity Act, 2003 (36 of 2003);
- b. **“Banking”** means a facility through which the unutilized portion of energy (under utilisation or excess generation over and above the schedule) from any of the three renewable sources of energy viz Wind, Solar and Mini Hydel during a billing month is kept in a separate account and such energy accrued shall be treated in accordance with the conditions laid down in this Regulation.
- c. **“Central Nodal Agency”** means the nodal agency as specified by the Government of India as per the rules;
- d. **“CERC”** means the Central Electricity Regulatory Commission;
- e. **“Commission”** means the Andhra Pradesh Electricity Regulatory Commission;
- f. **“Entity”** means any consumer who has contracted demand or sanctioned load of hundred kW or more either through a single connection or through multiple connections aggregating to a hundred kW or more located in the same electricity division of a distribution licensee, except for captive consumers:
Provided that in the case of captive consumers, there shall not be any load limitation;
- g. **“Forum of Regulators (FOR)”** 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 a combination of these as its primary source of energy, which are used in generating stations 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 utilizes green energy to replace fossil fuels including production of green hydrogen or green ammonia as may be determined by the Central Government.

- j. **“Obligated Entity”** means the entities mandated to fulfil Renewable Power Purchase Obligation, which includes distribution licensee, captive users, and open access consumers, as specified under Andhra Pradesh Electricity Regulatory Commission Renewable Power Purchase Obligation (Compliance by purchase of Renewable Energy/Renewable Energy Certificates) Regulation, 2022, as amended from time to time;
- k. **“Open Access”** means the non-discriminatory provision for the use of transmission lines or distribution systems or associated facilities with such lines or systems by any licensee or consumer or a person engaged in generation in accordance with the Regulations issued by the Andhra Pradesh Electricity Regulatory Commission;
- l. **“Reform Act”** means the Andhra Pradesh Electricity Reform Act, 1998;
- m. **“Renewable Sources of Energy”** means renewable sources of energy such as small hydro, wind, solar, biomass, biofuel, cogeneration (including bagasse-based cogeneration), municipal solid waste and such other sources as recognised and approved by the MNRE or State Government;
- n. **“Rules”** shall mean the Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022;
- o. **“SLDC”** means the State Load Dispatch Centre established under sub-section (1) of section 31 of the Act;
- p. **“Standby Charges”** means the charges applicable to green energy open access consumers towards 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 the generator, transmission systems and the like;
- q. **“State Grid Code”** shall mean the Grid Code issued by the Andhra Pradesh Electricity Regulatory Commission for the State of Andhra Pradesh.
- r. **“State Transmission Utility”** means the Board or the Government company specified as such by the State Government under sub-section (1) of section 39 of the Act;
- s. **“State Nodal Agency”** means the nodal agency notified by this Regulation for the purpose of green energy open access.

(2) Words and expressions used and not defined in this Regulation but defined in the Act shall have the meanings assigned to them in the Act. Expressions used herein but not specifically defined in this Regulation or in the Act but defined under any law passed by a competent legislature and applicable to the electricity industry in the state shall have the meaning assigned to them in such law.

3. **Criteria for allowing GEOA**

- i. The long-term GEOA shall be allowed in accordance with the transmission planning criteria and distribution planning code stipulated in the State Grid Code.
- ii. The Short-Term/Medium-Term open access shall be allowed, if the request can be accommodated, by utilizing
 - a. Inherent design margins
 - b. Margins available due to variation in power flows and
 - c. Margins available due to in-built spare transmission system capacity and/or distribution system capacity created to cater to future load growth;

4. **Categorization of Open Access**

The open-access consumers shall be classified into the following categories based on the duration of use of the intra-state transmission and/or distribution system:

- i. Long-term Open Access consumers- persons availing or intending to avail the open access for a period equal to or more than five years.
- ii. Medium-term Open Access consumers- persons availing or intending to avail the open access for a period of more than one year and less than 5 years.
- iii. Short-term Open Access consumers- persons availing or intending to avail the open access for a period of one year or less.

Provided that the short-term open access consumer shall be eligible & re-eligible to obtain fresh reservation on the filing of application after the expiry of his term and subject to availability. Such eligibility shall be on priority fixed on the basis of the date of application.

5. **Priority over Fossil based plants**

The Green Energy Open Access Consumers shall be given priority over fossil-based open access consumers in connectivity and open access in general and also in case of system constraints and availability of limited transmission/distribution system capacity while granting approval for connectivity or open access.

6. **Preference and Curtailment Priority:**

Among the GEOA consumers, long-term GEOA consumers shall have preference followed by Medium term and short-term, at any given time.

Provided that, the decision for allowing the open access shall be on the basis of first come first served.

In case of constraints in the transmission system or distribution system, the curtailment priority shall be as follows:

- a. Short-term open-access consumers other than Green Energy Open Access consumers shall be curtailed first followed by Green Energy Open Access consumers.
- b. Medium-open-access consumers other than Green Energy Open Access consumers shall be curtailed first followed by Green Energy Open Access consumers.
- c. Long-term open-access consumers other than Green Energy Open Access consumers shall be curtailed first followed by Green Energy Open Access consumers.

7. **Eligibility criteria for Green Energy Open Access:**

Subject to the provisions of this Regulation and system availability, all the entities shall be eligible to take power through Green Energy Open Access.

Provided further that such entities, having been declared insolvent or bankrupt or having outstanding dues against them for more than two months billing of the distribution/transmission licensee or having a case of unauthorized use of electricity/theft of electricity pending against them at the time of application, shall not be eligible for open access.

8. **Nodal Agency, the procedure for granting green energy open access.**

- (1) Andhra Pradesh State Load Despatch Centre (APSLDC) shall operate as the State Nodal Agency (SNA) for short-term green energy open access.
- (2) The State Transmission Utility (STU) shall operate as the State Nodal Agency (SNA) for the grant of long-term and medium-term term green energy open access.
- (3) All the applications related to green energy open access shall be submitted directly to the respective State Nodal Agencies or through the single window portal set up by the Central Nodal Agency as per the Green Energy Open Access Rules.
- (4) The applications received directly or through the Central Nodal Agency by the State Nodal Agency (SNA) shall be processed as per the procedures and formats devised by SNAs. The SNAs shall develop detailed procedures, and timelines for green energy open access and submit the same to the Commission within 30 days from the date of notification of this Regulation in the Gazette. The procedures and the timelines shall be devised to the extent possible in

consonance with the procedures notified by the central agency, and the Green Energy Open Access Rules.

- (5) The SNAs shall coordinate with all other utilities concerned to make available all relevant information regarding green energy open access to the public on the portal of the Central Nodal Agency.

9. **Connectivity, and Energy Settlements**

The connectivity for all new green energy generators shall be granted as per the provisions of APERC Regulation on Power Evacuation from Captive Generation Co-generation and RE Source Power Plants (Regulation 3 of 2017). The Energy Settlements of all the intra-state Green Energy Open Access of Generators/Consumers shall be done as per Regulation 2 of 2006 and its amendments from time to time. The Energy settlements of interstate transactions shall be done as per CERC Regulations. The Deviations of Wind and Solar Generators' schedules shall be settled as per CERC DSM Regulations, 2022 till the Commission issues a comprehensive Regulation in this regard.

10. **Treatment for existing entities:**

The existing consumer(s)/generators shall continue to avail the open access as per the existing agreements or government policy for the period specified in those agreements or policies, to the extent they are not inconsistent with the Act.

Provided that the existing consumers/generators shall continue to pay the applicable charges as specified in their respective agreements.

Provided further that RE open access for the subsequent period in respect of such consumer/generator shall be governed by provisions of this Regulation, including any renewal after the completion of the initial period of existing agreements.

11. **Metering:** Metering shall be done in accordance with provisions of CEA (Installation and Operation of Meters) Regulations 2006 as amended from time to time.

12. **Charges to be levied for Green Energy Open Access:**

- a) Transmission charges: Transmission charges as applicable, and determined by the Commission in accordance with APERC (Terms and Conditions for Determination of Transmission Tariff) Regulation, 2005 and its amendments from time to time.
- b) Wheeling charges: Wheeling charges as applicable, and determined by the Commission in accordance with APERC (Determination of Tariff for Wheeling and Retail Sale of Electricity) Regulation, 2005 and its amendments from time to time.

- c) Cross subsidy Surcharge; As applicable, and determined by the Commission in Retail Supply Tariff Order from time to time or any other order of the Commission.
- d) Standby charges wherever applicable: The Standby Charges shall be 120% of the normal tariff (for both demand and energy) of the consumer category without any penalty for exceeding the CMD to the extent of open access demand when there is no notice from the parties concerned. If there is any notice to the DISCOMS from the parties concerned on this aspect, if such period of standby arrangement exceeds 72 hours or more from the time of notice, the Standby Charges shall be 120% of the normal tariff on energy or the maximum tariff of energy purchased from the exchanges/market (during the standby period), whichever is higher is applicable.
- e) Banking charges wherever applicable: As specified in this Regulation.
- f) SLDC fees and Charges: As determined by the Commission in accordance with APERC (Levy and Collection of Fees and Charges by State Load Despatch Centre) Regulation, 2006 from time to time.
- g) Scheduling and Deviation settlement charges: Till the Commission issues a comprehensive Regulation on Deviaion settlement, the charges shall be collected as per the CERC DSM Regulations, 2022 and its amendments from time to time.
- h) Reactive Energy Charges: The Green Energy Open Access consumer shall pay for the reactive energy in accordance with provisions of the State Grid Code notified by the Commission. If the Commission has not specified rates in the State Grid Code, the rates specified in CERC (Indian Electricity Grid Code) Regulations or the rates specified by CERC shall be applicable.
- i) Losses between entry and exit points of open access: Losses as applicable as per the Orders/Regulations of the Commission.
- j) The processing fee for Green Energy Open Access under Long and Medium-term shall be Rs.1,00,000 and Rs.25,000 for the short-term.
- k) In addition to the above, any Other Charge may be levied as decided by the Commission.

13. **Cross Subsidy Surcharge, and Additional Surcharge:** The Cross Subsidy Surcharge, and Additional Surcharge shall be determined as per the provisions of the Electricity Act, 2003 and the National Tariff Policy notified by the Central Government under the Act.

Provided that cross subsidy surcharge and additional 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. The captive status of the consumer shall be determined based on the Electricity Rules notified by the Government of India.

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 an additional surcharge shall not be applicable in case electricity is produced from offshore wind projects, which are commissioned up to December 2032 and supplied to the Consumers under open access.

Provided also that Cross subsidy surcharge and additional surcharge shall not be applicable if green energy is utilized for the production of green hydrogen and green ammonia.

14. **Banking:** No generator other than the Wind, Solar and Mini Hydel power generators shall be allowed the facility of banking which shall be subject to the following conditions.

(1) The Banking shall be on a monthly billing cycle basis. The banked energy shall be utilized within the same billing cycle failing which the unutilized energy at the end of the billing cycle shall lapse, and no compensation whatsoever shall be claimed/paid for such lapsed banked energy.

(2) The Banking charges in kind shall be 8% of the energy banked at the consumer end.

(3) The permitted quantum of banked energy by the Green Energy Open Access consumers shall not be more than thirty percent of the total monthly consumption of electricity from the distribution licensee by the consumers.

(4) The banking and drawal shall be allowed throughout the billing cycle. However, the drawal of banked energy during the peak load hours as mentioned in the ToD approved by the Commission in the Retail Supply Tariff Orders shall be charged 12 per cent in kind of banked energy.

Provided further that the drawal of banked energy during the peak load hours as mentioned in the ToD approved by the Commission in the Retail Supply Tariff Orders shall not be permitted if R&C measures are in force.

(5) The banking will be counted on a daily basis for the purpose of a monthly account.

(6) Settlement of open-access energy at the consumer end shall be in the following order of priority:

a) RE generation after deduction of losses.

b) Captive Power

- c) Banked Energy
- d) Open Access Power through Exchange / Bi-lateral transactions
- e) DISCOM's power

(7) The energy accounts of all banking transactions shall be maintained by SLDC. Model illustrations of energy and banking settlement for different scenarios shall be placed on its website for easy understanding by various stakeholders.

15. **Green certificates:** The distribution licensee shall provide a green certificate on a yearly basis to the consumers as per the APERC Renewable Power Purchase Obligation (Compliance by the purchase of Renewable Energy/Renewable Energy Certificates) Regulation, 2022 and its amendments from time to time.

16. Collection and Disbursement of Charges

The charges in respect of GEOA consumers shall be payable directly to the respective State Nodal Agencies in accordance with the terms and conditions of payment as specified by the State Nodal agency. SNA shall disburse the amount received to the appropriate licensees. In case more than one licensee is supplying in the same area, the licensee from whom the consumer was availing supply shall be paid the OA amounts so collected.

17. Dispute Resolution:

No application for open access shall be denied unless the applicant has been given an opportunity of being heard in the matter.

All disputes and complaints shall be referred to the Nodal Agency for resolution. Provided that when the Nodal Agency is itself a party to the dispute, the dispute shall be referred for resolution to the Consumer Grievances Redressal Forum (CGRF)

Provided further that in case of open access of power from the generating plants, the dispute shall be adjudicated upon by the Commission.

18. **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 suo moto relax any of the provisions of this Regulation or on an application made before it by an interested person.

19. **Issue of orders or directions:** Subject to the provisions of the Act and this Regulation, the Commission may, from time to time, issue orders and procedural directions with regard to the implementation of this Regulation and specify the procedure to be followed on various matters, which the Commission has been empowered by the Regulations to direct and matters incidental thereto.

20. **Power to amend and review:** The Commission may, at any time, add, vary, modify amend, or review any of the provisions of this Regulation.

21. **Power to remove difficulties:** If any difficulty arises in giving effect to any of the provisions of this Regulation, the Commission may, by general or special order, make such provisions, which in the opinion of the Commission are necessary or expedient to do so.
22. **Savings:**
- a) Notwithstanding superseding of all the Regulations/Stipulations/Guidelines/Directions of the Commission on Green Energy Open Access, anything done or any action taken or purported to have been done or taken under the said Regulations/Stipulations/Guidelines/Directions, in so far as it is not inconsistent with the provisions of the Act or rules and Regulations made thereunder, have been saved.
 - b) Nothing in this Regulation shall be deemed to limit or otherwise affect the power of the Commission to make such orders as may be necessary to meet the ends of justice or to prevent abuse of the process of the Commission.
 - c) Nothing in this Regulation shall bar the Commission from adopting a procedure at variance with any of the provisions of this Regulation, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient in order to deal with such a matter or class of matters.

(BY ORDER OF THE COMMISSION)

Place: Hyderabad
Date: 30.09.2023


Commission Secretary i/c