

However, the rule does not mention whether GEOA consumer should specify such requisition for a minimum period of one year.

Further, accounting of renewable energy supplied at distribution licensee level shall be done on a monthly basis and also the trading of Renewable Energy Certificates (RECs) on power exchanges is done on a monthly basis, accordingly consumers should also be allowed to specify green energy quantum on monthly basis for flexibility and better planning.

9.4.2 **Comments filed by Fourth Partner Energy Pvt. Ltd.**

It is suggested not to keep any minimum limit on requisition of green energy from the distribution licensee. It will give consumer flexibility to take green power from more than one producer within the same year.

Commission's View – The Commission has considered the above mentioned objections filed by the interveners i.e. reduce the minimum period of requisition from 12 months to a minimum period of one month to impart requisite flexibility to the consumers align with monthly settlement in the power exchange. Firstly, drawing parallel with the settlement in the exchange / REC and provisions in these Regulations is misplaced. An embedded consumer i.e. who is also a consumer of the distribution licensee, is served by the Discom of his area. The aggregate load of all such electricity consumers is the load that a Discom is expected to serve under its Universal Service Obligation. The agreement for power purchase entered into by the Discoms are not that flexible to allow variations in quantum of power drawl on a monthly basis. Hence, reducing the minimum period to a month would add a lot of un-certainty to the power planning including and put avoidable payment of demand charges without drawing power. Consequently, the Commission, in order to balance the interest of the consumers as well as the distribution licensee, is of the considered view that the dispensation as per the draft require no change.

9.4.3 **Comments filed by Uttar Haryana Bijli Vitran Nigam Ltd. (UHBVNL)**

As per the HERC (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations 2021 (2nd Amendment) obligated consumers has to comply the RPO targets categorized as wind, HPO and others.

Hence, it is requested to replace Solar and Non-solar with said categories as per 2nd amendment of the HERC RE regulation

Commission's view: - The Commission has considered the submissions of Uttar Nigam on the issue of composition of RPO. The Commission has adopted the RPO as notified by the Central Government. Hence, the Commission accepts the submissions of the Nigam and the same is already reflected in the HERC RE Regulations in vogue.

9.5 **Provision in The Draft Regulations**

Regulation 4(C)(c)

The tariff for the green energy shall be determined separately by the Commission.

9.5.1 **Comments filed by Saini Power Transactor**

The intervener has requested that tariff shall be determined from January every year for upcoming financial year or should be determined for multiple years as companies need time to take such decision. Further clause 4(C)(d) and clause 4(C)(e) specifies requisition for at least 1 year. If such tariff is determined in the Annual Tariff order than the companies will not be able to take such decision on time and thus conditions specified in Clause 4(C)(d) and Clause 4(C)(e) will not be met.

Commission's View: The Commission has considered the objections filed by M/s Saini Power. The issue of minimum requisition has been already dealt with by the Commission and for the reason that interest of all stakeholders including the distribution licensee has to be balance; hence, the reduction in minimum requisition period from one year to one month was rejected. As far as distribution and retail supply tariff is

concerned, the same are governed by the provisions of the Act, MYT Regulations and National Tariff Policy. Hence, the period to reckon with is a financial year i.e. starting from 1st April to 31st March and most of the Indian Companies, banks, Lending Institutions and the Govt. follow this financial year and not the Calendar Year i.e. January to December. The Commission, with a few exceptions, has issued tariff order before the commencement of the ensuing financial year i.e. FY 2023-24 on 15th February, 2023 i.e. one and a half months prior to the beginning of the financial year. Hence the intervenors can plan ahead for the ensuing financial year. Thus, the objections raised by the intervener are rejected as devoid of merit.

9.5.2 **Comments filed by Maruti Suzuki India Ltd.**

a) Purchase of green power up to certain percentage: The draft regulation does not provide clarity with respect to minimum quantum of green energy to be opted under this regulation and may lead to non-standard arbitrary requisitions by consumer to respective discoms. Further, the Hon'ble Commission, vide its Tariff order for the FY 2023~24 has notified exercising the green power option *“for the entire financial year for the total energy drawn from the Discoms”*.

b) In this regard, we wish to submit that though this model regulation provides an option for *“certain percentage of consumption”*, the same is restricted by the Tariff order of the financial year 2023~24. We therefore request the Hon'ble Commission to suitably incorporate flexibility for opting in steps of 25%, considering that many consumers would like to avail this option, considering their limited RPO requirements or yearly targets of carbon emission reduction.

c) Requisition for non-solar power: It is understood that Grid green tariff mechanism facilitates the obligated entities to mitigate their solar, wind, hydro etc. obligations, as applicable categories for RPOs in the State of Haryana are notified as “Solar”, “Non-solar” and “Hydro” (for CPPs installed till 2022-23), while the same is categorized under “Wind”, “Hydro” and “Others” (for CPPs installed beyond 2022-23). It is therefore requested to the Hon'ble Commission that category ‘non-solar’ may be clarified to include “Wind” and “Hydro” in the regulation itself.

d) Tariff for green energy: The Hon'ble Commission vide its Tariff Order for the financial year 2023~24, has notified the premium charge for solar as Rs 2.30 per unit and for non-solar as Re.1 per unit, over and above the normal tariff rate applicable to respective consumer category.

e) In this regard we wish to submit that these charges are very high, arbitrary and should not be more than tariff of normal power, as by opting such power the consumer is supporting discoms by reducing their RPOs. Further, it is well known that majority of renewable power are sourced by discoms under long term PPAs with price discovery at around Rs. 2 per unit, along with the other benefits of lower ISTS charges. Accordingly, we seek a sympathetic consideration from the Hon'ble Commission to waive off premium under green tariff mechanism.

Commission's view: The Commission has considered the above objections. The issue of minimum period has already been deliberated and decided in the present order. It is reiterated that the same shall be retained as one year to maintain a balance between the interest of all stakeholders, which at times, may be diametrically opposite to each other. Further, the intervener herein may note that the green premium determined by this Commission in the ARR / Tariff order of the Discoms for the FY 2023-24, is for the embedded consumers voluntarily opting to avail green power from the Discoms, while the present Regulations covers those eligible consumers who are desirous to bring in green power from a source other than the Discoms under Green Open Access Mechanism.

As far as RPO is concerned, as also raised by the distribution licensee viz. UHBVNL, the Commission has adopted the RPO as notified by the Central Government. Hence, the Commission accepts the submissions of the Nigam and the same is already reflected in the HERC RE Regulations in vogue.

9.6 **Provision in The Draft Regulations**
Regulation 4(C)(f)

The green energy purchased from a distribution licensee or from Renewable Energy sources other than distribution licensee in excess of Renewable Purchase Obligation of obligated entity shall be counted towards Renewable Purchase Obligation compliance of the distribution licensee;

9.6.1 **Comments filed by ReNew Power**

There might be situations where an obligated entity will be willing to procure renewable power over and above its obligation as per the regulations, to meet its internal targets. Further, as obligated entity will be paying all the charges as defined by the Hon'ble commission for procurement of RE power over and above its obligations, transferring such benefits to distribution licensee without any consent seems unjust.

Commission's view: The submissions of the intervener is well taken. It is, however, noted that the Discoms at the end of the day, is a public utility serving the load requirement of the electricity consumers and even non-consumers by making available stand by power. Hence, any expenditure incurred in purchasing green power or REC will ultimately pass on to the electricity consumers of the State collectively. Consequently, the existing dispensation ensures equity amongst different category of consumers with different capacity to pay. However, since the provisions of Renewable Purchase Obligations has been dealt with in the HERC RE Regulations, 2021 in length, the same will not form part of the present regulations.

9.7 **Provision in The Draft Regulations**

Regulation 4(F): Renewable Purchase Obligation:

Purchase of green hydrogen or green ammonia; the obligated entity can also meet their Renewable Purchase Obligation by purchasing green hydrogen or green ammonia and the quantum of such green hydrogen or green ammonia would be computed by considering the equivalence to the green hydrogen or green ammonia produced from one MWh of electricity from the renewable sources or its multiples, as per the norms notified by the Central Commission.

9.7.1 **Comments filed by Dakshin Haryana Bijli Vitran Nigam Ltd. (DHBVNL)**

It should be clarified whether the green energy being produced by the Green-hydrogen and ammonia plants would be counted towards the RPO fulfilment from purchase of Power through Renewable sources or through REC Certificates.

Commission's view: The Commission has considered the above submissions and it is clarified that depending on the nature of underlying green energy used, it will qualify for RPO under the same category or under 'other' category in case of hybrid or that are not covered under Wind or Hydro category. However, since the provisions of Renewable Purchase Obligations has been dealt with in the HERC RE Regulations, 2021 in length, the same will not form part of the present regulations.

9.8 **Provision in The Draft Regulations**

Regulation 5: Eligibility criteria for Green Energy Open Access:

“The consumers who have contracted demand or sanctioned load of hundred 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.

Provided that such open access shall be for a minimum twelve-time blocks of 15 minutes time interval during a day, for which the consumer shall not change the quantum of power consumed through open access.

Provided further that all applications for open access of green energy shall be allowed by the State Nodal Agency within a period of fifteen days.

Provided further that such consumer of a distribution licensee 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 such consumer on such independent feeder, the following condition shall apply: -

A group of two or more consumers of a distribution licensee having a contracted demand or sanctioned load of hundred kW and above connected to the distribution system of licensee at 11 kV or above through an independent feeder emanating from a grid sub-station, shall also be entitled for seeking open access if all such consumers collectively apply for open access through a group representative to be nominated by all such consumers on that feeder provided that all such consumers shall have necessary infrastructure for time-block wise energy metering and accounting installed at their premises and provided further that schedule of power through open access of individual consumers shall also be supplied by the group representative. However, all the individual consumers of the group shall have to separately pay the prescribed application fee and SLDC charges. Alternately if such a group of consumers agree for a single point connection, the group as a whole shall be treated as a single consumer for all practical purposes including scheduling, metering and billing and in that case individual ABT metering equipment will not be required. The application fee and SLDC charges shall also be charged for a single application. The billing shall be done based on ABT meter installed on the independent feeder at the sub-station and the contract demand of the group shall be taken as the sum of the contract demands of the individual consumers. Other terms and conditions applicable under this alternative shall be as prescribed by the Commission in the Haryana Electricity Regulatory Commission (Single Point Supply to Employers' Colonies, Group Housing Societies and Residential or Commercial cum Residential Complexes of Developers) Regulations, 2013, as amended from time to time.

Provided further that the consumers of a distribution licensee with contract demand of 100 KW 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.

Provided further that the grant of open access to such consumers shall be subject to the condition that if power is scheduled to be sold/procured through open access in any time slot of the day, it shall not be less than 100 kW.

Provided further that such consumers, having been declared insolvent or bankrupt or having outstanding dues against him 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 him at the time of application, shall not be eligible for open access.

Provided further that the green energy open access consumer shall restrict the sum of his total drawl from open access and from the distribution licensee upto the total sanctioned contract demand. The maximum admissible drawal in any time block during the day for green energy open access consumer shall be the difference of sanctioned contract demand and scheduled entitlement.”

9.8.1 **Comments filed by Saini Power Transactor**

It is requested to kindly remove this condition as in the current scenario we are facing difficulty and the NOAR portal allows registration of a single company and NOC is also issued to that company. There is no provision of grouping 2 or more consumers on the NOAR Portal. Moreover, the Green Open Access Portal (<https://greenopenaccess.in>) is also designed in a similar manner and no provision of grouping on Green Open Access portal and hence separate NOC needs to be issued.

Further it also contradicts with the condition that:

“The consumers who have contracted demand or sanctioned load of hundred kW and above shall be eligible to take power through Green Energy Open Access”

If a consumer has a contract demand of 500kW but is connected to an independent feeder along with 2 other consumers, then he is also eligible and not eligible as there is contradiction in the regulation itself. The right of one consumer provided in Electricity

Act under section 38(2)(d), section 39(2)(d), section 40(c), section 42(2) and section 42(3) are hindered due to some other consumer which is against the principle of natural justice.

In addition to this HERC Regulation No. HERC/34/2016 Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security Regulations, 2016 clause 4.8.2(vii) states that:

“For connecting second or subsequent consumer on an independent feeder, if after such connection, the capacity of the feeder is utilized within seventy percent of its rated capacity, no consent of original consumer shall be required. In case due to connection of such subsequent consumer(s) on the independent feeder, the load increases to more than seventy percent of the rated capacity of the feeder, the consent of the original consumer(s) shall be required.”

Some consumers have been connected with the independent feeders of existing consumers and no consent was taken from the consumer as per the regulation but, their ABT meters were installed at the substation end and were either bypassed/disconnected or moved to the company premises. However, there were some instances where the new consumer who got connected to the existing independent feeder are not willing to avail Open Access for their premises but making the existing consumer ineligible to avail open access.

In Gurugram region the independent feeders of some industries have been clubbed together and the independent feeders of the consumers will be clubbed together in order to create a much more robust and reliable system and even the DISCOM will not be able to ensure the compliance of such clause. In such scenarios where, independent feeders of existing Open access consumers whose feeders have been clubbed with other consumers but are not willing.

Commission's View: - The Commission has considered the issue raised by the intervener on eligibility criteria as per the draft Regulations. It is observed that there could be two main concerns i.e. an eligible consumer who is served by an independent feeder but there is more than one consumer on the same feeder; to circumvent the operational issues of metering, billing, apportionment of losses etc. the Commission has considered it appropriate to make a provision for a group represented. The 'Group Representative' shall be a single entity who would seek the requisite registration NoC etc. The arrangements between the constituents of such Group will have to arrive at mutual agreement of different aspects that may arise while seeking and availing Green Open Access under these Regulations. In case a consumer on such Independent Feeder do not want to come together for seeking Open Access then for operational point of view it would be difficult to manage such a situation without leading to multiple litigations at all times. Hence, the dispensation as per the draft can only facilitate Open Access in such a situation.

The issue raised by the intervener regarding no 'consent' taken from the existing consumer(s) for adding a consumer on an existing Independent Feeder as per the Supply Code, is not germane to the issue under consideration.

In view of the above observations, the objections filed by the intervener on the issue listed above is dismissed as devoid of merit.

9.8.2 **Comments filed by Reliance Industries Ltd.**

The following requests have been made: -

a) To incorporate the below changes in the said clauses:

"The consumers who have contracted demand or sanctioned load of hundred kW and above shall be eligible to take power through Green Energy Open Access and there shall be no limit of supply of power and shall be no requirement of minimum contract demand / sanctioned load for the captive consumers taking power under Green Energy Open Access."

Rationale:

As per the Green Energy Open Access Rules of Ministry of Power in line with the Electricity Act 2003, the requirement of minimum contract demand / sanctioned load of 100 kW is not applicable to captive consumers i.e. captive consumers are eligible to get open access without any requirement of minimum contract demand / sanctioned load. Hence the proposed changes are suggested in order to bring clarity on eligibility criteria for Captive

b) To reduce the minimum time blocks to four time blocks instead of twelve-time blocks of 15 minutes time interval during a day.

Rationale: -

As Solar and wind power are infirm in nature, if the same clause is made applicable and given the less flexibility for scheduling RE power and hence it is proposed to keep the minimum blocks to four. This is in line with Green Energy Open Access Rules of Ministry of Power where by the maximum number of such contiguous blocks should be 1~ and hence the Hon'ble Commission can provide any number of blocks below twelve-time blocks.

c) The eligibility criteria for availing Green Energy Open access by consumer of a distribution licensee is that the it should connected through an independent feeder emanating from a grid sub-station, which should be modified or removed since it shall not be applicable to the consumers already connected to the distribution network and for which time-block wise energy metering and accounting is done at the consumer end.

d) The minimum limit of 100 k W for scheduling Green Energy under open access shall not be applicable to captive users.

Rationale: -

As per proviso under sub rule 2 of rule 5 of Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022, notified by Ministry of Power on 6th June-2022 reproduced below, there shall be no limit of supply of power for the captive consumers.

Provided that only consumers who have contracted demand or sanctioned load of hundred 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:

As explained in Sr No.3 above, there is no limit of supply of Power/ contract demand/sanctioned load for captive consumers and hence such limit, as specified, should not be applicable for captive consumers.

e) The clause may be modified as below:

"Provided further that the green energy open access consumer shall restrict the sum of his total drawl from open access and from the distribution licensee upto the total sanctioned contract demand. The maximum admissible drawal in any time block during the day for green energy open access consumer shall be the difference of sanctioned contract demand and scheduled entitlement. "

Rationale:-

The consumer shall be entitled the draw power over and above its sanctioned load / contract demand during any time block of the day. The consumer should be allowed to draw green energy / banked energy or discom power or combination of all during a time block.

Commission's View: - The Commission has considered the objections filed by M/s Reliance Industries Ltd. It is observed that a CPP may bring in power from its captive source without any restrictions as such; however, as a open access consumer it has to seek connectivity commensurate with its load requirement and capacity of the captive

plant. In its absence, the transmission and distribution system will be subjected to over loading at times with cascading effect in terms of higher losses, disruption in power supply because of congestion. Hence, in the case of a CPP the limiting factor will be the capacity for which connectivity has been sought and allowed by the power utilities in Haryana.

The issue of reducing minimum time blocks to four time blocks instead of twelve time as per the draft has been considered. The Commission is of the considered view that high variation in demand needs to be avoided to the extent possible and given the robustness of the generation sources available to the Discoms including the financial burden of deviations made from the drawl schedule. A large percentage of the sources of power available to the Haryana Discoms comprises of thermal power. A frequent start and stop instructions as well as frequent revision in the ramp rate (output per minute) not only distorts the technical parameters adding to the cost of generation but also hasten the deterioration of such power plants. Consequently, the objections filed on this issue is rejected as un-acceptable.

9.8.3 Comments filed by AMP Energy India Pvt. Ltd. and M/s. TSSDG India Pvt. Ltd.

The consumers who have contracted demand... Green Energy Open Access.

~~Provided that such open access shall be for a minimum twelve time blocks of 15 minutes time interval during a day, for which the consumer shall not change the quantum of power consumed through open access.~~

~~Provided further ...period of fifteen days.~~

Provided further that the consumers of a distribution licensee with contract demand of 100 KW 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.

~~Provided further that the grant of open access to such consumers shall be subject to the condition that if power is scheduled to be sold/procured through open access in any time slot of the day, it shall not be less than 100 kW.~~

Provided further that the green energy open access consumer shall restrict the sum of his total drawl from open access and from the distribution licensee up to the total sanctioned contract demand. The maximum admissible drawl in any time block during the day for green energy open access consumer shall be the difference of sanctioned contract demand and ~~scheduled entitlement~~ **actual generation**.

Rationale for suggestion:-

Renewable energy sources such as solar and wind power present an inherent limitation in their intermittent nature, which poses a formidable challenge of maintaining a consistent quantum over 12 intervals of 15 minutes. This clause represents a significant obstacle for both the consumption of solar/wind power by end-users and the establishment of solar/wind power facilities within the state.

This regulation intends to allow consumer with contract demand 100 kW and more to consume Green Energy through open access but including the constraints like collective application of all consumers connected to the feeder will complicate the process and ultimately the demotivate the consumers to opt for these possibilities.

Restricting the admissible drawl in relation to the scheduled drawl will attract penalties on the consumer purely due to the infirm nature of solar/wind power. To integrate solar/wind projects with the grid, forecasting and scheduling regulations are already in place. We suggest that no penalty must be imposed on consumer if the deviation of solar/wind sources is within the no penalty range as prescribed in HERC (Forecasting, Scheduling and Deviation Settlement and related matters for Solar and Wind Generation) Regulations, 2019 and amendments thereafter.

Further, limiting admissible drawl for RE open access customer will create hindrance to the growth of RE transition by customer in the state.

Commission's View: The Commission has considered the ibid objections filed in the matter. The issue of 'time block' has been considered and settled earlier in the present order i.e. frequent variation in demand has an adverse effect on coal based thermal

power stations serving base load demand in Haryana, hence, the time block shall remain as per the draft Regulations.

Further, the need for 'collective application' as well as restrictions on the maximum limits of Green Open Access has also been deliberated at length earlier in the present order.

It is reiterated that the Open Access consumer must keep its quantum of power brought under open access mechanism while injecting as well as while drawing fixed for at least 12 time blocks so as to avoid high variation in demand or surplus power especially in view of the fact that Discoms do not, at present, have any storage facility to accommodate surplus power and frequent revisions in output given to thermal base load generators adversely affects the operating parameters of the power plants and higher expenditure in repair and maintenance of such power plants. Additionally, the operating band for Discoms as per the Central Electricity Regulatory Commission (CERC) DSM Regulations is very narrow and also frequency sensitive and any large variation in demand or surplus power will severely impact the imbalance charges as well as adversely affect the power procurement planning of the Discoms. Hence, in order to balance the interest of all stakeholders the draft Regulations, on this issue, requires no change.

9.8.4 **Comments filed by ReNew Power**

~~Provided that such open access shall be for a minimum twelve time blocks of 15 minutes time interval during a day, for which the consumer shall not change the quantum of power consumed through open access.~~

Rationale for suggestion: -

We would like to bring it to the notice of the Hon'ble Commission that there may be cases where an open access consumer who is not a customer of the distribution licensee will be availing green energy open access for meeting its demand. Such consumer should also be allowed to take open access if there load requirement is at least 100 KW.

Further, the requirement of keeping the load constant for 12 consecutive time blocks is practically not possible for green energy-based projects, as the generation will occur basis natural resource availability, which keeps changing very frequently.

Commission's View: The Commission has considered the above objections and observes that open access is not restricted to embedded consumers i.e. consumers of the Discoms but non-embedded consumer may also bring in Green power under these Regulations subject to fulfilling the terms and conditions specified for the purpose. The issue of 'time block' has been deliberated and decided by the Commission earlier in the present order. The submissions of the intervener(s) has been rejected on the grounds that frequent variation in demand or surplus power would adversely affect the base load stations due to part load operation, imbalance charges and power procurement plan of the distribution licensee(s).

9.8.5 **Comments filed by Haryana Vidyut Prasaran Nigam Ltd. (HVPNL)**

1. As this provision only speaks about the consumers connected to distribution system and not for the consumers connected on transmission system hence the same needs to be clarified or amended accordingly to give Open access to consumers connected on transmission system.
2. The eligibility for open access for consumers connected on independent feeder and other feeder is different viz. a viz.

Consumers of a distribution licensee with contract demand of 100 KW or above who are connected on independent feeder on which other consumers (up to 5) are also connected are eligible only when they all apply under provision. However, consumers of a distribution licensee with contract demand of 100 KW 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.

Also, when a consumer of a distribution licensee with contract demand of 100 KW or above who is connected on independent feeder on which other consumers (up to 5) are also connected apply for open access, the location of ABT meter to be installed need to be clarified.

Commission's View: The Commission has considered the submissions of the transmission licensee i.e. HVPNL and observes that a consumer may be connected at the transmission voltage say at 66 kV but end of the day such entity is a consumer of the distribution licensee of the area in which he is located and as such part of the distribution system as already clarified in the Electricity Rules, 2005. However, in the process of open access transmission system is also involved followed by distribution system to reach to the consumer. Consequently, the Nodal Agency for grant of connectivity and Open Access is the intervener herein. Thus, no separate dispensation is required for the consumers connected at transmission voltage being part of the distribution system. .

Further, the intervener herein has raised the issue of location of ABT meter in case a consumer on an independent feeder has a few other consumers connected to the same feeder. It is to be noted that ABT meter has to be installed at the grid sub-station. Beyond the S/S different consumers on such independent feeder may install meter of an acceptable accuracy class, for apportioning losses amongst themselves i.e. the losses between the ABT Meter installed at the grid sub-station and at the load point(s). However, all aspects related to quality, architecture, accuracy class, location etc. are governed by the CEA Regulations on metering and the HERC Supply Code. Resultantly, the issue of location is not relevant in the present context.

9.8.6 **Comments filed by Uttar Haryana Bijli Vitran Nigam Ltd. (UHBVNL)**

This limit is 0.5 MVA in HERC (Terms and Conditions for grant of connectivity and open access for intra-State transmission and distribution system) (1st Amendment) Regulations, 2013 reproduced as under: -

“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”

It is submitted that Green Energy Open Access Regulations 2023 may also be amended continue to have same condition of having a contract demand of 0.5 MVA or above.

Commission’s View: The distribution licensee i.e. UHBVNL may note that the entire present exercise is being undertaken to align open access for green power with the Green Open Access Rules notified by the Central Government under the enabling clause of the Electricity Act, 2003. The Nigam may note that the Regulations framed and notified by the Commission has to be in line with the Act and generally in conformity to the ‘Rules’ notified by the Central Government under the enabling provisions of the Act. Consequently, the suggestion of the Nigam is devoid of merit and rejected as such.

9.8.7 **Comments filed by IEX**

a) Eligibility may be determined w.r.t contracted demand instead of the sanctioned load. The Hon’ble Commission in Clause 5 of the Draft Regulations has defined eligibility of Green Energy Open Access for Consumer *who has contract demand or sanctioned load of 100 kW or more* except for captive consumers. In this regard, it is suggested that since the maximum power that can be drawn by the consumer is determined by its contract demand and not the sanctioned load, the proposed **definition be changed to – ‘any person who have contracted demand of 100 kW or more’**. Reference may also be drawn to Section 42(2), 5th proviso of the Electricity Act wherein the eligibility threshold of open access consumers has been defined with respect to the *‘maximum power to be made available to them at any point of time’*.

b) Further, the requirement to schedule 100 kW in every block may be aligned with MoP rules, which has not specified any threshold limit on the minimum power to be scheduled by such Consumers.

c) The Hon'ble Commission has, under the first proviso of clause 5 of the eligibility criteria, proposed imposition of condition related to the minimum no. of time blocks (12 blocks in a day) for which the consumer shall not be allowed to change the quantum of power consumed through open access.

d) However, considering the infirm nature of the RE sources, adherence to such conditions is practically inconceivable. For example, a Solar or Wind source cannot be expected to provide constant energy for a certain number of time-blocks. Rather the Discoms should be encouraged to make use of different options available in the market viz. Real Time Market, Intraday Market etc. to mitigate their variations.

e) In view of the above, it is requested that the provision related to requirement of uniform demand across minimum 12 number of time blocks may be relaxed in the Final Regulations. It will help disposal and off-take of surplus RE in the state.

f) The same constraint was also recognized by the Hon'ble Karnataka Electricity Regulatory Commission which subsequently omitted this provision from the eligibility criteria while finalizing the KERC (Terms and Conditions for Green Energy Open Access) Regulations, 2022

Commission's view: - Three main issues have been raised by the intervener M/s IEX. It needs to be noted that in the present Regulations the words Contract Demand and Sanctioned Load has been used interchangeably i.e. Contract Demand or Sanctioned Load. This has been done to facilitate 'open access', for such consumers of 100 kW and above, who may not be having sanctioned load as such. Hence, maximum that a consumer may draw will be governed by the sanctioned load and for eligible consumers who may not have sanctioned load, the same shall be reckoned with by 'Contract Demand'.

Next issue raised by M/s IEX is to dispense with the condition that 100 MW is to be necessarily drawn in all time blocks of 15 Minutes each. The Commission has considered the submission and finds some merit in the same. Though the intervener herein has not specifically pointed out, it is apparent from the draft Regulations that say a consumer with a load of 100 kW, who is eligible for seeking Green Open Access, will

have to draw its entire load requirement through Open Access at all times for the entire year. Hence, the Commission is agreeable to the contention of the intervener herein. The draft provision shall be amended appropriately to remove the anomaly.

The issue regarding reducing '12 time block' conditions raised by the intervener herein has been considered and rejected by the Commission earlier in the present order on the grounds that any reduction in the time block for open access quantum will add avoidable generation cost, adversely impact imbalance charges due to frequent revision in demand and disrupt the power procurement plan of the Discoms who are fastened with Universal Supply Obligation.

9.9 **Provision in The Draft Regulations**

Regulation 6: Nodal Agency:

“(1) The Central Government has notified the ‘POSOCO’ as the Central Nodal Agency to set up and operate a single window green energy open access system for renewable energy.

(2) SLDC with Headquarter at Panchkula in Haryana shall be the State Nodal Agency for grant of green energy open access for short term (up to a month) and the State Transmission Utility (STU), shall be the nodal agency for grant of Green Energy Open Access, for medium (one month to three years) and long term (more than three years).

(3) All the applications related to connectivity and green energy open access shall be received and processed at STU Headquarter in accordance with the detailed procedure.”

9.9.1 **Comments filed by Fourth Partner Energy Pvt. Ltd.**

Prior captive approval status from Discom shall be removed/deleted from STU connectivity procedure dated 15.04.2021

9.9.2 **Comments filed by Haryana Vidyut Prasaran Nigam Ltd. (HVPNL)**

1) It is submitted that, for grant of green energy open access for short term (upto a month), SLDC Haryana may be mentioned as State Nodal Agency instead of SLDC with Headquarter at Panchkula.

2) All the applications related to ~~connectivity~~ and green energy open access shall be received and processed at STU Headquarter in accordance with the detailed procedure.

Commission's view: The issue of prior captive approval has been considered. The Commission observes that it is required as CPPs are exempted from paying certain charges. However, if at the year end it is discovered that the requisite equity holding criteria and consumption criteria has not been met or breached, and hence the generator has lost its 'Captive Status' then recovering the amount exempted to the CPP becomes difficult to recover and may lead to multiple litigations. Hence, the suggestion of the intervener is un-acceptable.

The comments filed by HVPNL has been considered and found appropriate. Accordingly, **SLDC shall be read as SLDC Haryana instead of SLDC with Headquarter at Panchkula.**

Additionally, there is no change required in the dispensation that all application for connectivity and open access under these Regulations shall be received at STU Headquarter in accordance with the detailed procedure.

9.10 **Provision in The Draft Regulations**

Regulation 6.4: Compensation for un-utilized surplus banked energy

“Provided further that the un-utilised surplus banked energy shall be considered as lapsed at the end of each banking cycle and the renewable energy generating station shall be entitled to get renewable energy certificates to the extent of the lapsed banked energy.”

9.10.1 **Comments filed by Reliance Industries Ltd.**

We suggest that the DISCOM compensate the Generator for the un-utilized surplus banked energy at 100% of the lowest tariff discovered in the solar / hybrid / RTC bids held in the previous year depending on the source of RE captive plant setup.

Rationale: -

This is required in case drawl is limited to the sanctioned contract demand

Commission's view: - The Commission has considered the objections filed by the intervener in the matter of compensation for un-utilised banked power. It is noted that, despite the fact that 'generation' is delicensed, an entity, while setting up a power generation facility ought to keep in mind its contract demand / sanctioned load so that the issue of surplus power to be banked do not arise.

The Commission further observes that absorbing surplus power (banked) and keeping the same as a stand by for returning to the entity who had banked its surplus power, has a direct impact on the power purchase cost of the Discoms. Hence, the Commission is of the considered view that paying for the un-utilised banked power, as suggested by the intervener, will impose additional financial burden on the Discoms in terms of enhanced power purchase cost. Generalising and passing such cost to all electricity consumers in the State may be un-equiteous. Hence, the Commission is not inclined to accept the suggestions of the intervener herein.

Provision in the draft regulations: -

9.11 **Regulation 7: Procedure of Grant of Green Energy Open Access**

“(1)The detailed procedure for grant of connectivity and Green Energy Open Access including the application format and applicable Bank Guarantees/Fee/Charges etc., shall be prepared by the State Nodal agency, within a period of 30 days from the date of notification of these regulations and filed in this Commission for approval. The STU may be guided by the procedure prepared by POSOCO (The Grid Controller of India Ltd.) for grant of green energy open access.

(2) All the applications for the Green Energy Open Access complete in all respects, shall be submitted on the portal set up by the Central Nodal Agency and these applications shall get routed to the State nodal agency as specified by the Commission under these Regulations for grant of green energy open access.

(3) The State Nodal Agency shall, by an order in writing, approve the applications for the Green Energy Open Access within a period of fifteen days from the date of receipt of complete application for connectivity/open access, failing which it shall be deemed to have been approved subject to the fulfillment of the technical requirements as specified by the Commission.

Provided that the order of processing of such applications for Green Energy Open Access shall be first in first out.”

9.11.1 **Comments filed by Distributed Solar Power Association (DiSPA)**

Reliance is placed on the judgement of the Honorable Supreme Court dated December 10, 2021 in the matter of CIVIL APPEAL NOS. 5074-5075 OF 2019 in the matter of Maharashtra State Electricity Distribution Co. Ltd....Appellant(s) Versus M/s. JSW Steel Limited & Ors. where the Honorable Supreme Court has stated that:

“So, the captive generation / captive use is statutorily provided / available and for which a permission of the State Commission is not required”.

The operative part of the order also states that:

9. On a fair reading of Section 9, it can be seen that captive generation is permitted under sub-section (1) of Section 9. As per subsection (2), every person, who has constructed a captive generating plant and maintains and operates such plant, shall have the right to open access for the purposes of carrying electricity from his captive generating plant to the destination of his use, but of-course subject to availability of adequate transmission facility determined by the Central Transmission Utility or the State Transmission Utility, as the case may be. So, the captive generation / captive use

is statutorily provided / available and for which a permission of the State Commission is not required. The submission on behalf of the appellant that the captive generation under Section 9 is subject to the regulations as per first proviso to sub-section (1) of Section 9 and that even open access for the purpose of carrying electricity from his captive generating plant to the destination of his use shall be subject to availability of the adequate transmission facility determined by the Central Transmission Utility or the State Transmission Utility, as the case may be, sub-section (4) of Section 42 shall be applicable and such captive users are liable to pay the additional surcharge leviable under sub-section (4) of section 42, has no substance and has to be rejected outright. Construction and/or maintenance and operation of a captive generating plant and dedicated transmission lines is not subjected to any permission by the State Commission. As provided under Section 9 of the Act, 2003, any person may construct, maintain or operate a captive generating plant and dedicated transmission lines. Merely because the supply of electricity from the captive generating plant through the grid shall be regulated in the same manner as the generating station of a generating company or the open access for the purpose of carrying electricity from the captive generating plant to the destination of his use shall be subject to availability of the adequate transmission facility determined by the Central Transmission Utility or the State Transmission Utility, it cannot be said that for captive generation plant, the State Commission's permission is required. Right to open access to transmit/carry electricity to the captive user is granted by the Act, and is not subject to and does not require the State Commission's permission. The right is conditioned by availability of transmission facility, which aspect can be determined by the Central or State transmission utility. Only in case of dispute, the State Commission may adjudicate.

Thus, the Honorable Commission may like to mention in the Regulation 2023 that mere intimation of the Captive Projects may suffice for the approval *subject to availability of adequate transmission facility determined by the State Transmission Utility* and may not have to wait for any procedure or EOI / RFS to be issued by the SNA for the allocation of grant of connectivity under Green Energy Open Access.

Commission's View: The Commission has perused the aforesaid submissions along with Case Law cited in the matter. It may be noted that seeking approval of CPP status

from the Commission is not envisaged in these Regulations. However, as the CPPs are placed on a different pedestal vis-à-vis levy of charges and the conditions precedent for CPP has been specified by the 'Rules' notified by the Central Government, the Commission has considered it appropriate that CPP status vis-a-vis 'Rules' be verified upfront under the procedure so as to avoid litigations in case the generator loses its CPP status, this again is not seeking approval of the Nodal Agency but placing on record the requisite data / information on shareholding pattern and consumption vis-à-vis shareholding to avail the benefits extended to CPPs.

9.11.2 **Comments filed by Reliance Industries Ltd.**

We request the Commission to issue separate detailed Procedure for applying for Day Ahead and Intra-day Green Energy Open Access (GEOA).

Rationale: -

GEOA may be availed by users under Long Term or Medium Term or Short Term Open Access. In case users those who wish to avail GEOA under Short Term for Day Ahead or Same Day / Intra Day requirement. In such cases the grant of GEOA approval by the nodal agency within the fifteen days receipt of application does not stand valid since the scheduling of power is on the very next day or on the same day.

In order to facilitate Day ahead and Same Day/ Intra Day Green Energy Open access within Haryana state, we request the honourable commission to issue separate detailed Procedure for applying for Day Ahead and Intra-day under GEOA.

Applications received by the Nodal Agency before 13.00 hrs. of the day immediately preceding the day of scheduling for day ahead GEOA transaction, the State Nodal Agency to check for congestion in the system and accordingly convey grant of approval or otherwise to the applicant not later than 15:00 Hours of the day immediately preceding the day of scheduling for day-ahead transaction.

Commission's View: - There may not be any requirement for a separate guideline for OA for Day Ahead or Intra- day transactions. Keeping track of congestion in the system is a dynamic exercise and the same should be done on a continuous basis. A common procedure is therefore sufficient by providing specific dispensation given the nature of short, medium- or long-term Open Access. Once an entity gets connectivity, Open Access could be for medium / long term, he may also avail short-term open access on a day ahead or real time basis and, as per the practice followed, the same can be adjusted against medium / long term OA, as the case may be.

9.11.3 **Comments filed by Dakshin Haryana Bijli Vitran Nigam Ltd. (DHBVNL)**

Applications should be routed through the Distribution companies before approval from Nodal agency to check the pending dues of consumers applying for Green Energy Open Access in reference to conditions mentioned in clause 5 (para 6).

Commission's View: The grounds for seeking amendment in the draft i.e. 'pending dues' is not convincing. Majority of the OA consumers are the embedded consumer of the Discoms. Hence, recovery of pending dues ought not to be a difficult exercise even if the entity is not an embedded consumer, he is located in the area of a distribution licensee. Hence, without accessing the intervening distribution system he may not be able to draw any such open access power at his premises. Moreover, supply of any defaulting consumer can be disconnected as per the provisions of the Act and Regulations notified thereunder. Once, such consumer is disconnected he cannot draw power from the Nigam or under open access mechanism. Hence, the contention of the intervener herein is devoid of merit.

9.11.4 **Comments filed by Haryana Vidyut Prasaran Nigam Ltd. (HVPNL)**

(1) The detailed procedure for grant of ~~connectivity~~ and Green Energy Open Access including the application format and applicable Bank Guarantees/Fee/Charges etc., shall be prepared by the State Nodal agency, within a period of 30 days from the date of notification of these regulations and filed in this Commission for approval. The STU

may be guided by the procedure prepared by POSOCO (The Grid Controller of India Ltd.) for grant of green energy open access.

.....

(3)The State Nodal Agency shall, by an order in writing, approve the applications for the Green Energy Open Access within a period of fifteen days from the date of receipt of complete application for ~~connectivity~~/open access, failing which it shall be deemed to have been approved subject to the fulfillment of the technical requirements as specified by the Commission:

Commission’s View: The issue at paragraph (1) has been considered and decided by the Commission earlier in the present order, and hence, is not being repeated here. The deeming provision, is as per the ‘Rules’, and hence, ought not to be changed. The Nodal agency must gear up its resources to meet with the given timeline. Further connectivity and Open Access are two different activities and an Open Access Transaction cannot take place without “connectivity”, while connectivity per-se does not automatically grant permission to draw power or transmit power under Open Access mechanism.

9.11.5 **Comments filed by Uttar Haryana Bijli Vitran Nigam Ltd. (UHBVNL)**

In this para, following points may also be added:

- (i) State Nodal Agency shall decide the application after taking NOC from distribution licensee.
- (ii) The period of 15 days shall commence after NOC from distribution licensee.

Commission’s view: The Commission has considered the above and observes that the Commission has relaxed the timeline from 15 days to 30 days given the work involved at various levels. The timeline ought not be circumvented by adding a clause as proposed by the intervener Nigam.

9.12 **Provision in The Draft Regulations**

Regulation 8: Banking

“RE based captive generating plants may bank power, up to contract demand for captive/own use on payment of the banking charges along with the transmission and distribution losses (Technical loss) for availing the open access on the transmission or distribution network of the licensees for banking and drawl of banked power from the Discoms after entering into the banking agreement with the Discoms concerned at the terms and condition specified as under:

(1) The energy banked shall not be permitted to be carried forwarded to next billing cycle. The banked power 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) Banking shall be permitted on a billing cycle basis on payment of charges in kind @ 8% of the energy banked.

(3) The permitted quantum of banked energy by the Green Energy Open Access consumers shall be at least thirty percent of the total monthly consumption of electricity from the distribution licensee by the consumers. The excess energy banked shall be treated as dumped energy for which no payment shall be made and shall not be carried forward to next month.

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.

Provided further that the un-utilised surplus banked energy shall be considered as lapsed at the end of each banking cycle and the renewable energy generating station shall be entitled to get renewable energy certificates to the extent of the lapsed banked energy.

(4) Banked energy not drawn as per schedule, shall be considered as dumped energy & shall lapse.

(5) The banking shall be allowed throughout the billing cycle; however, the drawl of banked power shall not be allowed during the peak load hours as mentioned in the ToD tariff approved by the Commission.

(6) The RE power shall be adjusted on a first charge basis in order of consumption of energy by a consumer. The banking will be counted on daily basis for the purpose of monthly account.

(7) Settlement of wheeled energy at consumer end shall be in the following order of priority:

- 1. RE generation after deduction of losses.***
- 2. Captive Power***
- 3. Banked Energy***
- 4. Open Access Power through Exchange / Bi-lateral transactions***
- 5. Discom power***

(8) The energy accounts of all banking transactions shall be maintained by SLDC. The licensee shall prepare a detailed procedure for banking along with model banking agreement within a period of 30 days of the notification of these regulations.”

9.12.1 Comments filed by Sunbeam Real Venture Pvt. Ltd. and PHD Chamber of Commerce and Industry.

As per clause 5 of draft regulations *“The consumers who have contracted demand or sanctioned load of hundred 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”.*

It is to be noted that depending on the type of user it may happen that it is not able to consume energy in day time or on weekends. So, it has to bank complete energy being generated from the plant. If banking is limited to contract demand, user won't be able to bank 100% energy as plant capacity is more than contract demand in some cases.

Therefore, considering the provisions of abovementioned clause and commercial viability of solar projects, it is suggested that there should not be any cap on banking of power. Captive users should be allowed to bank up to commissioned/contracted capacity.

Commission's View: - The Commission is of the view that there ought not to be unlimited banking facility. Hence, the quantum of banked energy under these Regulations shall be limited up to 30% of the total monthly consumption of electricity from the Discoms by the Consumer concerned. It is reiterated that absorbing surplus power and then keeping stand by power for return has avoidable associated costs that has already been discussed earlier in the present order, hence, not being repeated here.

Treatment of unutilized banked energy

Banked energy not utilised at the end of billing cycle should not get lapsed. As user has invested for long term in a captive plant, it is suggested that the Commission should consider portion of banked energy which will remains un-adjusted at the end of Financial Year, would be construed as energy purchased and the payment for the same will be made by the Distribution Licensee at the APPC price determined by the Commission from time to time

In order to make captive projects viable, banking charges should not be more than 5%.

Commission's View: The issue of compensating for un-utilized banked power has already been deliberated at length and decided and, hence, the same is not being reproduced here. The banking charges, as per the 'Rules' shall be pegged at 8% of the energy injected in the Grid. The cost of providing banking @ 8% will probably not be compensatory given the fact that the Discoms have very little flexibility in absorbing surplus power in a period when they themselves may be under – drawing. Hence, till the time sufficient power storage infrastructure is developed by the Discoms in Haryana, banking, for most part of the year will be a losing proposition. Hence,

submissions of the intervener is un-acceptable. The ground i.e. to ensure viability of the CPP is not tenable than too at the cost of a public utility. Further, the Commission in its order dated 31.03.2022 (Petition No. 8 of 2022 – Suo-Moto) has decided that RE based captive generating plants, in which not less than twenty six per cent of the ownership is held by a single captive user, shall be eligible for availing banking facility. Accordingly, the same shall continue to operate in the present regulations, as well.

Percentage cap on banking

Further, analysis and recommendations suggested in the 82nd Forum of Regulators meeting on the issues of Green Energy Open Access Rules which need to be aligned with the Electricity Act 2003 and the Tariff Policy are as under: -

3.2.1 Interpretation of Monthly Banking, permitted quantum of banked energy and determination of Banked Energy

Rule 8(1) provides for Banking at least on a monthly basis. Further, proviso to Rule 8(2) states that the credit of energy banked during the month shall be adjusted during the same month. Rule 8(1) and Rule 8(2) contradicts each other. Therefore, it is recommended that the words “at least” on monthly basis under Rule 8(1) may be deleted.

Further, Rule 8(3) also states that 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. It is suggested that since this is monthly banking, no percentage needs to be fixed. So, Rule 8(2) may be deleted.

Therefore, Hon'ble commission is requested to delete rule 8(3) of Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023 as banking is provided on monthly basis which is line with the recommendations of 82nd forum of regulators.

Auxiliary consumption

It is also requested that Hon'ble Commission should incorporate following provision:

Banking shall be permitted on a billing cycle basis on payment of charges in kind @ 8% of the energy banked. Also, consumer may adjust auxiliary consumption from banked energy subject to scheduling as per the relevant regulations.

Commission's View: - Banking and settlement on a monthly basis is as per the 'Rules' as against the existing HERC banking settlement at the end of a financial year that is proposed to be amended in view of the provisions of the 'Rules' notified by the Central Government.

9.12.2 Comments filed by LR Energy (Roop Ram Industries Pvt. Ltd.)

The utilization of the banked green power (Solar Energy) may be permitted till one quarter cycle as we all aware that the generation pattern of the solar energy varies everyday depends upon the weather forecast which is unpredictable hence there are chances that in some month we have surplus power to banked but less time to consume it considering the one-month timeline for banked energy and in some month we do not have any power to bank.

Commission's View: - The issue has been already deliberated and decided i.e. the present exercise has been undertaken by the Commission to align the existing Regulations with the 'Rules' notified by the Central Government. Hence, the dispensation on banking including settlement shall remain as per the draft Regulations.

9.12.3 Comments filed by Cleanmax Enviro Energy Solutions Pvt. Ltd. and M/s. DiSPA

Reliance is placed on the unanimous decision and recommendation in the 82nd forum of regulators where it has been stated that:

*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): 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**. Further, since this is monthly banking, no percentage needs to be fixed. Hence, **Rule 8(2) may be deleted**.*

Commission’s Views: The Commission has considered the objections and observes that the energy banked under these Regulations shall be limited to 30% of the total monthly consumption of electricity by such consumer(s) from the Discoms, the issue has already been settled by the Commission in the present order. Additionally, the dispensation of monthly settlement of banked energy is in line with the ‘Rules’; hence, the said dispensation ought not to change.

9.12.4 **Comments filed by KRBL Ltd.**

i) Banking charges previously did not factor in T&D losses and the same is also not provided for in the Green Energy Open Access Rules, 2022 notified by the Ministry of Power, Government of India. Furthermore, the restriction of banking of energy up to the contract demand is arbitrary and also not provided for in the GOA Rules, 2022 based on which the Proposed Regulations have been framed.

ii) Banking facility is undeniably crucial to the sustenance of renewable captive power plants. Renewable power plants such as wind and solar are dependent on the vagaries of nature and the generation from them is intermittent depending on the weather conditions. The generation from these renewable sources varies with the same day and also seasonally. When the wind speed is high or the irradiance from the sunlight is at maximum then the generation is also optimum and as soon as the wind speed falls or the weather is cloudy/less sunny, the generation also falls. Solar power generators do not generate at night and the generation is also affected during monsoons and winter season and at the same time, wind generation is maximum during monsoons. As mentioned, renewable captive power plants have been provided with the facility of

banking which enables them to utilize, during the low generation period, the surplus power which is generated during peak weather conditions and deemed to be stored /banked with the distribution licensees.

iii) The restriction of the banking facility to the contracted capacity of a captive user, means that a captive power plant will be allowed to bank only as much power as is required at the consumer end under its contract demand with the Discoms and the remaining surplus power generated by the captive power plant, will not be considered banked with the distribution licensee, while in reality, the distribution licensee would have earned a profit by supplying such excess energy to its own consumers. Such restriction on the banking facility is inimical to the growth of renewable captive power plants which will lose out on the rightfully earned revenue and will render their business as unviable. There is no correlation between contract demand and the facility of banking for which the Discom is paid banking charges and no such correlation should be made in the regulations because the same will be baseless.

iv) The banking charges in kind at 8% of the energy banked is onerous on the captive energy generators/users. It is the prerogative of this Hon'ble Commission to balance the interests of the captive generators/users with those of the Discoms. HERC may consider that in other States of India, the banking charges are lower. For instance, in the State of Maharashtra, the banking charges are set at 2% of the banked energy in kind. In the State of Uttar Pradesh, for the banking of solar and wind energy the banking charges are set at 6% of the banked energy in kind.

v) Regulation 8(3) which states that excess energy banked shall be treated as dumped energy for which no payment shall be made and shall not be carried forward to next month does not find mention under any of the Rules of the GOA Rules, 2022 based on which the Proposed Regulations herein have been framed.

vi) In fact, the bare perusal of Rule 8(2) of the GOA Rules, 2022 make it clear that the purpose of the aforesaid Rule is to ensure that **at least** 30% of the total monthly consumption from Discom will be allowed to be banked and the limitation is not 30% and thus the Regulation shouldn't say that excess energy will be dumped. The excess

energy should either be allowed to carry to next month or be compensated for, and this is in consonance with the Rules because the Rules don't provide for dumping of energy over the permitted banking.

vii) States such as Uttar Pradesh the banking of power by RE/Captive RE generators as provided under the *UPERC (Captive and Renewable Energy Generating Plants) Regulations, 2019*, in terms of Regulation 35(a)(v) provides for quarterly settlement of banked energy.

viii) There is a lack of consistency in the proposed Regulations since the terms 'billing cycle' and 'banking period' have been interchangeably used. The two should not be equated since the banking period can be quarterly as well and the limitation should not be inbuilt in the Regulations.

Commission's View: - The issue of banking, settlement of banked energy, banking charges @ 8% and the restrictions imposed on the CPPs as well as the quantum of power eligible to be banked, has been discussed at length and decided by the Commission earlier in the present Order. Hence, these issues shall be construed accordingly. Further, the issue raised by the intervener that the Hon'ble UPERC has provided for quarterly settlement of banked energy has been perused; it is observed that that the UPERC Regulations referred to by the intervener is of the year 2019 whereas the Green Energy Open Access Rules were notified by the Central Govt. on 6.06.2022 wherein in monthly settlement has been stipulated which has been incorporated in the draft under consideration.

Additionally, the Commission has considered the issue raised by the intervener regarding billing cycle and banking period. It is observed that the banking settlement period as per these Regulations is monthly and billing cycle except DS Supply and AP Tube-Well supply is also monthly. Hence, there is no inconsistency as this Commission has not considered quarterly settlement of banked energy.

9.12.5 **Comments filed by Saini Power Transactor**

It is suggested that the banked energy should be allowed to be carried forward. Sugar Industry is the perfect case as the milling of sugar starts from November till the month

of April and the power generated is also firm in nature. Whereas the requirement of power is around the year and the consumer would not be able to consume the banked energy during lean season i.e. May to October. Wind Energy is also a good as the primarily the peak generation is the monsoon season.

It may also be allowed to renewable energy generators to sell the surplus banked energy on power exchanges or to third party rather than lapsing the units. A limit should also be set in order to avoid any generator taking undue benefit of such service.

There is a contradiction that if a consumer is allowed to install a renewable energy plant of any capacity but is allowed to bank energy only up to its contract demand with an additional condition that the banked energy shall be at least thirty percent of the total monthly consumption of electricity from the distribution licensee, how is this possible.

We also understand that this provision is present in Green Energy Open Access Rules 2022 notified by Ministry of Power in 06-06-2022 but it is requested to kindly review the same and it is suggested to kindly remove this provision of at least thirty percent of the total monthly consumption of electricity from the distribution licensee by the consumers.

Commission's Views: - All the issues raised by the intervener has been dealt and decided by the Commission in the present order.

9.12.6 **Comments filed by Reliance Industries Ltd.**

The following requests have been made: -

- a) To modify the clause by deleting the term 'up to contract demand', as under:-
“RE based captive generating plants may bank power, ~~up to contract demand~~ for captive/own use on payment of the banking charges along with the transmission and distribution losses (Technical loss) for availing the open access on the transmission or distribution network of the licensees for banking and drawl of banked power from the Discoms after entering into the banking agreement with the Discoms concerned at the terms and condition specified as under:”

Rationale:-

There is no such requirement to restrict banking up to Contract demand as per Green Energy Open Access Rules which states:

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.

This is required as RE is intermittent power and restricting Banking to Contract Demand will restrict the banking and the captive consumer will not be able to utilize the RE to the fullest potential.

b) To keep the banking charges at the minimum level of 2 % instead of 8% of the total energy banked.

Rationale: -

The proposed banking charges are very high considering green open access being availed by Lower Load green open access consumers of sectioned load of 100KW (for Third Party) and below for captive Users. This will be burden on Green OA consumers, In addition with higher wheeling and transmission losses. Hence the energy received at the consumer end will be very less. Accordingly, Banking charges should be fixed at minimum level.

c) The banking quantum to be permitted up to 100% of the energy requirement of the consumer.

Rationale: -

By allowing only 30% units for banking and lapsing of units above 30%, for which no payment will be made, will result in very low Capacity Utilization Factor of generating

stations. Renewable generation being intermittent in nature, there shall be certain mismatch between generation pattern and load pattern and the limiting the banked energy for only up to 30% is not adequate. We request the permitted banking quantum for open access consumers to be allowed up to 100% of the requirement of the consumers.

Also, the banking facility is being provided with proposed higher banking charges which shall be paid by the green open access consumer while drawing banked power, hence by allowing 100% of the banked energy shall not be loss proposition for DISCOM.

d) To incorporate a suitable provision in the regulation so that the energy banked during off-peak TOD slots shall be permitted to draw during peak TOD slot by paying additional charges as may be specified by Appropriate Commission in addition to the banking charges.

Rationale:-

I. In accordance with Rule 12 of Electricity (Promoting Renewable Energy through Green Energy Open Access) Rules, 2022 notified by MoP on 6th June 2022, the Forum of Regulations FoR) published Model Regulations on Methodology for Calculation of Open Access Charges and Banking Charges for Green Energy Open Access Consumers.

II. The Para No. 10 (d) of the above mentioned FOR model regulation is reproduced below:

"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) To include format of model banking agreement while framing the draft regulation.

Commission's Views: - The Commission observes that the intervener herein has raised objections to the capping of Green Open Access up to contract demand of a CPP, levy of banking charges @ 8% and has suggested not exceeding 2%, quantum of power than can be banked. All these issues have been discussed at length and decided by the Commission in the present order. Hence, these issues shall be accordingly construed.

Additionally, the intervener has suggested that the Commission may allow drawl of peak period banked power during the ToD period as well (peak load hours) on payment of additional charges. The Commission has considered the submissions and observes that during the peak load hours, when power is required to meet the peak demand of different consumer category, it is not always the cost but quantum of power available as well. Given, the maximum rate in DAM and H - DAM, the rate may touch a maximum of Rs. 10 / Unit and Rs. 30 / Unit as well and even at these rates the desired quantum of power may not be available. Hence, by allowing drawl during peak hours will only aggravate the situation and add to the deficit during peak months / period in Haryana. Hence, the suggestions of the intervener is un-acceptable in larger interest of the electricity consumers of the State.

9.12.7 **Comments filed by AMP Energy India Pvt. Ltd. and M/s. TSSDG India Pvt. Ltd.**

- 1) The energy banked shall not be permitted to be carried forwarded to next billing cycle. The banked power 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. **Provided further that the un-utilized surplus banked energy shall be considered as lapsed at the end of each banking cycle and the Renewable Energy generating station shall be entitled to get Renewable Energy Certificates to the extent of the lapsed banked energy.**
- 3) The permitted quantum of banked energy by the Green Energy Open Access consumers shall be at least thirty percent of the total monthly consumption of electricity from the distribution licensee by the consumers. ~~The excess energy banked shall be~~

~~treated as dumped energy for which no payment shall be made and shall not be carried forward to next month.~~

Provided further that the un-utilised surplus banked energy shall be considered as lapsed at the end of each banking cycle and the Renewable Energy generating station shall be entitled to get Renewable Energy Certificates to the extent of the lapsed banked energy

Rationale for suggestion: -

As per the recent amendment of (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022, date 27th January 2023, MoP has guided that un-utilised surplus banked energy shall be considered as lapsed at the end of each banking cycle. However, Renewable Energy generating station shall be entitled to get Renewable Energy Certificates to the extent of the lapsed banked energy. We humbly request to implement the same in the final regulation considering suggestion provided from MoP.

Commission's Views: The Commission has considered the submissions of the intervener herein that the entity who do not fully utilize the banked energy may be allowed REC to the extent of un-utilized banked energy. There is some merit in the suggestions of the intervener. The Commission has noted the same and after taking a holistic view in the matter will decide the issue subject to such power being eligible for REC as per CERC eligibility criteria.

Action:Discoms/ HAREDA Meanwhile, the Discoms and HAREDA are directed to examine the issue and submit their comments on the same within one month from this order. At this stage, no change in the draft Regulations / existing dispensation is required.

9.12.8 **Comments filed by Maruti Suzuki India Ltd.**

a) Banking Charges in kind @ 8%; Further to our submission with regard to availability of solar energy as the only feasible category of renewable power available here, it is but obvious that the consumer may install only solar power plant of relatively

surplus capacity and may like to bank the surplus power for utilization during night. However, the draft regulation imposes banking charge @ 8% in kind along with restrictions of its consumption within the same billing cycle. The cascading impact of higher banking charges along with a very short window for utilization of banked power will discourage consumers to install captive solar plants, and such will be an impediment for the carbon neutrality in India. It is therefore humbly requested to Hon'ble Commission to consider banking charges in the range of 3 ~ 5% instead of 8 %.

b) Banking of at least thirty percent; The draft regulation provides mandatory banking of at least 30% of the total monthly consumption of electricity from discom, which is not justified considering the high banking charges, limited window of use of the banked power during the billing cycle (with all unused banked power getting lapsed thereafter). It is therefore requested to Hon'ble Commission to not to impose any requirement of minimum banking threshold, considering that consumer will be discouraged to install any captive plant under such conditions.

c) Restriction of drawl of banked power; The draft regulation imposes restriction of drawl of banked power during peak hours as mentioned in ToD by the Commission. This is not justified considering limited window of use of banked power within the billing cycle along with banking requirement of minimum 30% of total electricity consumption from discoms. It is therefore humbly requested to the Hon'ble Commission to remove such conditions, as consumers are bound to loose the banked power, thus causing the huge loss.

d) Detailed procedure for banking: While the draft regulation directs the "licensee" to prepare a detailed procedure for banking along with formulating model banking agreement, we welcome the same and wish to submit that in the current regime, the banking approval follows a stage wise approval in Haryana, as shown below: -

Stage-1; Registration of the project under nodal agency (HAREDA).

Stage-2; Connectivity approval from respective STU and or discom.

Stage-3; Approval of long-term open access involving discom, STU and SLDC.

Stage-4; Banking approval from the nodal agency (HPPC).

The Hon'ble Commission, will appreciate that a project proponent having connectivity and banking requirement for its CPP, would like to be assured about approvals, before making any investment. In fact, as observed in the past, there had been lot of delays and harassment by the authorities to grant such approval and consumer has to suffer. To promote ease of doing business in Haryana, we seek support of Hon'ble Commission for making provisions of a prior single window clearance for registration, connectivity, long term open access and banking of solar CPPs. Apart from this the banking agreements including the charges mentioned therein should be fixed for the period of 25 years of the project.

Commission's Views: - The Commission has considered the above objections filed by M/s Maruti Suzuki India Ltd. on the issue of banking charges, limited window available for drawl of banked power due to restrictions and minimum percentage required for availing banking facility as well as the directions to the Nodal Agency to prepare the requisite procedure under these Regulations. At the outset the intervener, while taking any investment decision, must first apply and get the required connectivity and open access instead of taking decisions in anticipation of approvals. The charges and the underlying conditions for granting banking facility are dynamic in nature depending on associated costs and ability of the Discoms to absorb banked power and ability to return the same. Hence, the suggestion that these be fixed for twenty-five years is not tenable. The banking charges @ 8% is as per the 'Rules' and drawl restrictions are required to avoid additional costs to the Discoms during peak months / hours in Haryana as already discussed in the present order. Additionally, given the timeline of 30 days for granting requisite approvals, introducing a 'single window' system may not add much value, more so, as an applicant is not required to approach multiple agencies as a 'Nodal' Agency has been notified for the purpose.

The Commission has considered the minimum percentage stipulated in the draft for banking. As already deliberated and decided a Green Open Access consumer may bank up to 30% of its monthly consumption from the Discoms. Any power over and

above this threshold limit shall be construed as inadvertent injection and shall not be paid for by the Discoms.

9.12.9 **Comments filed by Fourth Partner Energy Pvt. Ltd.**

1. Banking Charges to be reduced to 2%.
2. The permitted quantum of banked energy by the Green Energy Open Access consumers shall be increased to 50% of the total monthly consumption.
3. The settlement period may be increased from one month to six months
4. The lapsed energy to be compensated at APPC price determined by the commission.

Commission's Views: The Commission has considered all the above mentioned objections filed by M/s Fourth Partner. The settlement period and transmission charges @ 8% of the energy injected are as per the 'Rules' notified by the Central Government and hence the same cannot be changed. The Commission has discussed at length the un-tenability of making payment for the lapsed energy and the same is not being repeated here. As far as eligible quantum of banking is required, the same, as decided earlier shall be pegged up to 30% of the monthly drawl of the consumer from the Discoms of its area.

9.12.10 **Comments filed by Renew Power**

- a) RE based captive generating plants **Supplying power under intra-state and or inter-state arrangement** may bank power, up to contract demand for ~~captive/own use~~ on payment of the banking charges along with the transmission and distribution losses (Technical loss) for availing the open access on the transmission or distribution network of the licensees for banking and drawl of banked power from the Discoms after entering into the banking agreement with the Discoms concerned at the terms and condition specified as under.
- b) The energy banked shall ~~not~~ be permitted to be carried forwarded to next billing cycle. **The banked power shall be utilized within the same financial year cycle**

failing which the unutilized energy at the end of the ~~billing cycle~~ **financial year** shall lapse **deemed to be purchased by the distribution licensee at 85% of generic tariff determined by the commission for the financial year**, and ~~no compensation whatsoever shall be claimed/ paid for such lapsed banked energy.~~

c) Provided further that the un-utilised surplus banked energy shall be ~~considered as lapsed~~ **deemed to be purchased by the distribution licensee at 85% of generic tariff determined by the commission for the financial year** at the end of each banking cycle and the renewable energy generating station shall be entitled to get renewable energy certificates to the extent of the lapsed banked energy.

Commission's Views: The intervener Renew power has raised the issue of banking of power and has suggested that the words 'captive / own use' may be removed. In effect it means that the banked power can be drawn for third party sale which is not tenable under the present Regulations and accordingly rejected. The issue of payment for un-utilized banked power, period of banking and settlements as well as eligibility for REC raised by the intervener herein has been discussed at length in the present order and it should be accordingly construed.

9.12.11 **Comments filed by Uttar Haryana Bijli Vitran Nigam Ltd. (UHBVNL)**

Statements made in this clause seems contradictory to each other.

As in first line it is mentioned that the permitted quantum of banked energy by the Green Energy Open Access consumers shall be at least thirty percent of the total monthly consumption of electricity from the distribution licensee by the consumers while second lines mentions that The excess energy banked shall be treated as dumped energy for which no payment shall be made and shall not be carried forward to next month.

Further, clarity is required on the matter.

Commission's Views: - The Commission has considered the ambiguity pointed out by the intervener Nigam. The draft dispensation needs to be set right by stating that

banking may be permitted to the extent of 30% of the monthly consumption of a consumer from the distribution licensee of its area.

9.12.12 **Comments filed by IEX**

a) The draft regulation proposes to grant lower priority to power exchange transactions compared to other sources. Further, within the short term, it places the collective transactions at par with the bilateral.

b) In so far as the overall priority for power exchange transactions is concerned, it may be noted that the transactions at Power exchange are settled on daily basis as against the settlement of the banked energy which is done at the end of the banking cycle and not on day to day basis. Further, since the Power Exchange-based transactions cannot be revised once they have been scheduled (collective transactions), a lower priority will result in the buyers getting penalized for utilizing green energy open access through power exchange based green power. It may be noted that there is no banking attribute attached to such power procured by the consumers.

c) As for the parity against the bilateral transactions, it is submitted that the collective transactions at Power Exchanges cannot be revised once they have been scheduled and thus have higher priority than the bilateral transactions. The said priority has also been set by the Hon'ble CERC in the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008 while deciding on the sequence of curtailments. The relevant extract of the CERC regulations is presented below-

“Curtailment in case of transmission constraints

15. [(1) The Regional Load Despatch Centre may curtail power flow on any transmission corridor by cancelling or re-scheduling any transaction, if in its opinion cancellation or curtailment of any such transaction is likely to relieve the transmission constraint on the corridor or to improve grid security:

Provided that subject to provisions of the Grid Code, while cancellation or curtailment of any transaction, among short-term, medium-term and long-term transactions, short-term transactions shall be cancelled or curtailed first, followed by medium -term and thereafter long term–transactions:

Provided further that while cancelling or curtailing any short-term transaction, bilateral transactions shall be cancelled or curtailed first followed by collective transactions.]”

d) The reasons for granting the highest priority to collective transactions being that these occur and are settled on a daily basis. Once energy is procured through any of these national market segments, the procurer has to ensure offtake of scheduled drawl. In absence of the highest priority to these transactions, the procurer will suffer irreparable damages on account of the energy cost already incurred by it for such energy.

e) In view of the above submissions, the Hon’ble Commission is requested to align the priority with the CERC regulations and allot the highest priority to the Power Exchange based transactions specifically the collective transactions for settlement of energy of a consumer.

Commission’s view: The Commission has considered the objections filed by M/s IEX and observes that the settlement priority for Green Open Access has been kept aligned with the HERC Open Access Regulations vogue and is not inclined to change the sequence for settlement at this stage. It is noted that Renewable Energy being ‘must run’ and required for fulfilling RPO gets the highest priority followed by own generation and banked power as the banked power may lapse and have limited window for draw back. The last priority is given to Discoms power and power drawn through IEX / PX (bilateral) is slotted above the Discoms power. Hence, the logic is well established and requires no change. The CERC Regulations referred to also stipulate that short-term power transactions will be cancelled / curtailed first. The transactions in the exchange, in terms of volume, are mostly of short-term nature. Hence, the reliance placed by the intervener on CERC’s dispensation is misplaced.

9.13 **Provision in The Draft Regulations**

Regulation 9(1): Charges to be levied for Open Access

“9. Charges to be levied for Open Access:

(1) The charges to be levied on Green Energy Open Access consumers shall be as follows: -

a) Transmission charges;

- b) Wheeling charges;***
- c) Cross subsidy Surcharge;***
- d) Standby charges wherever applicable;***
- e) Banking charges; and***
- f) other fees and charges such as Load Despatch Centre fees and scheduling charges, deviation settlement charges as per the prevailing regulations of this Commission.***

(4) In case of RE Open Access, the consumers taking power from such RE Generator may maintain its contract demand with the distribution licensee. In such cases, the distribution licensee is obligated to supply power to such consumer under universal service obligations and Open Access Consumer shall continue paying fixed charges to the distribution licensee.

The standby charges, in such cases, shall be 125% of the energy charges applicable to consumer tariff category, and such charges shall not be applicable if the Green Energy Open Access Consumers have given notice in writing, in advance at least a day in advance before closure time of the Day Ahead Market on D – (minus) day; “D” being the day of delivery of power for standby arrangement to the distribution licensee.”

9.13.1 Comments filed by Sunbeam Real Venture Pvt. Ltd. and PHD Chamber of Commerce and Industry

Reliability charge/surcharge

The purpose of entire exercise is to provide uniform approach and redefine various charges applicable on green energy open access.

However, contrary to the objective, incorporation of applicability of charges from prevailing regulations making charges under Regulations 72 (C) of the Haryana electricity Regulatory Commission (terms and conditions for determination of tariff from renewable energy sources, renewable purchase obligation and renewable energy certificate) regulations 2021 applicable, which are still not approved and established.

In order to avoid confusion and promote renewable energy in the state, Hon'ble commission is request to incorporate following provisions:

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

-

- a) Transmission charges;
- b) Wheeling charges;
- c) Cross subsidy Surcharge;
- d) Standby charges wherever applicable;
- e) Banking charges; and
- f) other fees and charges such as Load Despatch Centre fees and scheduling charges, deviation settlement charges as per the prevailing regulations of this Commission.

“Other charges/surcharges may be defined in any other regulations, which are not part of Haryana electricity Regulatory Commission Green Energy Open Access regulations 2023, will not be applicable for the entire useful life of projects established under Haryana electricity Regulatory Commission Green Energy Open Access regulations 2023”.

Imbalance Charges

Regulation 24 of “Haryana Electricity Regulatory Commission (Terms and conditions for grant of connectivity and open access for intra-State transmission and distribution system) Regulations, 2012” states “imbalance charges” which should not be applicable as there is no mention of imbalance charges in Green energy open access rules 2022 and subsequent amendment.

In order to avoid such instances, it is suggested that Hon'ble Commission should incorporate following provision:

“Other charges/surcharges may be defined in any other regulations, which are not part of Haryana electricity Regulatory Commission Green Energy Open Access regulations 2023, will not be applicable for the entire useful life of projects established under

Haryana Electricity Regulatory Commission Green Energy Open Access regulations 2023”.

9.13.2 Comments filed by LR Energy (Roop Ram Industries Pvt. Ltd.)

In the draft submitted for discussion by the Hon'ble Commission, the charges to be levied under point (e) should be specified and it should not be an open ended clause. In terms of the Green Energy Open Access Rules, no other charges except for the ones which are mentioned in (1) (a) to (d) above can be levied on green energy open access consumers.

Please clarify on imposition of Reliability Charges which is currently being imposed on the renewable energy.

We request to kindly clarify the same and expect adherence by the Notification issued by the Ministry of Power as "ELECTRICITY" falls under the concurrent list of the seventh schedule of the constitution of India. We also request the honorable commission to kindly intervene & direct respective DISCOM to refund the reliability charges deducted, since the issue of the notification i.e. 06JUN 2022.

STANDBY Charges:

As per the gazette notification clause 9-(4) on page 9 it is mentioned that:-

"Provided that the applicable standby charges shall not be more than Ten per cent of the energy Charges applicable to consumer tariff category"

But in the discussion paper the Standby Charges is mentioned at 125% of the energy charges applicable to consumer tariff category. This is contrary to the notification issued by the Ministry of Power.

9.13.3 Comments filed by KRBL Ltd.

Regulation 9 of the Proposed Regulation should clarify that cross-subsidy surcharge and additional surcharge shall not be payable by captive users.

Such clarification should be given in view of Section 42 and Section 86(1)(a) of the Electricity Act, 2003 which specifically grants a special status to captive generating plants and exempts them from the levy of cross subsidy surcharge and additional surcharge. This position has also been reiterated in *MSEDCL v. JSW Steel Ltd. & Ors.* (2022) 2 SCC 742, where the Hon'ble Supreme Court held that apart from wheeling/transmission charges, captive generating plants will not be liable to pay any additional charge.

It is submitted that for the purposes of clarity, this Hon'ble Commission may clarify that the "Reliability Charge" as provided for in Regulation 72(c) of the HERC RE Regulations, 2021 will be done away with and not be levied on the Open Access consumers in terms of the Proposed Regulations in consistency with the GOA Rules. The Hon'ble Commission may refer to the comments of the Objector made above, with respect to the aforesaid.

9.13.4 **Comments filed by M/s. DiSPA**

The Green Open Access Rules 2022 and its subsequent amendments were made with an objective of bringing uniformity and conformity in the generation and consumption of renewable energy under open access and thus there is cap on the charges can be applied on the Open Access from renewable Energy and the Rules 2022 thus states that:-

"No other charges except the charges above, shall be levied"

Thus, it is submitted that the Hon'ble Commission in the regulations shall also state that: *"no other charges / surcharges as may be defined in any other regulations will be applicable on generation and consumption of renewable energy from solar and wind under intrastate Open Access which is not the part of the Haryana electricity Regulatory Commission Green Energy Open Access regulations 2023 for the entire useful life for the projects which are commissioned within the control period or prior to the control Period of these regulations".*

9.13.5 **Comments filed by Saini Power Transactor**

Clause 72(c) of HERC RE Regulations, 2021 mentions reliability charges of ₹ 1.5/unit which are not mentioned in the current. It is presumed that these charges will not be applicable as it is not mentioned in the Clause 9. It is requested to kindly clarify the same.

As you are also aware that the State of Haryana is Renewable energy deficit state that there is a need to grow renewable capacities in Haryana. In order to promote the RE generation within the state some incentives needs to be given to the generators/consumers for intra-state generation and consumption of power which may include the following: -

1. Waiver to Wheeling charges

Exemption of 50% on wheeling charges only on Intra-state Sale of Power to third party or in case of Captive use shall be provided in order to promote the industrial consumers who are connected to the distribution system having contract demand of 1MVA and above and 100 % on wheeling charges for consumers connected to the distribution system having contract demand of below 1MVA. This will promote the penetration of green energy consumption in the small-scale industries. No waiver of transmission charges shall be provided as the large industrial consumers already have several advantages and there is a need to promote the small industries. Distribution/Transmission losses and cross subsidy surcharge will be applicable as per HERC regulations, as amended from time to time.

2. Waiver of Electricity Duty

In respect to all solar projects set up within the State, electricity duty shall be exempted for ten years on sale of power to Distribution licensee, third party, and for captive consumption.

3. Capital subsidy on battery storage system

Capital State Subsidy of Rs 2.50 Crore per megawatt shall be provided to Utility scale renewable power projects set up with 4 hours battery storage system of 05 megawatt

capacity or above and standalone battery storage system for sale of power to Distribution licensee.

Commission's view: - The Commission has considered the objections filed by the above-mentioned intervener. The main concern of the intervener seems to be the composition of 'other' charges. It has already been clarified that this will not include reliability charge, while imbalance charge shall be governed by the DSM Regulations / Open Access Regulations in vogue. However, to provide more clarity to 'other' charges it clarified that the same shall include Load Dispatch Centre fees / scheduling charges, deviation settlement charges and reactive energy charges.

Further, an intervener has submitted that as per the 'Rules' standby charges ought to be 10% of the ECR. It may be noted that this issue was left for the Forum of Regulators (FOR) to deliberate and decide. After due diligence the same was decided as 125% of the ECR; hence, it has been incorporated in the draft under discussions. Resultantly, no change is required in the said dispensation on 'stand by' charge.

The issue of waiver of CSS and Additional Surcharge on the CPPs have been raised. The Commission observes that the same has to be construed as per the provisions of the Electricity Act, 2003 and the National Tariff Policy. Further, wheeling charges, electricity duty and the issue of Capital Subsidy is outside the scope of present proceedings. It is added that ED is levied by the State Govt. and Capital Subsidy by the Central Government (MNRE) / State Govt. etc. Hence, the intervener may raise such issues with the appropriate authority. The transmission / wheeling imposes cost on the power utilities and hence the same has to be recovered unless the Govt. decides to waive it and provide for the revenue gap on account of revenue loss for such waiver.

9.13.6 **Comments filed by Reliance Industries Ltd.**

a) We request the Commission to provide the additional clarity on applicability of stand by charges for normal Open Access consumer. Kindly clarify whether standby charges will not be applicable if the power consumed by the GEOA consumer is within the contract demand and such charges will only be applicable only on power consumed over and above consumer's contract demand maintained with the distribution licensee.

b) We request the Commission to modify the proviso of the said clause - No Additional Surcharge shall be levied in case open access is provided to a captive user for carrying the electricity produced in a Captive Generating plant for his own captive use of electricity in compliance with the requirements of Electricity Rules, 2005 and in accordance with Section 42 (4) of Electricity Act 2003.

c) Ministry of Power notification dated 29th December 2022, amending the Electricity Rule 2005, provides for

"Surcharge payable by Consumers seeking Open Access - The surcharge, determined by the State Commission under clause (a) of sub-section (1) of section 86 of the Electricity Act, 2003 shall not exceed twenty per cent of the average cost of Supply.

Accordingly, we request the Commission to limit the applicability Cross Subsidy Surcharge and Additional Surcharge or any other surcharge upto the 20% of the tariff applicable to the category of the consumers seeking Open Access.

Commission's Views: As far Cross-subsidy surcharge is concerned the same is worked out in the ARR / Tariff order of the Commission as per the National Tariff Policy. Accordingly, the CSS is limited to +/- 20% of the applicable tariff. As per as applicability of CSS and Additional Surcharge on CPPs are concerned, the same is governed by the provisions of the Electricity Act, 2003 and the National Tariff Policy. Hence, no indulgence of this Commission is required in the matter. Further, the 'Rules' provide with lot of clarity on the applicability of the 'Stand by" charges and the tariff to be charged thereof. Hence, the same shall be accordingly construed.

9.13.7 **Comments filed by AMP Energy India Pvt. Ltd. and M/s. TSSDG India Pvt. Ltd**

Addition: no other charges / surcharges as may be defined in any other regulations will be applicable on generation and consumption of renewable energy from solar and wind under intrastate Open Access which is not the part of the Haryana electricity Regulatory Commission Green Energy Open Access regulations 2023 for the entire useful life for

the projects which are commissioned within the control period or prior to the control Period of these regulations.

Commission's Views: The Commission has perused the objections filed above. It is made clear that charges will be SLDC charges, Reactive Energy Charges and Scheduling Charges, and charges for settlement of deviations as appearing in DSM Regulations / Open Access Regulations.

9.13.8 **Comments filed by M/s. Maruti Suzuki India Ltd.**

a) The draft discussion paper still prefers to retain arbitrary and un-simulated charges imposed on the generation/consumption of renewable energy from solar and wind under open access – “the Reliability Charges / surcharges” which was introduced under Regulations 72 (C) of the HERC RE Regulations 2021.

b) Transmission charges; Hon'ble CERC has waived-off ISTS charges for Renewable energy projects for a period of 25 years vide notification No. L-1/250/2019/CERC, Central Electricity Regulatory Commission (Sharing of Inter-state Transmission Charges and Losses) (First Amendment) Regulations, 2023 dtd 7th Feb 2023 in line with notification of Ministry of Power vide notification no. 23/12/2016-R&R, dtd 23rd Nov, 2021.

In line with the same, we request for a waiver from Hon'ble Commission for Intra-state transmission charges on the Renewable energy projects installed within the State of Haryana under Green energy Open access Regulations for a period of 25 years post commissioning / approval of the project.

c) Standby charges @125%; The draft regulation mandates levying a hefty Standby charge @ 125% of energy charge, under the circumstance of non-receipt of written advance notice (D minus day) from Open access consumer. It is therefore requested to Hon'ble Commission to limit standby charge to a maximum of 25% of energy charge

applicable to consumer tariff category, which is in line with the notification by Ministry of power vide GSR 59 (E) dtd 27th January 2023.

Commission's Views: The Commission has perused the objections filed by M/s Maruti Suzuki Ind. Ltd. and observes that from the date of notification of these Regulations the 'Reliability Charge' will not be levied. However, the charges mentioned in these Regulations including any other Regulations referred to, shall only be levied on Green Open Access consumers.

Further, the intra-state transmission imposes cost on the power utilities in Haryana. Hence, all such charges ought to be recovered from the beneficiaries of the transmission system and cannot be generalized to be recovered from all electricity consumers of the State. Additionally, given the dynamic nature of associated costs, the same cannot be held constant for 25 years as suggested by the intervener.

125% is as per the FOR recommendations. Further, the Discoms may have to arrange 'stand by' power at a short notice which invariably be expensive. Hence, such tariff @ 25% of the ECR defies all logic.

9.13.9 **Comments filed by Fourth Partner Energy Pvt. Ltd.**

Clarification on landed cost of power. What all will be the other charges.

Commission's views: - The 'other charges' as appearing in the draft Regulations will be limited to SLDC charges, Reactive Energy Charges, Scheduling charges and deviation settlement charges. .

9.13.10 **Comments filed by Uttar Haryana Bijli Vitran Nigam Ltd. (UHBVNL)**

Cross subsidy surcharge should be applicable as per existing methodology under HERC Open Access Regulation 2012 and its amendment, which is in line with the Tariff Policy 2016 of MoP, GoI. Restricting the limit to increase in cross-subsidy surcharge may add financial burden on Discom.

As per HERC Open Access Regulation 2012

“If open access is availed by a consumer of a distribution licensee of the State, then such consumer, in addition to payment of transmission and / or wheeling charges, shall pay cross subsidy surcharge. Cross subsidy surcharge on per unit basis shall be payable, on monthly basis, by the open access consumer for the actual energy drawn through open access during the month. The amount of surcharge shall be paid to the distribution licensee of the area of supply in which such consumer is located.

Provided that such surcharge shall not be levied on a person who has established a captive generation plant and carries the electricity to the destination of his own use.”

Hence Cross subsidy surcharges may only be exempted to captive consumer in Green Open Access Regulations.

As per HERC Open Access Regulation 2012

“An open access consumer, receiving supply of electricity from a person other than the distribution licensee of his area of supply, shall pay to the distribution licensee an additional surcharge in addition to wheeling charges and cross-subsidy surcharge, to meet out the fixed cost of such distribution licensee arising out of his obligation to supply as provided under sub-section (4) of Section 42 of the Act.

Provided that such additional surcharge shall not be levied in case open access is provided to a person who has established a captive generation plant for carrying the electricity to the destination of his own use.”

Hence *additional surcharge* may only be exempted to captive consumer in Green Open Access regulations in line with HERC Open Access Regulations & Electricity Act-2003

It may also be mentioned that the RE Open Access consumers shall respect the contract demand (CD for short) entered with distribution licensee and shall not increase the same without sanctioning. If in case CD is exceeded, discom shall levy penalty as per the provisions laid down in HERC Regulations.

The standby charges may also be specified for Green Energy Open Access Consumers even if such consumers have given notice in writing, in advance at least a day in advance before closure time of the Day Ahead Market. The reason being with such a short notice, DISCOMs are bound to purchase power in short term which at sometimes is available at high rates.

Commission's views: - The charges for 'standby' power has already been defined in these Regulations and needs no further clarifications. It is made clear that the entities availing open access under these Regulations will be bound by the contract demand / sanctioned load. The levy of Cross-Subsidy surcharge and Additional Surcharge on the CPPs shall be governed by the relevant section of the Electricity Act, 2003.

9.14 **Provision in The Draft Regulations**

Regulation 10: Green Energy Certificate

“Green certificate. The distribution licensee shall give green certificate on yearly basis to the consumers for the green energy supplied by the licensee to consumer on his request beyond the renewable purchase obligation of the consumers.”

9.14.1 **Comments filed by Maruti Suzuki India Ltd.**

The draft regulation provides that *“green certificates shall be provided for the green energy supplied by the licensee, **beyond the RPO of consumer**”*. In this regard we wish to submit that, there will be practical difficulty in its implementation, considering that distribution licensee is not the authority to verify RPOs of consumer. Thus, there will be additional burden on licensee to verify RPOs of consumer (before issue of green certificate) leading to delays etc. and ultimately harassment of consumers to receive such green certificates. We therefore request that green certificates should be issued by licensee irrespective of RPOs of consumer after every billing cycle.

Commission's views: - The RPO compliance of an obligated entity is being monitored by HAREDA on the basis of data / information provided by the Discoms / SLDC. Hence, the Commission sees no reason for the discomfort expressed by the intervener M/d Maruti Suzuki India Ltd. Moreover, such dispensation is in line with the Green Open Access Rules notified by the Central Government. It may be noted that the green tag to be issued by the distribution licensee has to be for the green energy procured by the obligated entity over and above its renewable purchase obligation. Hence, as intended in the 'Rules' green certificates can only be issue by the distribution licensee after verification of the RPO of the obligated entities.

9.15 **Miscellaneous**

9.15.1 **Comments filed by LR Energy (Roop Ram Industries Pvt. Ltd.)**

The Hon'ble Commission is requested to clarify the following issues:

A) The Hon'ble Commission may clarify on the aspect of approval of Short Term Open Access (STOA) to supply power generated on Saturday - Sunday or on Holidays to another consumer/LEX or etc., when the captive consumer is low in consumption/zero consumption if the current captive consumer/generator already has Long Term Approval (LTOA) from STU. This would help in mitigating the wastage of renewable power in the State of Haryana and would be in furtherance of the general scheme of the Act more particularly Sections 61 (h) and 86 (1) (e) of the Act.

B) Can we bifurcate the power supply from an existing solar power plant (which is currently supplying 80% power to its captive consumer under long term agreement adhering the captive consumer criteria i.e., not less than 51% of power will be consumed by the captive consumer) to another consumer (20%).

Commission's views: - The issue raised by M/s LR Energy is beyond the scope of the present exercise. Hence, the Commission is not expressing any views on the same.

9.15.2 **Comments filed by Cleanmax Enviro Energy Solutions Pvt. Ltd., M/s. DiSPA and M/s. Maruti Suzuki India Ltd.**

Comments on clause 66 of the Haryana Electricity Regulatory Commission (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2021, which provides that *“The RE power shall be allowed to be banked with the distribution licensee(s), upto the cumulative contract capacity of 100 MW only.....”*

Comments/Suggestion: -

As per the HERC RE Regulations, 2021 the Hon'ble Commission ordered for a banking upto a cumulative capacity of 100 MW RE projects. With the present regulations making the banking as monthly banking only as per the FOR the restriction of the 100 MW cap may also kindly be removed.

Commission's view: - The Commission has considered the above and clarifies that for the Green Open Access availed under these Regulations, there shall be no cumulative restrictions as such. However, on individual basis the cap, for the purpose of availing banking facility, shall be upto 30% of the monthly consumption of a consumer from the Discoms, as per these Regulations.

9.15.3 **Comments filed by Reliance Industries Ltd.**

a) Additional Provision: Procedure, Documentation, Fees and charges and Timeline for application processing of Green Open access.

Comments/Suggestions:-

Kindly incorporate suitable provisions related to procedure documentation, Fees and charges and Timeline for application processing of Green Open access in the proposed regulation.

Rationale:-

This will provide the Clarity regarding the Procedure for the application along with required documents, timeline to get the clearance Permission, fees and charges for application

Commission's view: All the above shall be part of the procedure to be framed by the Nodal Agency within 30 days of the notification of the HERC Green Open Access Regulations. However, the timeline for the grant of connectivity shall be 30 days instead of 15 days as per the dispensation in the 'Rules'.

b) Additional provisions: Verifying Agency for Captive Status of CGP

Comments/Suggestions:-

Request to incorporate suitable provision in the draft Regulation to define a verifying agency/competent authority w.r.t. power sourcing by a consumer situated in the state of Haryana from a captive generator situated in other state.

Rationale:-

The discussion paper does not define a verifying agency / competent authority for grant of captive status to generators situated in other states or connected to CTU and who is willing to supply power to a consumer connected to distribution or transmission network within the Haryana State.

This will benefit the captive open access consumers in the state of Haryana to fulfil their RPO obligation by purchasing green power from RE sources located outside the State

Commission's view: The Commission has considered the above suggestions for defining a verifying agency / competent authority and observes that it is not relevant to be included in the present Regulations.

c) Additional Provision: Metering

Metering: Central Electricity Authority (Installation and Operation of Meters) (Amendment) Regulations, 2022

Comments/Suggestions:-

Requisition of Meter for the Consumers availing green open access should be in line with provision of Central Electricity Authority (Installation and Operation of Meters) (Amendment) Regulations, 2022.

Accordingly, use of Smart meter should be allowed for the purpose of Green Energy Open Access as per CEA clarification dated 27th Oct 2020.

Rationale:-

Regarding Eligibility for Green open access, many consumers will apply for the Special Energy Meter for accounting for Open access energy. Hence, Provisions for smart meter installation for the Green OA consumer should be incorporated suitably as per the provision of Central Electricity Authority (Installation and Operation of Meters) (Amendment) Regulations, 2022 and CEA clarification dated 27th October 2020

Commission's view: All aspects of metering including accuracy class, technical specs, location and type of metering equipment shall be governed by the CEA metering Regulations in vogue.

10. A public hearing was held on 06th April, 2023. The representatives of intervenors present during the hearing, mainly reiterated the contents of their written comments, which has been reproduced at relevant places in the present order and discussed at length. Hence, for the sake of brevity the same have not been discussed herein again. The issues raised by the intervener have been addressed in the preceding paras in this order and the suggestions, wherever considered justifiable, have been incorporated in the final Regulations.

Accordingly, the Commission approves the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023, as per annexure "A" attached to the present order.

The same be sent for Gazette Notification at the earliest.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 24.04.2023.

Date: 24.04.2023
Place: Panchkula

(Naresh Sardana)
Member

(R.K. Pachnanda)
Chairman

Annexure 'A'

HARYANA ELECTRICITY REGULATORY COMMISSION BAYS NO. 33-36, SECTOR-4, PANCHKULA – 134112

Notification

Regulation No. HERC/59/2023:- The Haryana Electricity Regulatory Commission, in exercise of the powers conferred on it by section 181 of the Electricity Act 2003 (Act 36 of 2003) and all other powers enabling it in this behalf, after previous publication, makes the following regulations:-

CHAPTER 1 PRELIMINARY

1. Short title, commencement, extent of application and interpretation:

- (1) These Regulations may be called the Haryana Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023.
- (2) These regulations shall come into force on the date of their publication in the Haryana Government Gazette.
- (3) These regulations shall extend to the whole state of Haryana
- (4) This Regulations shall be applicable for allowing connectivity and open access to electricity generated from green energy sources as defined under clause (i) of Regulation 2, including the energy from non-fossil fuel based Waste-to-Energy plant, notwithstanding anything to the contrary containing in any other regulations, for the time being in force for use of intra-state transmission system (InSTS) or distribution system or both including when such system is used in conjunction with inter-State transmission system.

Provided that a generating station, including captive generating plant, or a consumer / person shall not be eligible to apply for long term or medium term or short term open access unless he has the connectivity or he applies for connectivity to the intra-State transmission or distribution system as the case may be.

Provided further that a person may apply for connectivity as well as long term or medium term or short term open access simultaneously.

Provided that other conditions of grant of connectivity and open access in respect of green energy generation, purchase and consumption, to which no express provision has been made in these regulations, shall be in accordance with the provisions of HERC Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation Regulations, 2019, Haryana Electricity Regulatory Commission (Terms and conditions for grant of connectivity and open access for intra-State transmission and distribution system) Regulations, 2012 and Haryana Electricity Regulatory Commission (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2021, as amended from time to time.

2. **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 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
- (c) "Billing Cycle" shall have the same meaning as has been specified under the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014, as amended from time to time.
- (d) "Central Nodal Agency" means the nodal agency as specified by the Government of India as per the rules;
- (e) "CERC" means the Central Electricity Regulatory Commission;
- (f) "Commission" means the Haryana Electricity Regulatory Commission
- (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 the 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 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 fulfill Renewable Purchase Obligation, which includes distribution licensee, captive user, and open access consumer, as specified under Haryana Electricity Regulatory Commission (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2021, as amended from time to time.
 - (k) “Rules” shall mean the Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022;
 - (l) “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;
 - (m) “State Grid Code” shall mean Haryana Grid Code (HGC) Regulations, 2009 and any subsequent amendments thereafter.
- (2) The words and expressions used and not defined herein but defined in the Act shall have the meanings respectively assigned to them in the Act. The other expressions used herein but not specifically defined in the regulations or in the Act but defined under Haryana Electricity Reform Act, 1997 (Act 10 of 1998) or the Indian Electricity Grid Code or the Haryana Grid Code or the Haryana Electricity Regulatory Commission (Terms and Conditions for determination of Tariff for Generation, Transmission, Wheeling and Distribution & Retail Supply under Multi Year Tariff) Regulations, 2019, HERC Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation Regulations, 2019, Haryana Electricity Regulatory Commission (Terms and conditions for grant of connectivity and open access for intra-State transmission and distribution system) Regulations, 2012 and

Haryana Electricity Regulatory Commission (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2021 as amended / reenacted from time to time, shall have the meanings assigned to them respectively in the Haryana Electricity Reform Act, 1997 (Act 10 of 1998) or the Indian Electricity Grid Code or the Haryana Grid Code or any other relevant Regulations in vogue , provided that such definitions in the Haryana Electricity Reform Act, 1997 are not inconsistent with the provisions of the Electricity Act, 2003;

3. **Scope and Extent of Application:**

This Regulations shall be applicable for allowing connectivity and open access to electricity generated from green energy sources as defined under clause (i) of Regulation 2, including the energy from non-fossil fuel-based Waste-to-Energy plant.

CHAPTER 2 GRANT OF OPEN ACCESS

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

The consumers who have contracted demand or sanctioned load of hundred 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.

Provided that such open access shall be for a minimum twelve-time blocks of 15 minutes time interval during a day, for which the consumer shall not change the quantum of power consumed through open access.

Provided further that all applications for open access of green energy shall be allowed by the State Nodal Agency within a period of thirty days.

Provided further that such consumer of a distribution licensee 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 such consumer on such independent feeder, the following condition shall apply: -

A group of two or more consumers of a distribution licensee having a contracted demand or sanctioned load of hundred kW and above connected to the distribution system of licensee at 11 kV or above through an independent feeder emanating from a grid sub-station, shall also be entitled for seeking open access if all such consumers collectively apply for open access through a group representative to be nominated by all such consumers on that feeder provided that all such consumers shall have necessary infrastructure for time-block wise energy metering and accounting installed at their premises and provided further that schedule of power through open access of individual consumers shall also be supplied by the group representative. However, all the individual consumers of the group shall have to separately pay the prescribed application fee and SLDC charges. Alternately if such a group of consumers agree for a single point connection, the group as a whole shall be treated as a single consumer for all practical purposes including scheduling, metering and billing and in that case individual ABT metering equipment will not be required. The application fee and SLDC charges shall also be charged for a single application. The billing shall be done based on ABT meter installed on the independent feeder at the sub-station and the contract demand of the group shall be taken as the sum of the contract demands of the individual consumers. Other terms and conditions applicable under this alternative shall be as prescribed by the Commission in the Haryana Electricity Regulatory Commission (Single Point Supply to Employers' Colonies, Group Housing Societies and Residential or Commercial cum Residential Complexes of Developers) Regulations, 2013, as amended from time to time.

Provided further that the consumers of a distribution licensee with contract demand of 100 KW 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.

Provided further that such consumers, having been declared insolvent or bankrupt or having outstanding dues against him 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 him at the time of application, shall not be eligible for open access.

Provided further that the green energy open access consumer shall restrict the sum of his total drawl from open access and from the distribution licensee upto the total sanctioned contract demand. The maximum admissible drawal in any time block during the day for green energy open access consumer shall be the difference of sanctioned contract demand and scheduled entitlement.

Compliance with Grid Code: All Green Energy Open Access consumer shall be required to abide by the CERC (Indian Electricity Grid Code) 2010 and State Grid Code.

5. **Nodal Agency:**

(1) SLDC Haryana shall be the State Nodal Agency for grant of green energy open access for short term (upto a month) and the State Transmission Utility (STU), shall be the nodal agency for grant of Green Energy Open Access, for medium (one month to three years) and long term (more than three years).

(2) All the applications related to connectivity and green energy open access shall be received at STU Headquarter in accordance with the detailed procedure, through the single window green energy open access system for renewable energy developed by the Central Nodal Agency.

6. **Procedure for grant of Green Energy Open Access:**

(1) The detailed procedure for grant of connectivity and Green Energy Open Access including the application format and applicable Bank Guarantees/Fee/Charges etc., shall be prepared by the State Nodal agency, within a period of 30 days from the date of notification of these regulations and filed in this Commission for approval. The STU

may be guided by the procedure prepared by POSOCO (The Grid Controller of India Ltd.) for grant of green energy open access.

- (2) All the applications for the Green Energy Open Access complete in all respects, shall be submitted on the portal set up by the Central Nodal Agency and these applications shall get routed to the State nodal agency as specified by the Commission under these Regulations for grant of green energy open access.
- (3) The State Nodal Agency shall, by an order in writing, approve the applications for the Green Energy Open Access within a period of thirty days from the date of receipt of complete application for connectivity/open access, failing which it shall be deemed to have been approved subject to the fulfillment of the technical requirements as specified by the Commission:

Provided that the order of processing of such applications for Green Energy Open Access shall be first in first out.

- (4) The Short term and medium-term open access shall be allowed, if there is sufficient spare capacity available in the transmission system without any augmentation whereas for long term open access, the transmission system may be augmented if required:

Provided that priority shall be given to long term in the existing system if spare capacity is available and further, open access for non-fossil fuel sources shall be given priority over the open access from the fossil fuel.

Explanation:

For the purposes of this rule, the expression ‘Fossil Fuel’ includes the 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.

- (5) No application for open access shall be denied unless the applicant has been given an opportunity of being heard in the matter by the State Nodal Agency and all orders denying open access shall be speaking orders.
- (6) Appeals against an order of the State Nodal Agency, shall lie before the Commission, within a period of thirty days from the date of receipt of order under sub-rule (4) of rule 7.
- (7) The Commission shall dispose the appeal within a period of three months and the order issued by it, shall be binding on the parties.
- (8) Metering: Metering shall be done in accordance with provisions of CEA (Installation and Operation of Meters) Regulations 2006 as amended from time to time.

(9) Curtailment Priority:

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

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

CHAPTER 3 BANKING

7. **Banking:**

RE based captive generating plants, in which not less than twenty six per cent of the ownership is held by a single captive user, may bank power, up to contract demand for captive/own use on payment of the banking charges along with the transmission and distribution losses (Technical loss) for availing the open access on the transmission or distribution network of the licensees for banking and drawl of banked power from the Discoms after entering into the banking agreement with the Discoms concerned at the terms and condition specified as under:

- (1) The energy banked shall not be permitted to be carried forwarded to next billing cycle. The banked power 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 and the renewable energy generating station shall be entitled to get renewable energy certificates to the extent of the lapsed banked energy.
- (2) Banking shall be permitted on a billing cycle basis on payment of charges in kind @ 8% of the energy banked.
- (3) The permitted quantum of banked energy by the Green Energy Open Access consumers shall be up to thirty percent of the total monthly consumption of electricity from the distribution licensee by the consumers.
- (4) The banking shall be allowed throughout the billing cycle; however, the drawl of banked power shall not be allowed during the peak load hours as mentioned in the ToD tariff approved by the Commission.
- (5) The RE power shall be adjusted on a first charge basis in order of consumption of energy by a consumer. The banking will be counted on daily basis for the purpose of monthly account.

- (6) Settlement of wheeled energy at 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 power
- (7) The energy accounts of all banking transactions shall be maintained by SLDC. The licensee shall prepare a detailed procedure for banking along with model banking agreement within a period of 30 days of the notification of these regulations.

CHAPTER 4

CHARGES FOR GREEN OPEN ACCESS

8. Charges to be levied for Open Access:

- (1) The charges to be levied on Green Energy Open Access consumers shall be as follows: -
- a) Transmission charges;
 - b) Wheeling charges;
 - c) Cross subsidy Surcharge;
 - d) Standby charges wherever applicable;
 - e) Banking charges; and
 - f) Application fees/SLDC fees/Charges, scheduling charges, deviation settlement charges and reactive energy charges.

The methodology for calculation of Transmission, wheeling and cross-subsidy surcharge charges shall be as specified in the Haryana Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for Generation, Transmission, Wheeling and Distribution & Retail Supply under Multi Year Tariff Framework) Regulations, 2019 as amended from time to time.

Further, as far as scheduling and deviation mechanism is concerned, the same shall be governed by the separate Regulations i.e. DSM and Open Access Regulations, 2012 as amended from time to time.

- (2) The Cross-subsidy surcharge shall be as per the provisions of the Electricity Act, 2003 and National Tariff Policy notified by the Central Government under the Act.

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;

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:

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

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 Consumers.

- (3) The cross-subsidy surcharge payable by a consumer shall be such as to meet the current level of cross subsidy within the area of supply of the distribution licensee.
- (4) In case of RE Open Access, the consumers taking power from such RE Generator may maintain its contract demand with the distribution licensee. In such cases, the distribution licensee is obligated to supply power to such consumer under universal

service obligations and Open Access Consumer shall continue paying fixed charges to the distribution licensee.

- (5) The standby charges, in such cases, shall be 125% of the energy charges applicable to consumer tariff category, and such charges shall not be applicable if the Green Energy Open Access Consumers have given notice in writing, in advance at least a day in advance before closure time of the Day Ahead Market on D – (minus) day; “D” being the day of delivery of power for standby arrangement to the distribution licensee.
- (6) 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) 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:
- (8) **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. In absence of the aforesaid regulation of the Commission or rates to be specified by the Commission, the rates specified in CERC (Indian Electricity Grid Code) Regulations 2010 or the rates specified by CERC shall be applicable.
- (9) **Collection of Charges:** The Charges in respect of Green Energy Open Access consumers shall be payable directly to State Nodal Agency in accordance with terms and conditions of payment specified by the State Nodal Agency.

CHAPTER 5

MISCELLANEOUS

9. **Green certificate.:** The distribution licensee shall provideF green certificate on yearly basis to the consumers for the green energy supplied by the licensee to consumer on his request beyond the renewable purchase obligation of the consumers.
10. **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 these regulations or on an application made before it by an interested person.
11. **Issue of orders or directions.:** Subject to the provisions of the Act and these regulations, the Commission may, from time to time, issue orders and procedural directions with regard to the implementation of these regulations and specify the procedure to be followed on various matters, which the Commission has been empowered by the regulations to direct and matters incidental thereto.
12. **Power to amend.:** The Commission may, at any time, add, vary, modify or amend any of the provisions of these regulations.
13. **Power to remove difficulties.:** If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may, by general or special order, make such provisions, which in the opinion of the Commission are necessary or expedient to do so.
14. **Savings.:** Nothing in these Regulations shall limit the inherent power of the Commission to make such orders as may be necessary to meet the ends of justice or to prevent abuses of the process of law / statutes. Nothing in these Regulations shall bar the Commission from adopting, any other procedure, which may be at variance with any of the provisions

of these Regulations, as long as they are in conformity with the provisions of the Electricity Act, 2003 and the policies framed by the Central / State Government thereto.

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

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

HEERC