



Prayas

Prayas (Energy Group)

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5th March, 2020

To,
The Commission Secretary,
Andhra Pradesh Electricity Regulatory Commission,
11-4-660, 4th Floor, Singareni Bhavan,
Red Hills, Hyderabad - 500 004

Subject: Amendment to APERC (Terms and Conditions of Open Access) Regulation, 2005

Ref: Public Notice for O.P 3 of 2020 dated 17th February 2020

Dear Sir,

This submission is with respect to the matter mentioned above. While supporting the removal of waivers for future projects and arrangements, our submission focuses on the treatment of existing projects and the need for ensuring implementation which provides regulatory certainty to consumers and investors. We request the commission to consider our submission and take it on record.

-SD-

Ann Josey, Ashwin Gambhir and Shantanu Dixit
Prayas (Energy Group)

BEFORE THE ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

IN THE MATTER OF:

**Proposed Amendment to APERC (Terms and Conditions of Open Access) Regulation, 2005
Submissions of Prayas (Energy Group), Pune**

The Commission vide its public notice dated 17th February 2020¹ sought comments on draft amendment to the APERC Open Access Regulations, 2005. Our comments and suggestions in the matter are detailed below:

Background and Context

APERC amended regulation 17.1 of the principal open access regulations on 8th January 2016² to give effect to Andhra Pradesh Solar Policy (G.O.Ms No.8) and Wind Policy (G.O.Ms No.9), both of which were issued in 2015. These policies aimed at providing incentives, including rebates on wheeling and transmission charge, cross subsidy surcharge and additional surcharge for projects commissioned during the operative period of the policies. By providing such concessions, the policy aimed to increase investments in the state to meet its renewable energy commitment.

The relevant provisions of regulation 17.1 are detailed in table below.

Provisions	Relevant Provisions in Regulation 17.1
Second proviso to para 17.1 (i)	<i>Provided further that the Transmission and Wheeling charges shall be exempted for wheeling of power generated from such Solar and Wind Power Projects and for such operative periods as mentioned in G.O.Ms.No.8, Dated 12-02-2015 and G.O.Ms.No.9, Dated 13-02-2015 respectively for only captive use/ third party sale within the State.</i>
Third proviso to para 17.1 (i)	<i>Provided also that the Distribution losses shall be exempted for such Solar Power Projects and for such operative periods mentioned in G.O.Ms.No.8, Dated 12-02-2015 injecting at 33kV or below irrespective of voltage-level of the delivery point within the Discom for such projects.</i>
Second proviso to para 17.1 (iii)	<i>Provided further that the Cross Subsidy Surcharge and additional surcharge shall be exempted for third party sale if the source of power is from such Solar Power Projects setup within the State as mentioned in G.O.Ms.No.8, Dated 12-02-2015 for a period of five (5) years from the date of commissioning of such projects.</i>

The 2016 amendment also stated that the operative period of the policy is:

¹ <http://www.aperc.gov.in/admin/upload/PNreg2of2005.pdf>

² <http://aperc.gov.in/admin/upload/1of2016.pdf>

- 12.02.2015 to 03.01.2020 for solar projects
- 13.02.2015 to 12.02.2020 for wind projects

Subsequently, on 03.01.2019, APERC revised its solar and wind policies which stated that incentives are unnecessary for the sector with falling prices. However, Regulation 17.1 continued to be in effect clearly stating that the concessions provided *for the operative period of G.O.Ms.No.8 and G.O.Ms.No.9* have the provision for concessional tariff which was provided to applicable consumers.

Given this context, our submissions are below:

Concessions necessary for projects in operative period of policies

In the draft amendment³ published by APERC on 17th February 2020, the amendments to Regulation 17.1 regarding the provision of concessional charges, detailed in Table 1 are proposed to be deleted. Given that renewable energy power is available at competitive rates; such concessions are not necessary going forward and therefore, should not be provided for new projects. However, for projects that have been built given the commitment to such concessions in state government policies and based the certainty provided by APERC, the concessions should continue. Such a step is vital to ensure APERC provides a regulatory framework that increases overall investor and consumer confidence, reduces unnecessary litigation and helps operationalise the policy commitment of the state government.

Para 1 of the Solar Policy (G.O.Ms.No.8)⁴ clearly states that:

*Solar Power Projects (SPP) that are commissioned during the operative period **shall be eligible for the incentives declared under this policy, for a period of ten (10) years from the date of commissioning** (emphasis added)- unless otherwise the period is specifically mentioned for any incentive.*

Para 1 of the Wind Policy (G.O.Ms.No.9)⁵ states that:

*Wind power projects that are commissioned during the operative period **shall be eligible for the incentives declared under this policy, for a period of ten (10) years from the date of commissioning** – unless the period is specifically mentioned for any incentive.*

As no other period has been mentioned for any specific incentive, projects that are commissioned in the operative period, should be eligible to the incentives committed to the policy and detailed in Regulation 17.1 for ten years from their date of commissioning

It is submitted that the:

- APERC retain relevant provisos of Regulation 17.1 as they clearly pertain to existing projects.
- The amendment in the regulations could clarify that the concessions will not be applicable for projects commissioned on a date outside the operative period of the relevant policies.

³ <http://www.aperc.gov.in/admin/upload/Draftamendtt2of2005.pdf>

⁴ http://www.indiaenvironmentportal.org.in/files/file/Andhra_Pradesh_Solar_Policy_2015.pdf

⁵ <http://www.indiaenvironmentportal.org.in/files/file/Andhra%20Pradesh%20Wind%20Power%20Policy,%202015.pdf>

Need for clarity regarding operative period

As G.O.Ms No.8 and 9 were replaced in 2018, it is not clear if the operative period for the policy would be as stated in the 2016 amendment or would need to be revised to account for the change in policy. This should be clarified by the Commission to avoid ambiguity and litigation.

Need for other amendments to open access regulations

Besides the issue of concessional tariffs, APERC should also initiate the process to amend Open Access Regulations to address certain issues which have assumed significance due to various changes in the sector in recent years including the proliferation of renewable energy, changes in energy accounting and settlement mechanisms, changes in short-term market trends. The Commission could also take into cognizance issues highlighted by the Ministry of Power⁶ and the Forum of Regulators⁷ with respect to open access. Further, an analysis of petitions before APERC, APTEL and the courts could also highlight issues where ambiguities could be reduced with amendment in the regulations. Given that it has been 15 years since the principal regulations have been reviewed, it is crucial that APERC conduct a review of these regulations.

It is suggested that APERC first publish a consultation paper with major trends and issues pertaining to open access consumption and wheeling by captive consumers. The consultation paper should be widely circulated for comments from the public such that APERC can get insights into issues before the sector. Based on public comments, APERC can initiate a larger process for amendment for the open access regulations such that they are relevant for the sector.

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⁶ https://powermin.nic.in/sites/default/files/webform/notices/consultation_paper_on_issues_related_to_open_access.pdf

⁷ http://www.forumofregulators.gov.in/Data/WhatsNew/Open_Access.pdf

⁸ <http://www.forumofregulators.gov.in/Data/Reports/FOR%20Status%20of%20Open%20Access-13-01-2020.pdf>