

Proposed Draft KERC (Terms and Conditions for Green Energy Open Access) Regulations, 2022

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KERC has published the Draft Regulations for 'Terms and Conditions for Green Energy Open Access Regulations, 2022' on 11th August, 2022. To provide context and to enable informed participation, an Explanatory Memorandum should have accompanied the draft regulations. In addition to ensure consistency and provide clarity on applicability on various aspects, these regulations should have been introduced as amendments to the existing Open Access Regulations. **As of now, it is not clear which provisions in the existing open access regulations will continue to be applicable on Green Open Access consumers and which will cease to be applicable after the notification of these regulations.**

To provide a consistent framework towards long term, phase-wise robust development of open access and captive procurement in the state, it is imperative that:

- Open access regulations themselves be amended to account for specific changes to green open access.
- Where relevant, both RE and non-RE open access have similar provisions to ensure flexibility in procurement and to reduce monitoring and verification efforts.
- The framework should provide clarity to ensure smooth implementation and reduce unnecessary litigation which can hinder development.

In this context, the Commission can also choose to defer the notification of these regulations until there is more clarity on the consequences of some of the provisions (for example, when the Central Nodal Agency framework is operationalised, FoR provides clarity on green open access charges framework etc). Some states, like Madhya Pradesh ERC has chosen to only notify the State Nodal Agency for now towards implementing the green open access rules. Similar approach can also be adopted by KERC to avoid frequent changes in the overarching framework which could affect investor confidence and increase ambiguity for consumers.

In this context, we would like to make the following suggestions to the Commission on the specific proposals in the draft. The suggestions are as follows.

1 Treatment of captive

As per the Green Open Access Rules, (Rule (2)(1)(b) and proviso of Rule 5 (2)), there is no eligibility criteria for green captive to avail open access. However, draft Regulation 5 (ii), only reiterates what the existing KERC OA regulations as well as the Electricity Act guarantees. Thus no clarity is provided on whether exemption on eligibility limit is applicable for captive consumers in Karnataka.

While not having an eligibility limit increases the options for consumers investing in captive generators, it also creates issues related to monitoring and verification and ensuring safety concerns are addressed.

To provide clarity and ensure smooth roll-out, it is suggested that:

- Captive consumers also are provided the same limit of 100 kW as Green Open Access
- There are provisions in the regulations to ensure registration of all captive generators as well as consumers. This will enable tracking of progress and address implementation concerns.

2 Reduction in eligibility limit: Need for clarity in treatment

With the reduction in limit for open access to 100 kW from 1 MW, a significant number of consumers will automatically become eligible for the service. However, DISCOM's preparedness in implementing this change as well as the readiness of metering infrastructure, accounting practices are all yet unclear. Therefore, it is critical that the effective date of the regulations is pushed to 1 year after notification of the final regulations. In the interim, the Commission should:

- Provide uniform (across RE and non-RE) guidelines for metering, billing and accounting practices to enable open access
- Track metering, billing and energy accounting status for each DISCOM on a quarterly basis.
- Provide separate practice directions and guidelines for implementation of open access for consumers with contracted demand greater than 0.5 MW and those with sanctioned load less than 0.5 MW but greater than 0.1 MW.
- Clarify the distinction between captive, grid interactive renewable energy systems (net metering, gross metering etc) and behind the meter systems.
- Ensure registration and tracking of not only captive but also grid interactive and behind the meter systems.

3 Consistency with existing open access regulations

There is need for uniformity in processes for open access across RE and Non-RE, and a sense of continuity from existing regulations. This is particularly the case for:

- **Duration of open access:** The existing regulations only specify the duration for open access as short-term or long-term. There is no medium-term open access in the existing regulations. Whilst the draft green open access regulations provide for - short-term, medium-term and long-term

durations. This categorization must be consistent across regulations and ideally be the same for RE and non-RE to encourage open access.

- **Open Access Application timeline:** The new timeline for grant of open access for new applications is significantly tightened for green OA. The same timeline should be adhered to for both RE and non-RE.

4 Clarity on verification process and enabling green market transactions

Green energy open access is provided to consumers. However, the open access is provided contingent to green energy procurement. It is not clear at what stage the eligibility for green open access is verified. This would be relevant for green DAM/TAM transactions in the following ways:

- **Case A:** In Case A, green open access is availed by a 100 kW consumer for 3 months and such consumer participated in the integrated day ahead market for green purchase, it is not clear if transaction be denied in case the green bid does not clear and it cleared when carried forward to DAM bids.
- **Case B:** In Case B, green open access is availed by a 100 kW consumer for 3 months and such consumer has a contract with an RE open access generator. Would such a consumer who got OA due to the 'green credentials' be eligible to use the same OA to participate in the real time market in order to ensure reliable supply?

5 Open Access charges

In Draft Regulation 12, the Commission has clarified open access charges would be as per methodology specified by the Forum of Regulators. For robust development of the sector the charges should be:

- Fixed for a five year term to ensure certainty and reduction (in real terms, with inflation)
- Adequately compensate the DISCOMs for costs incurred and services provided, especially in the context of the revenue loss to DISCOMs from sales migration
- Ensure services provided (such as banking, wheeling) are billed at cost so that regulated, non-open access consumers are not burdened with these costs
- Concessions on charges are not provided for renewable energy consumers as RE technologies, especially wind and solar are mature enough in Karnataka to compete based on their own economic proposition.

In this context,

- CSS and AS can be combined to a surcharge of say Rs. 2.5/unit for the next five years. The quantum of surcharge can be revised over time based on state realities.
- Standby charges are three-tier- such that a fixed demand charge is paid every month (say 25% of demand charge applicable) so DISCOMs are prepared to provide service and separate charges apply for planned and unplanned standby. This is especially relevant for captive consumers.

6 Encouraging longer-term contracts

DISCOMs do face an issue with respect to scheduling and power procurement planning due to opportunistic switching of open access consumers. Therefore, steps need to be taken to discourage short-term open access (STOA) and encourage consumers to avail open access for longer term durations. For such a market to develop, it is also essential to provide a reasonable amount of certainty and predictability regarding the surcharges applicable for open access.

Therefore, the duration of short-term open access should not be less than 1 year. This will provide certainty to the DISCOM and would not restrict market procurement as consumers can enter into multiple Power Supply Agreements of various durations to meet load.

Another step to discourage STOA could be a progressive increase in STOA charges¹ for transmission and wheeling. In case of repeat short-term open access transactions during a financial year, the applicable charges (especially wheeling and transmission charges) should increase progressively till the third such transaction. For and after the 3rd transaction, the applicable charges should be two times the charges approved by the regulator.

7 Banking

As per draft Regulation 13, banking is proposed to be permitted on a monthly basis on payment of applicable charges. Further, credit for banked energy shall not be permitted to be carried forward to subsequent months. Therefore, credit for energy banked is to be adjusted in the same month and payment at the rate of 75% of the SERC generic RE tariff will be made for actual banked energy only upto 30% of monthly consumption from DISCOM.

It is suggested that:

- Banking service be provided to the open access, captive consumer rather than the generator as is the practice in other states.
- Injection and withdrawal restrictions across ToD slots would be necessary for a high RE state like Karnataka, similar to the practice in several states.
- Banking charge should be revised on a periodic basis to ensure it is cost-reflective.

Monthly banking with ToD slot restrictions would encourage practices to align consumption with generation. With such a framework, restriction of payment only up to 30% of monthly consumption may not be necessary.

¹ A similar regulation has been approved by MERC in Maharashtra Electricity Regulatory Commission (Distribution Open Access) (First Amendment) Regulations, 2019, Section 9: Amendment to Regulation 14 of the Principal Regulations, 14.1 (v).

8 Procedure for denial of open access

Draft regulation 15 states that open access shall not be denied without giving an opportunity to be heard in the matter. It is suggested that the process for denial is stipulated in a clear manner on the lines of the Green Open Access Rules.

Thus, the regulations should stipulate that:

- All orders denying open access shall be speaking orders.

This would ensure that orders of the nodal agency are reasoned orders and reasons for denial are transparently communicated. Such a step would greatly streamline the process of application.

9 Information System

We welcome Regulation 20 to have information systems under the regulations. It is suggested that the regulations specify that the monthly and annual reports of the SLDC are available in the public domain. This would go a long way in increasing transparency and enable tracking of key trends.

In addition to the information sought, the **Commission should mandate the SLDC and DISCOMs to submit detailed data (some suggestions in Table 1) and upload monthly reports on the website in a publicly accessible and easily downloadable spreadsheet format.**

Table 1: Parameters to be reported in the Information System

Consumer related parameters	Energy related parameters	Licensee revenue parameters
<p>The information system should report:</p> <ol style="list-style-type: none"> 1. Number of open access applications <ul style="list-style-type: none"> — Based on duration of contract — Full or partial open access — Open access applications by captive consumers 2. Number of applications processed during the period 3. Number of pending applications 4. Average delay (in days) from prescribed timelines for various milestones 	<p>The information system should report open access sales:</p> <ul style="list-style-type: none"> — From generators within and outside the state — From RE and non-RE sources — Day-ahead, short-term (other than day-ahead), medium-term and long-term open access consumers — For captive consumption due to loss of captive status — Captive units wheeled 	<p>The information system should report revenue collected for:</p> <ul style="list-style-type: none"> — Wheeling — Additional surcharge — Cross-subsidy surcharge — Standby charges — Concessions provided, if any for each applicable charge — Transmission charges — SLDC charges, if any

<ul style="list-style-type: none"> • Total number of open access consumers and captive consumers who have availed OA. • Total number of registrations for grid interactive renewable systems and behind the meter systems. 	Total open access sales and captive consumption (incl units wheeled)	Total revenue from open access and captive
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10 Open Access Committee to be appointed by Commission

In order to ensure regular monitoring of the functioning of the State Nodal Agency and smooth implementation of the regulations, the Commission should constitute an “Open Access Monitoring and Review Committee”. The Committee can have representation from SLDC, STU and Distribution licensees, along with representation of interests of open access consumers, the generators and the regulated consumers, and an independent member (sector expert) who are among the key stakeholders. The Committee should meet once every three months, and take stock of the on-going status from the Nodal agency. This should be for all open access, captive transactions (RE and non-RE alike). To enable this, the nodal agency should submit a report to this Committee periodically. The Committee should publish this report on the Commission’s website, along with their own comments and observations. The inputs from the Committee should be factored in the tariff processes, power procurement planning and revision of the open access regulations.

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