

		(b) To pay such amounts as may be awarded as cost to the consumer. The relief awarded shall be as specified in Schedule I to the KERC (Licensees Standard of Performance) Regulations, 2004 and shall not exceed the actual demand.	(b) To pay such amounts as may be awarded as cost to the consumer. The relief awarded shall be as specified in Schedule I to the <b>KERC (Rights of Consumers Relating to Supply of Electricity, Standards of Performance (SoP) and allied matters) Regulations, 2022 and amendments thereof</b> and shall not exceed the actual demand.
	<b>9.2</b>	A certified copy of every order rendered by the Forum shall be delivered to the parties.	<b>No Change</b>
	<b>9.3</b>	Any Complainant aggrieved by the order made by the Forum may make a representation against such order to the 'Ombudsman', within a period of THIRTY days from the date of receipt of the order.	<b>Any complainant aggrieved by the order made by the CGRFs at the District level or Corporate level may make a representation against such order to the Ombudsman within a period Thirty (30) days from the date of receipt of the order.</b>

By the Approval of the Commission,

**Secretary**

Karnataka Electricity Regulatory Commission

**PD-03**

## **KARNATAKA ELECTRICITY REGULATORY COMMISSION**

**No. KERC-2-TR-2024-25/1335 Date: 16.01.2025**

### **Draft Karnataka Electricity Regulatory Commission (Terms and Conditions for Open Access)**

#### **Regulations, 2025**

#### **PREAMBLE**

The Commission, in exercise of the powers conferred under 39(2)(d), 40(c), 42(2, 3), 86(1)(c) of the Electricity Act, 2003 read with Section 181 of the Act, has notified the Karnataka Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2004, which is amended from time to time. The Commission had also notified the Karnataka Electricity Regulatory Commission (Terms and Conditions for Green Energy Open Access(GEOA)) Regulations, 2022 in line with the 'Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules 2022' issued by the MoP, which was published in the State Gazette on 19.01.2023. The Commission has also issued the draft of the Karnataka Electricity Regulatory Commission (Terms and Conditions for Green Energy Open Access(GEOA)) (First Amendment) Regulations, 2024 which is notified in the State Gazette on 19.12.2024.

The validity of the 'Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules 2022' framed by the Central Government and the Karnataka Electricity Regulatory Commission (Terms and Conditions for Green Energy Open Access(GEOA)) Regulations, 2022 framed by KERC, were challenged in Writ Petition Nos. 11235/2024, C/W WP No. 22770/2023, 23729/2023 and others before the Hon'ble High Court of Karnataka. The Hon'ble High Court has struck down the 'Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules 2022' framed by the Central Government and also the Karnataka Electricity Regulatory Commission (Terms and Conditions for Green Energy Open Access(GEOA)) Regulations, 2022. As such the draft of the Karnataka Electricity Regulatory Commission (Terms and Conditions for Green Energy Open Access(GEOA)) (First Amendment) Regulations, 2024, is withdrawn.

The Hon'ble High Court of Karnataka has passed Orders in the matter on 20.12.2024 and has concluded as follows:

#### “IX. Conclusion:

200. In the result, I **allow these** writ petitions **in part**, and hold and direct as follows:

- (i) *The impugned Rules as well as the Regulations framed by the Central Government and the KERC are **struck down**.*
- (ii) *The KERC is directed to frame appropriate Regulations if it so desires in the matter of granting of open access to green energy generators and consumers.*
- (iii) *During this exercise, the Commission will only be guided by the National Electricity Policy and the Tariff Policy framed by the Central Government, and shall independently consider the interests of all the stakeholders before framing the Regulations.*
- (iv) *This direction will, however, not mean that the KERC will have to necessarily frame fresh Regulations and if it so desires, it can continue with the 2004 Regulations.*

201. *Taking cognizance of the fact that the order would leave a vacuum till the Regulations are framed by the independently as observed above, an interim arrangement would therefore have to be made to ensure that the wheeling and banking facilities availed hitherto by the petitioners are facilitated.*

202. *This Court had granted an interim order permitting the petitioners to pay 50% of the transmission charges determined by the KERC vide its order dated 08.06.2023. In its view, interest of justice would be met if the petitioners are directed to pay 50% of the transmission charges as per the interim order dated 05.07.2024 passed in these writ petitions.*

203. *The petitioners, under the orders of the KERC pursuant to which they had entered into Wheeling and Banking Agreements, were also required to pay wheeling charges at 5% till the KERC frames regulations for open access to the green energy generators pending framing regulations. The petitioners shall continue to pay wheeling charges at 5%.*
204. *The petitioners were also permitted to bank their energy annually, subject to payment of 2% under the Wheeling and Banking Agreement. However, by virtue of the Regulations which have now been invalidated, they were required to pay 8%.*
205. *Since these regulations have been struck down and liberty is given to the KERC to frame regulations for grant of open access to green energy generators and consumers, the petitioners shall be permitted to avail banking facility subject to payment of 4%.*
206. *The petitioners had the benefit of annual banking facility from 2014 in the standard Wheeling and Banking Agreement. Since the Wheeling and Banking Agreements have expired, they obviously would not have a contractual right to demand annual banking facility. Till the KERC frames regulations regarding banking as aforesaid, the petitioners shall be entitled to a monthly banking facility.”*

In view of the above decision and keeping in view, the National Electricity Policy and the Tariff Policy issued by the Government of India and also considering the latest developments in the sector including large scale integration of renewable sources to the grid, the Commission proposes to notify Open Access (OA) Regulations afresh, repealing the earlier Regulations. The Commission, in exercise of the powers conferred under 39(2)(d), 40(c), 42(2, 3), 86(1)(c) of the Electricity Act, 2003 read with Section 181 of the Act, hereby notifies the Draft Karnataka Electricity Regulatory Commission (Terms and Conditions for Open Access(OA)) Regulations, 2025, for information of all the persons likely to be affected and notice is hereby given that, the said draft will be taken into consideration **after 30 days** from the date of its publication in the official gazette. The stakeholders and interested persons may file their objections/suggestions/views on the proposed draft **within 30 days** from the date of publication to:

The Secretary,  
Karnataka Electricity Regulatory Commission  
No. 16, C-1, Millers Tank Bed Area, Vasanthanagara,  
Bengaluru, 560052, Karnataka, India

The Commission also decides to hold a **Public hearing in the above matter on 25.02.2025 at 3.00 pm.**

**Short Title and commencement. –**

- i. These Regulations shall be called the Karnataka Electricity Regulatory Commission (Terms and Conditions for Open Access (OA)) Regulations, 2025.
- ii. These Regulations shall come into force from the date of publication in the Official Gazette of Karnataka.
- iii. These Regulations shall be applicable to all Open Access customers including Green Energy Open Access customers who have filed applications before the State Nodal agency from 13.01.2023 in case of STOA (Short Term Open Access) and from 02.01.2023 in case of LTOA (Long Term Open Access) & MTOA (Medium Term Open Access) for use of Intra-State Transmission System/s (InSTS) and/or distribution system/s of licensee/s in the State, including such Intra-State Transmission and/or distribution system/s, which are incidental to Inter-State Transmission of electricity.

**1. Definitions**

In these regulations, unless the context otherwise requires –

- a. "Act" means the Electricity Act, 2003 (36 of 2003)
- b. "Banking" means the facility by which electrical energy remaining unutilized by the OA Consumer or Captive Consumer sourcing power from wind, solar, mini-hydel or hybrid of the above, out of the energy injected by the Generating Company into the transmission and/or distribution system of Corporation/ESCOM/s, which is allowed to be utilized for wheeling to such consumers for later use, as per the terms and conditions set forth in WBA.
- c. "Commission" means the Karnataka Electricity Regulatory Commission.
- d. "Consumer" means any person who is supplied with electricity for his own use by a licensee or Captive Power Plant (CPP) or the Government or by any other person engaged in the business of supplying electricity to the public including captive, under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be;
- e. "Existing Open Access Consumer" means a person already availing open access to the transmission system and/or distribution system of a licensee in the State under an existing agreement or GoK policy on the date of coming into force of these Regulations.
- f. "Renewable Sources (RE) of Energy/ Green energy" means such sources that produce/generate electrical energy from renewable sources of energy including, but not limited to Solar PV Power Project or Wind Power Project or Hybrid Power Project or Small Hydro Power Project or biomass,

biofuel, urban or municipal waste, pumped storage hydro generation, Energy Storage Systems using entire electricity generated from renewable energy for charging or any other technology as may be notified by the Government of India from time to time and shall also include any mechanism that utilises green energy to replace fossil fuels including production of green hydrogen or green ammonia;

- g. "Installation" means the whole of electric wires, fittings, motors and apparatus installed and wired by or on behalf of the Consumer on one and the same premises starting from the point of commencement of supply.
- h. "KER Act" means Karnataka Electricity Reform Act, 1999.
- i. "SLDC" means the State Load Dispatch Centre established under sub-section (1) of section 31 of the Act.
- j. "Open Access" means the non-discriminatory provision for the use of transmission lines or distribution system or associated facilities with such lines or system by any licensee or consumer or a person engaged in generation in accordance with the Regulations specified by the Appropriate Commission.
- k. "Open Access Consumer" means any person who has:
  - (i) contract demand of 100kW and above for High Tension (HT)
  - or
  - (ii) sanctioned load of 100 kW and above for Low Tension (LT), either through single connection or through multiple connections for LT aggregating to one hundred kW or more located in the same electricity division of a distribution licensee, (captive consumers shall not have any load limit)

and

who is supplied with electricity for his own use by a licensee or CPP or the Government or by any other person engaged in the business of supplying electricity to the public including captive, under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving renewable energy with the works of a licensee, the Government or such other person, as the case may be;
- l. Open Access Customer means an Open Access consumer permitted by the Commission to receive supply of electricity from a person other than distribution licensee of his area of supply, and the expression includes a generating company and licensee, who has availed of or intends to avail of open access.

- m. "Person" shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;
- n. "Premises" includes any land, building or structure;
- o. "Standby charges" means the charges applicable to open access consumers against the standby arrangement provided by the distribution licensee, in case the open access consumers are unable to procure power from the generating sources with whom they have the agreements to procure power due to outages of generator, transmission assets and the like.
- p. "State Transmission Utility" means the Board or the Government company specified as such by the State Government under sub-section (1) of section 39 of the Act;
- q. "System Constraint" means a situation in which there is a need to prepare and activate a remedial action in order to restore operational security limits.
- r. "Wheeling" means the operation whereby the distribution system and associated facilities of a STU or transmission licensee or distribution licensee, as the case may be, are used by another person for the conveyance of electricity on payment of charges to be determined under section 62 of the Act;

Words and expressions used and not defined in these Regulations but defined in the Act or the KER Act, shall have the meanings assigned to them in the said Acts. In case of any inconsistency in words and expressions between the Act and the KER Act, the provisions of the Act shall prevail.

## 2. Criteria for allowing Open Access:

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

## 3. Categorization of Open Access Customer:

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

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

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

#### 4. Eligibility Criteria for applying for Open Access

- i. Subject to the provisions of these Regulations and system availability, OA customer shall be eligible for open access to the intra-state transmission system of the State Transmission utility or any transmission licensee/s and distribution system/s of the distribution Licensee/s within the State.

Provided that notwithstanding anything contained in these Regulations, any generating company having subsisting Power Purchase Agreement (PPA) with the Distribution Licensee, shall not be entitled to Open Access for the capacity, for which PPA is entered into, except in accordance with the terms of such PPA and also for such capacity (quantum of power) for which Open Access is already granted.

Provided further that, such open access shall be available on payment of such charges as may be determined by the Commission from time to time.

- ii. Every person, who has constructed a captive generating plant shall have the right to open access as per the provisions of Section 9 of the Act.

Provided that consumers (except captive consumers), who have

- a. contract demand of 100kW and above for HT  
or
- b. sanctioned load of 100 kW and above for LT, either through single connection or through multiple connections aggregating to one hundred kW or more located in the same electricity division of a distribution licensee

shall be eligible for Open Access for sourcing electricity under these Regulations.

**5. Nodal Agency**

- i. Karnataka State Load Despatch Centre shall operate as the SNA for grant of long term, medium-term and short term open access.
- ii. All the applications related to open access shall be submitted to the portal set up by the State Nodal Agency in the prescribed formats.
- iii. The SNA shall coordinate with transmission licensees including STU and the Distribution Licensees to ensure granting of open access within the time frame specified in these Regulations and also to make available all relevant information regarding open access to the public on the portal of State Nodal Agency.

**6. Treatment for existing entities:**

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

Provided that, the existing consumers/generators shall continue to pay the applicable charges as specified in their respective agreements, as may be determined by the Commission from time to time.

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

Provided also that, if Open Access for any additional capacity is sought by such existing consumer(s)/generators in addition to the capacity already contracted under open access, shall be treated as new application for open access to the extent of additional capacity sought.

**7. Allotment priority**

The priority for allowing open access shall be decided on the following criteria:

- (a) Distribution licensee for long-term
- (b) OA customers for long-term
- (c) Distribution licensee for medium-term
- (d) OA customers for medium-term
- (e) Distribution licensee for short-term
- (f) OA customers for short-term

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



**8. Procedure for grant of Open Access. –**

- i. The Open access applicant shall submit an application complete in all respects, to the State Nodal Agency(SNA) in the format prescribed by the SNA on the State portal.
- ii. The following time schedules shall be adhered to, for processing the long-term, medium-term and short-term open access Application:

Sl. No.	Particulars	Time-line	Remarks
1	Date on which application is received by SNA	Zero Date	
2	Acknowledgement of receipt of Application	Zero date.	The acknowledgement shall be provided immediately by electronic mode.
3	Acceptance of application by SNA after confirming that all the relevant documents are furnished by the applicant including processing fees and BG	Within three (03) working days from zero date.	In case the application is incomplete, the SNA shall inform the same in writing rejecting the application and furnishing the details of the defects. After rectifying the defects, a fresh application shall be made.
4	Forwarding of application to the STU or the transmission licensee/concerned Distribution licensee.	Within five (05) working days from zero date	On acceptance of the application, the same shall be forwarded to the STU or the transmission licensee/ concerned Distribution licensee for ensuring the system availability and that the generators are not having any subsisting PPA for the capacity for which the OA is sought, except in accordance with the terms of such PPA.
5	Concurrence from the STU or the transmission licensee/Distribution licensee	Within ten (10) working days from zero date	In case system strengthening is required, the probable date of granting OA shall be intimated to SNA within the same time. In case concurrence is not received within the specified time, SNA shall consider it to be deemed concurrence.  Provided that the system studies at the drawal point to ascertain the availability is not required for a consumer of the licensee availing Open Access, subject to the applicant furnishing an undertaking that, he would not exceed the contract demand specified in his supply agreement with the licensee even after opting for Open Access.

			<p>Provided further that the system studies at the injection point to ascertain the availability is not required for an existing generator who was already injecting power into the licensee(s) network under PPA or otherwise, subject to the condition that there is no additional injection beyond the capacity that was being injected earlier.</p>
6	Grant of Open Access or otherwise	Within fifteen (15) working days from zero date	<p>The SNA shall intimate the applicant, the grant of OA within the time specified.</p> <p>In case OA is not granted, the same shall be intimated within the above time furnishing the reasons in writing and also the probable date from which the OA can be granted.</p> <p>In case, SNA fails to intimate the grant of OA or otherwise, within the above specified time, the same shall be deemed to have been granted, which is subject to system availability.</p>
7	Submission of agreement by the applicant for long term/medium term/short term OA	Within twenty (20) working days from zero date	<p>The applicant shall submit copies of signed agreement to the SNA/parties to the agreement in the standard format approved by the Commission. The existing WBA as modified by the Commission for REC and non-REC route projects in accordance with these Regulations shall be adopted.</p> <p>In case the applicant fails to submit the WBA within the specified time, the Open Access granted is deemed to have been cancelled.</p>
8	Submission of signed copies of agreement by the STU or the transmission licensee/concerned Distribution licensee	Within twenty-five (25) working days from zero date	<p>In case STU or the transmission licensee/Distribution licensee fail to submit the signed copies to the SNA within the specified time, the WBA is deemed to have been approved (Banking allowed only in case of solar, wind, mini-hydel projects and hybrid of these sources).</p>
9	Effective date for wheeling	In case the SNA receives the copy of the agreement signed by the applicant, the effective date for commencement of operation of wheeling of electricity by the applicant shall	<p>The applicant is allowed to wheel the energy from the effective date.</p>

		be the next date from the date of submission of signed copy of the agreement to the SNA. Provided that the above effective date for commencement of wheeling operation shall also be applicable for banking in case of solar, wind, Mini-hydel plants and hybrid of these sources.	
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- iii. The State Nodal Agency shall ensure that non-refundable processing fee of five thousand rupees for long-term/medium-term open access and one thousand rupees for short-term open access is paid by applicant to the nodal agency and the nodal agency shall intimate the same through electronic mode of communication, immediately on receipt of the application form. The applicant shall pay the processing fees within one working day.
- iv. An application for a short-term open access, for power plant(s) or its/their generating unit(s) which are yet to be commissioned, shall be made not before two months prior to the commissioning date of such power plant(s) or its/their generating unit(s), to avoid unnecessary blocking of corridor.
- v. An application for long-term/medium-term OA shall be accompanied by a Bank Guarantee (BG)/ Letter of Credit (LC) of ten thousand rupees per MW, which shall be kept valid and subsisting till the signing of agreement for wheeling of electricity and such BG/LC shall be encashed by the Nodal Agency, if the application is withdrawn by the applicant prior to the signing of such agreement. On signing of the agreement for wheeling of electricity, the BG/LC shall be returned immediately to the applicant by the State Nodal Agency. The BG/LC shall be submitted within three working days from the date of intimation by the SNA.
- vi. In case there is any material change with regards to the location of the injection point or quantum of power to be interchanged (by more than ten percent) using the intra-State transmission and or distribution system, a fresh application shall be made for the entire capacity to ascertain the system availability and such application shall be accompanied by relevant documents, application fees and in case of long term/medium term open access with required bank guarantee for the additional capacity and in case the additional capacity sought for cannot be accommodated in the existing network, the applicant is entitled for open access to the extent of his original allotment.
- vii. Where any application is rejected for any deficiency or defect, the processing fees and BG/LC, if submitted, shall be returned to the applicant excluding GST and in such cases a fresh application to SNA through State portal, shall be made by the applicant after curing the deficiency or defect.

- viii. The State Nodal Agency shall communicate to the applicant through a recognized mode of communication, the grant of open access or otherwise.
- ix. Further, during the pendency of application for grant of OA, the applicant shall not inject any energy to the licensee's network and the licensee shall not be liable to pay any charges for the energy injected during such period.
- x. Any energy injected into the licensee's network from the date of grant of open access till the date of submission of agreement for wheeling, the applicant shall be entitled for payment of energy charges at Average Pooled Power Purchase cost [APPC] rate or 75% of the Generic tariff as determined by the Commission for the relevant year for the relevant RE source, whichever is lower.
- xi. The person seeking open access shall digitally execute the agreement for wheeling of electricity within the time specified above, failing which the open access granted or deemed to have been granted shall stand cancelled.
- xii. The STU or the transmission Licensee/s, distribution licensee/s and the SLDC shall ensure proper coordination while arranging for open access.
- xiii. New generating plant(s) or generating Unit(s) seeking long-term/medium term open access and entering into agreement for wheeling, shall commission such plant(s) or unit(s) within twelve (12) months from the effective date, failing which the open access granted shall be deemed to have been cancelled, to avoid unnecessary blocking of the corridor.
- xiv. All the information related to approvals, rejections, revisions, curtailment, etc. shall be made available to the applicant through the web-based portal for Open Access hosted by the State Nodal Agency.
- xv. Provided further that the State nodal Agency shall prepare formats in line with these Regulations, for smooth implementation of OA in the State.
- xvi. The Nodal Agency shall prepare the modified standard agreement formats for wheeling and banking (banking as applicable) of electricity within fifteen (15) days from the date of notification of these Regulations, if required and obtain due approval of the Commission and make the standard agreement formats available to the public and shall host the agreement formats on the website of the Nodal Agency. In case, no modification is required, the existing approved format of the WBA shall be continued.
- xvii. State Transmission Utility (STU) or Distribution Licensee(s) shall conduct System Studies annually or as often as required or as directed by the Commission and the System data including the available additional loading capacity of lines shall be updated on a continuous basis and shall be made available to the public and such data shall also be hosted on the licensees(s)'s website.