

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

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Uttarakhand Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2023

Statement of Reasons (SOR)

The Ministry of Power, Government of India notified the Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022 vide notification dated 06.06.2022 for the purpose of promoting the Green Energy Open Access in the Country. Subsequently, the Ministry of Power came up with the 1st amendment and 2nd amendment vide notifications dated 27.01.2023 and 23.05.2023 in the aforesaid Rules.

In the aforesaid rules, the Ministry of Power, GoI has directed the State Commissions to either prepare new Regulations or amend the relevant Open Access Regulations to make such Regulations consistent with aforesaid Rules.

In pursuance to the directions issued by the Ministry of Power on the formation of relevant Green Energy Open Access Regulation in the State, UERC (Green Energy Open Access) Regulations, 2023 have been prepared as per the provisions given in aforesaid Rules and subsequent amendments thereof. While framing the UERC (Green Energy Open Access) Regulations, 2023 the Forum of Regulators (FoR) “Model Regulation on Methodology for calculation of Open Access charges and Banking charges for Green Energy Open Access Consumer” have been considered.

The Commission published the draft of the UERC (Green Energy Open Access) Regulations, 2023 to invite comments/suggestions/objections from the stakeholders. The comments/suggestions/objections were received from 08 nos. stakeholders. Based on the comments/suggestions/objections of stakeholders the Commission has finalized the UERC (Green Energy Open Access) Regulations, 2023. A list of stakeholders who submitted comments on draft Regulations is annexed as Annexure-I.

2. The Statement of Reasons is being issued with the intent of explaining the rationale which went into the finalisation of UERC (Green Energy Open Access) Regulations, 2023. The

comments/suggestions/objections received from the stakeholders and public and the views of the Commission on the same are discussed in subsequent paragraphs.

3. Suggestions and objections of stakeholders and the Commission's views thereon:

3.1. The sub-Regulation (1) of Regulation 2 of the draft Regulation i.e. Definition and Interpretation:

Stakeholders Comments/Suggestions:

3.1.1. UltraTech Cement Limited (UTCL) requested to introduce definitions of "Banking Cycle" and "Banked Energy" in Regulation 2 (1) i.e. Definitions and Interpretation of the Draft Regulations and suggested the same as follows:

"Banking Cycle" shall mean Duration in which Energy is Banked during the Financial Year (Apr-Mar)".

"Banked Energy" shall mean energy injected in the grid in a particular ToD and which does not gets utilized in same ToD and meant for utilization in other ToDs during same Banking Cycle.

Commission's View:

3.1.2. With regards to the comments of UTCL on the insertion of new definitions i.e. Banking Cycle and Banked Energy, the Commission is of the view that Banking Cycle as used in MoP rules for adjustment of Banked Energy has not been defined therein and as per the UERC (The Electricity Supply Code, Release of New Connection and Related Matters) Regulations, 2020, the bills of the consumers are raised in a billing cycle, therefore, the Commission has decided to adjust the banking during the billing cycle of the consumers for ease of implementation of Banking in the State. Hence, there is no need to introduce a new definition of Banking Cycle.

Regarding the suggestion on insertion of the definition of "Banked Energy", the Commission is of the view that the banking mechanism is already explained in detail in Regulation 9 i.e. Banking Facility and Charges, which has various options of banking and which cannot be put in as definition. *Hence, suggestion as proposed by UTCL is not accepted.*

3.2. The sub-Regulation (1)(m) of Regulation 2 of the draft Regulation i.e. Definition and Interpretation:

The Commission had proposed the following in the draft Regulations:

"(m)" Green Energy Open Access customer (in short" customer")" means a consumer, trader, distribution licensee or a generating company who has been granted Green Energy Open Access under these regulations;"

Stakeholders Comments/Suggestions:

- 3.2.1 Bhillangana Hydro Power Limited (BHPL) has submitted that, the Green Energy Open Access Rules issued by MoP talks of providing Green Energy Open Access only to the consumers of green energy. Thus, the definition of "Green Energy Open Access customer" is contrary to the provisions of the Green Energy Open Access Rules.

Commission's View:

- 3.2.2 With regards to the submission made by BHPL, the Commission is of the view that the definition of "Green Energy Open Access Customer" is purposely defined by the Commission in the Regulations for universal applicability of Green Energy Open Access Regulations for consumer, trader, distribution licensee or a generating company in Uttarakhand. *Hence, no change is required.*

3.3. The sub-Regulation (1)(n) of Regulation 2 of the draft Regulation i.e. Definition and Interpretation:

The Commission had proposed the following in the draft Regulations:

"(n)" "IEGC" means the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 and any subsequent amendments thereafter;"

Stakeholders Comments/Suggestions:

- 3.3.1 BHPL has submitted that CERC vide its notification dated 29.05.2023 has notified the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2023 repealing the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010. Accordingly, the aforesaid definition may be revised.

Commission's View:

- 3.3.2 The suggestion of BHPL in this regard is accepted and accordingly, the definition of "IEGC" shall read as follows:

“(n)” “IEGC” means the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2023 and any subsequent amendments thereafter;”

3.4. The sub-Regulation (1)(p) of Regulation 2 of the draft Regulation i.e. Definition and Interpretation:

The Commission had proposed the following in the draft Regulations:

“(p) “Standby Charges” means the charges applicable to green energy open access customers against the standby arrangement provided by the distribution licensee, in case such green energy open access customer 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;”

Stakeholders Comments/Suggestions:

3.4.1. UltraTech Cement Limited (UTCL) has requested to replace the words “transmission system” with “except in case of force majeure events” and suggested the following:

“Standby Charges” means the charges applicable to green energy open access customer against the standby arrangement provided by the distribution licensee, in case such green energy open access customer is unable to procure/schedule power from the generating sources with whom they have the agreements to procure power due to outages of generating sources, except in case of force majeure events.

Commission’s View:

3.4.2. With regards to the submission of the UTCL, the Commission is of the view that the outage on account of reasons which are beyond the control of the distribution licensee (DISCOM) i.e. outage of intra/inter-state transmission system, during which the DISCOM has to arrange the Power and is required to recover its actual cost of supply and if we keep any such exception, it will result in under recovery of ARR of DISCOM as per the MYT Regulations. Further, in case of any force majeure event the commission exercising its inherent powers/discretion under the regulations may allow waiver of standby charges on case-to-case basis. *Hence, no change is required.*

3.5. The Regulation 4, i.e. Eligibility criteria for Green energy Open Access:

The Commission had proposed the following in the draft Regulations:

“The consumers who has contracted demand or sanctioned load of 100 kW or more, either through a single connection or through multiple connections aggregating 100 kW or more located in the same electricity division of a distribution licensee, shall be eligible to take power through Green Energy Open Access and there shall be no limit for other customers including Captive consumers, RE generators etc., drawing/supplying power under Green Energy Open Access.

Provided that any deviation in schedule for more than twelve-time blocks in a day by such customers, they shall be subject to charges as per DSM Regulations.”

Stakeholders Comments/Suggestions:

3.5.1. Amplus Energy Solutions Private Limited (AESPL) has submitted that, in case of consumers having load of 100 kW or more aggregated through multiple connections (in same electricity division of Licensee), willing to opt for GEOA, he may be allowed to make single application for GEOA on behalf of all such drawl point. It is requested to the Hon'ble Commission to provide clarification on above issue in the Regulations.

3.5.2. Manikaran Power Limited (MPL) has submitted that, as per Amendment in Regulation 4, Green energy open access is allowed for the consumers with CD of 100 kW, but the minimum quantum which needs to be scheduled is not stated. Clarity is required regarding whether aggregation of individual loads below 100kW is located in multiple locations within the state.

Also, they sought Clarity in case of deviation by such customers. Does it mean the generators or the OA consumer? Does deviation of 12 TBS have to be continuous or can be considered in any 12 TBS of the day?

3.5.3. Indian Energy Exchange (IEX) on the first proviso of the aforesaid regulations requested that, the provision related to requirement of uniform demand across minimum 12 number of time blocks is not possible considering the infirm nature of the RE sources, adherence to such conditions is practically inconceivable. Hence, IEX requested to relax such condition in the Final Regulations. It will help disposal and off-take of surplus RE in the state.

- 3.5.4. On the 1st proviso of the aforesaid Regulation, BHPL has submitted and need clarification on the applicability of DSM charges to RE generators, as RE generators have been specifically exempted from the applicability of UERC DSM Regulations, 2017 and cannot be subjected to the levy of DSM charges by the Draft Regulations.

Commission's View:

- 3.5.5. On the submission of AESPL at point no. 3.5.1, the Commission is of the view that such modalities shall be taken care of by the Nodal Agency by preparing the detailed procedure for the grant of connectivity for Green Energy Open Access with the approval of the Commission.

However, for the ease of giving NoC for Green Energy Open Access (GEOA) by Nodal Agency and Billing thereof by Discoms, Regulation 4 has been amended which shall read as follows:

"The consumer who has contracted demand or sanctioned load of 100 kW or more, either through a single connection or through multiple connections, in the name of same consumer, aggregating 100 kW or more located in the same electricity division of a distribution licensee, shall be eligible to take power through Green Energy Open Access. However, in case of Captive consumers and RE generators there shall no upper or lower limit for drawing/supplying power under Green Energy Open Access."

- 3.5.6. On the submission of MPL at point no. 3.5.2, it is pertinent to mention that in the amended Regulation 4 i.e. eligibility criteria for Green Energy Open Access it is clearly mentioned that the consumer who has contracted demand of 100 KW or more either through a single connection or through multiple connections in the name of same consumer aggregating 100 kW or more **in the same electricity division of a Distribution Licensee**, shall be eligible to take power through GEOA. *Hence, clarified accordingly.*

On another query of MPL regarding applicability of deviation on OA consumers or generators, it is pertinent to mention that the Commission in the definition had clearly defined customer as a generator, consumer, trader or distribution licensee. Hence applicability of deviation is on all the entities covered under the definition of customer. *Hence, clarified accordingly.*

3.5.7. On the other query of MPL and IEX at point no. 3.5.2 & 3.5.3 seeking clarity on the proviso of Regulation 4, the Commission is of the view that to make relevant proviso in line with the provision of MoP rules and to avoid high variation in demand to be met by the Distribution licensee, the Commission hereby modify the proviso of Regulation 4 as follows:

“Provided that the customer shall compulsorily maintain the approved capacity/schedule for atleast 12 time blocks in a day.

Provided also that any deviation from approved capacity/schedule shall be subject to charges as per UERC, DSM Regulations.”

3.5.8. On the submission of BHPL at point no. 3.5.4 on the applicability of DSM charge on RE generators, it is to mention that the applicability of DSM charges shall be as per the UERC DSM Regulations, so all the provisions of DSM are applicable in the same way as mentioned in the DSM Regulations. Hence, the provisions with regard to DSM charges in these proposed Regulations shall be concomitant with the existing UERC DSM Regulations. ***Hence, clarified accordingly.***

3.6. The Regulation 5, i.e. Nodal Agency:

The Commission had proposed the following in the draft Regulations:

“State Load Despatch Centre (SLDC) Uttarakhand shall be the Nodal Agency for grant of Green Energy Open Access for short-term (upto one month) and the State Transmission Utility (STU) shall be the Nodal Agency for grant of Green Energy Open Access for Medium-term (a period exceeding three months but not exceeding three years) and long-term (a period exceeding 12 years but not exceeding 25 years).”

Stakeholders Comments/Suggestions:

3.6.1. SLDC has submitted that in above-mentioned Regulation, State Transmission Utility (STU) should also be State Nodal Agency for Grant of connectivity which is not mentioned in its responsibilities therein.

3.6.2. On the above-mentioned Regulation, Council on Energy, Environment and Water (CEEW) has submitted that there are gaps between the three categories of Open Access based on duration. UERC may clarify with an example to explain the classification process to avoid any ambiguity in interpretation.

CEEW requested the Commission to consider other state regulations or CERC regulations as reference and link the categorisation of durations of long-term, medium-term, and short-term to the CERC Regulations on Inter-state open access. This will harmonise the use of terminologies across intra-state and inter-state open access. Also, the definition of the three categories can be added to the section on definitions (Section 2).

Commission's View:

3.6.3. On the submission of SLDC at point no. 3.6.1, the Commission is of the view that 3rd proviso of Regulation 3 clarifies the misgivings of SLDC.

On the submission of CEEW at point no. 3.6.2, the Commission is of the view that the above classification of duration of short-term, medium-term, and long-term open access is according to prevalent UERC Open Access Regulations and these Regulations are in vogue for more than 10 years and no difficulty has arisen in implementation of same w.r.t classification of Open Access Customers.

3.7. The sub-Regulation (2) & (3) of Regulation 6, i.e. Procedure for grant of Green Energy Open Access:

The Commission had proposed the following in the draft Regulations:

“(2) All the applications for the Green Energy Open Access complete in all respects, shall be submitted on the portal setup 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 process and recommend the applications of the Green Energy Open Access within 5 working days for new application and within 2 working days for renewal of registration through the GOAR Portal.

Provided that after the receipt of the application for registration, the State Nodal Agency, shall conduct a preliminary scrutiny to ensure application is complete in all respects. In case of any discrepancy/shortcoming/ requirement of any further information, the State Nodal Agency shall intimate the applicant through the portal for rectification of the deficiency within a period of 2 working days. In case of the applicant does not respond within a period of 2 working days with the required details to the State Nodal Agency, the registration request shall be disposed of; “

Stakeholders Comments/Suggestions:

- 3.7.1. CEEW has requested that UERC may provide the provision for deemed approval beyond the specified timeline in case of no communication from the respective SNA as per the MoP Rules in the sub-Regulation (3) of Regulation 6. This can provide greater confidence to the consumers applying for Green Energy Open Access.
- 3.7.2. IEX has submitted that in the sub-Regulation (2) & (3) of Regulation 6, the timeline for processing of application has been defined, however, the draft does not provide any provision of deemed approval in case of failure of State Nodal Agency to comply with the timeline defined by the Hon'ble Commission. Hence, they have requested to incorporate the relevant clause in the draft Regulation in line with the MoP rules.
- 3.7.3. On the first proviso of the sub-Regulation (3) of Regulation 6, CEEW requested to increase the duration for the applicant to respond to the State Nodal Agency (SNA). This would provide the applicant sufficient time to address the discrepancies or requirements specified by the SNA.
- 3.7.4. SLDC has suggested that the following may be added under Regulation (6) of the draft Regulations in line with Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022 and amendment thereof notified by Ministry of Power Rules and approved procedure of GOAR:

"The concerned nodal agency shall approve the applications for the Green Energy Open Access within a period of fifteen days from the date of application, failing which it shall be deemed to have been approved subject to the fulfilment of the technical requirements as specified by the appropriate Commission."

Commission's View:

- 3.7.5. On the submission of CEEW and IEX at point no. 3.7.1, 3.7.2 and 3.7.3 regarding the provision of deemed approval in line with the MoP Green Energy Open Access Rules, the Commission has decided to incorporate the same in the final Regulations. **Hence, accepted.**
- 3.7.6. On the suggestion of SLDC at point no. 3.7.4 regarding the addition of the proposed paragraph under Regulation 6, the Commission agrees with the

submission of the SLDC and decides to incorporate the necessary changes in line with the MoP Rule and procedure of Green Open Access Registry Portal.

Accordingly, sub-Regulation (3) has been modified and a new sub-Regulation (4) and (5) have been incorporated in Regulation 6 as follows:

“ ...

(3) *SLDC shall process and recommend the applications for registration of the Green Energy Open Access within 5 working days for new applications and within 2 working days for renewal of registration through the GOAR Portal.*

Provided that after the receipt of the application for registration, SLDC, shall conduct a preliminary scrutiny to ensure application is complete in all respects. In case of any discrepancy/shortcoming/ requirement of any further information, SLDC shall intimate the applicant through the portal for rectification of the deficiency within a period of 2 working days. In case the applicant does not respond within a period of 2 working days with the required details to SLDC, the registration request shall be disposed of.

(4) *An application for availing Green Energy Open Access can be made through the GOAR portal only by the registered customers.*

(5) *The concerned Nodal Agency shall approve the application for availing Green Energy Open Access of the registered customers within a period of 15 working days from the date of application, failing which it shall be deemed to have been approved.*

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

3.8. The sub-Regulation (6) & (7) of Regulation 6, i.e. Procedure for grant of Green Energy Open Access:

The Commission had proposed the following in the draft Regulations:

“ ...

(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 an order under sub - Regulation (5) above.*

(7) The Commission shall dispose of the appeal within a period of three months and the order issued by it shall be binding on the parties."

Stakeholders Comments/Suggestions:

3.8.1. BHPL has submitted that the above-mentioned sub-Regulation are in direct contravention of the provisions of the Electricity Act of 2003 ("Act"). There exists no Section in the Act which provides for an Appeal against an order of the State Nodal Agency and further, any order passed by a State Commission can be appealed by an aggrieved party before the Appellate Tribunal of Electricity under Section 111 of the Act.

Commission's View:

3.8.2. On the submission of the BHPL, the Commission is of the view that the provision of appeal against an order of the State Nodal Agency before the Commission has been incorporated in the draft Regulations in line with the MoP rules. *Hence, clarified.*

3.9. The Regulation 7, i.e. Metering:

The Commission had proposed the following in the draft Regulations:

"Green Energy Open Access customers shall comply with the metering requirements laid down in the CEA (Installation and Operation of Meters) Regulations 2006 as amended from time to time and also included in State MCDAR specified under State Grid Code."

Stakeholders Comments/Suggestions:

3.9.1. Amplus Energy Solutions Private Limited (AESPL) requested to waive off the requirement to install ABT compliant meter by consumers applying for GEOA by aggregating 100 kW or more load of multiple connections in the same division of distribution licensee. Keeping such requirements will make the whole transaction unviable, because of the high cost of AMR-facilitated DLMS meters required as per the latest CEA Regulations.

Further, AESPL suggested keeping the aforesaid requirement of installation of meters as per CEA Regulations for the consumers having a single sanctioned connected load of more than 100 kW.

Commission's View:

3.9.2. On the request of the AESPL for waiver of the requirement of installation of ABT compliant meters by GEOA consumers, the Commission is of the view that energy accounting in case of open access customers requires adjustment of energy spread across various time-blocks, therefore, ABT meter is required to be installed in each installation who are availing GEOA, for adjustment of energy in the bills of the customers. *Hence, no change is required.*

3.10. The sub-Regulation (1) of Regulation 8, i.e. Green Energy Open Access Charges:

The Commission had proposed the following in the draft Regulations:

“(1) The charges to be levied on Green Energy Open Access customers 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 Uttarakhand Electricity Regulatory Commission (Terms & Conditions of Intra-State Open Access) Regulations, 2015 as amended from time to time.”

Stakeholders Comments/Suggestions:

3.10.1. On the sub-Regulation (1) of Regulation 8, SLDC has submitted that Application fees/SLDC fees/Charges, scheduling charges, deviation settlement charges and reactive energy **charges** mentioned at point no. 1(f) above to be charged from the customers have not been defined.

3.10.2. SLDC submitted that as in the case of conventional Short-Term Open Access as per the relevant State/Central Regulations, only Application fees, SLDC Scheduling & Operating Charges and STU charges are to be collected by SLDC and other charges are being settled directly at Distribution Licensee end.

In view of the above and for the sake of clarity, suitable and necessary modifications are required in the draft Regulations.

3.10.3. CEEW has submitted that as per the Uttarakhand Solar Policy, the transmission and wheeling charges are not applicable to the captive or group captive solar plant. So, CEEW has suggested to add the following proviso under the aforesaid regulation as per the provisions of the Uttarakhand State Solar Policy:

“Provided also that transmission and wheeling charges shall not be applicable in case power produced from a captive or group captive solar plant is supplied to the Open Access Consumer in accordance with Uttarakhand State Solar Policy and its amendment from time to time.”

3.10.4. On the aforesaid Regulation, Sun Sustain Solar has submitted that as per the Uttarakhand State Solar Policy 2023, the intra-State Open Access consumers i.e. Captive, Group Captive and third-party projects are exempted from the transmission and wheeling charges as well as from the cross-subsidy and additional surcharge, but such incentives are not mentioned in the draft Green Energy Open Access Regulations.

Commission’s View:

3.10.5. On the submission of SLDC at point no. 3.10.1 and 3.10.2, the Commission is of the view that as mentioned in the 3rd proviso of Regulation 3 of the draft Regulations, the applicable charges and other conditions related to connectivity, Open Access and DSM which are not covered under these Regulations shall be governed by relevant existing intra-State Open Access Regulations, DSM Regulations, RE Regulations and Tariff Orders issued from time to time. ***Hence, no change is required.***

3.10.6. On the submission of CEEW and Sun Sustain Solar at point no. 3.10.3 and 3.10.4, regarding the exemption of charges w.r.t. captive or group captive solar as mentioned in the Uttarakhand State Solar Policy, the Commission is of the view that the levy of open access charges will be governed by the Uttarakhand State Solar Policy. Hence, for the sake of clarity the following proviso is included in the sub-Regulation (1) of Regulation 8 as follows:

“Provided also that levy of Open Access Charges shall be governed by the relevant provisions of the Act and the Policies issued by Central/State Government from time to time.”

3.11. 1st Proviso of sub-Regulation (1) of Regulation 8 of the Draft Regulations i.e. Green Energy Open Access Charges:

The Commission had proposed the following in the draft Regulations:

“... ”

Provided that the cross-subsidy surcharge for Green Energy Open Access Consumers 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;”

Stakeholders Comments/Suggestions:

3.11.1. Manikaran Power Limited has suggested to remove the 12-year operating period for CSS waiver as mentioned in the proviso of Regulation 8, as this clause is putting other RE generators at the verge of huge commercial risk and in turn it might decrease the target of capacity addition of RE and moreover, the aforesaid clause should be applicable **irrespective** of Point of Connection of the RE generator, so that the ISTS connected RE generation plants in Punjab can also be treated under the purview of this benefit.

Commission’s View:

3.11.2. On the suggestion of MPL, the Commission is of the view that the aforesaid proviso is made to make the relevant Regulations consistent with the MoP rules and during the course of 12 years there will be adequate development of RE Power and they would be in a position to compete with the conventional sources. *Hence, no change is required.*

3.12. The sub-Regulation (2) of Regulation 8 of the Draft Regulations i.e. Green Energy Open Access Charges:

The Commission had proposed the following in the draft Regulations:

"The "Standby Charges" shall be as specified in the Uttarakhand Electricity Regulatory Commission (Terms & Conditions of Intra-State Open Access) Regulations, 2015 as amended from time to time and such charges shall not be applicable if the Green Energy Open Access Customer has given notice in writing, in advance at least a day in advance before closure time of the Day Ahead Market on 'D-1' day; 'D' being the day of delivery of power for standby arrangement to the distribution licensee."

Stakeholders Comments/Suggestions:

3.12.1 UTCL has suggested to replace the aforesaid sub-regulation by the following:

"Standby arrangement shall be provided to Green Energy Open Access consumer by the distribution licensee of the area of its supply and the licensee shall be entitled to collect Standby charges as not more than ten percent of the energy charges applicable to consumer tariff category in the prevailing rate schedule specified in relevant Tariff Order passed by the Commission on year to year basis."

Commission's View:

3.12.2 On the submission of UTCL, the Commission is of the view that the DISCOM shall recover the Standby Charges for recovery of actual Cost of Supply and if we keep any such exception, it will result in under recovery of ARR of DISCOM as per the MYT Regulations. ***Hence, no change is required.***

3.13. 3rd Proviso of Regulation 8 of the Draft Regulations i.e. Green Energy Open Access Charges:

The Commission had proposed the following in the draft Regulations:

"Provided also that the additional surcharge shall not be applicable for Green Energy Open Access Consumer if fixed charges are being paid by such a consumer."

Stakeholders Comments/Suggestions:

3.13.1. Manikaran Power Limited has submitted that, as per the aforesaid proviso the additional surcharge shall not be applicable for Green Energy Open Access Consumers, **if** fixed charges are being paid by such a consumer. The provision of paying fixed charges is generally applicable in LTA contracts mainly. Hence, this clause is trying to push the consumers to avail of LTA only to get the benefit of

100% exemption from 'Additional Surcharge', which is against the competitiveness of the short-term power market. Hence, it is suggested to modify this clause by excluding the 'Fixed charge payment' part.

Commission's View:

3.13.2. On the submission of MPL, it is pertinent to mention that the submission of MPL is not fit for consideration as they have misinterpreted the fixed charge mentioned in the proviso. The fixed/demand charges mentioned in the proviso are charges payable by embedded consumers of the Distribution Licensee in their monthly bills.

Further to clarify that additional surcharge incident on distribution licensee/DISCOM is being recovered from embedded consumers under UERC (Terms & Conditions of Intra State Open Access) Regulations, 2015. However, in order to promote the GEOA mechanism which is in the nascent stage of development such additional surcharge is not applicable on GEOA consumers.

Hence, for the sake of clarity the above proviso will now be read as follows:

"Provided also that no additional surcharge shall be applicable on embedded consumers of distribution licensee who opt for Green Energy Open Access."

3.14. The Regulation 9, i.e. Banking Facility and Charges:

The Commission had proposed the following in the draft Regulations:

- (1) *"Banking facility shall be provided to the consumer availing Green Energy Open Access. The surplus energy from a Green Energy generating station after setoff shall be banked with the Distribution Licensee."*
- (2) *The banking facility including injection of surplus energy and drawal of banked energy shall be subject to scheduling.*
- (3) *The Banking Charges shall be adjusted in kind @ 8% of the energy banked.*
- (4) *The permitted quantum of banked energy by Green Energy Open Access consumer shall be atleast 30% of its total monthly consumption of electricity from the Distribution Licensee.*
- (5) *The Banking of energy shall be permitted only for the billing cycle:*

Provided that the credit for banked energy shall not be permitted to be carried forward to subsequent billing cycles and the credit for energy banked shall be adjusted during the same billing cycle.

Provided further that, the energy banked during peak hours (TOD slots) shall be permitted to be drawn during peak as well as off-peak hours (TOD slots) by paying banking charges as specified in sub-Regulation (3) above.

Provided also that, the energy banked during off-peak hours (TOD slots) shall be permitted to be drawn during off-peak hours (TOD slots) by only paying the banking charges and from off-peak hours (TOD slot) to peak hours (TOD slot) by paying charges in kind @ equivalent to % of difference between the Peak hours energy charge rate and Normal hours energy charge rate (as defined in the respective Tariff Orders issued by the Commission) of the energy banked in addition to the above banking charges as specified in sub-Regulation (3) above.

- (6) The un-utilized surplus banked energy shall be considered as lapsed at the end of each billing cycle. However, the RE Generating Station would be entitled to Renewable Energy Certificates to that extent.*
- (7) The energy accounts of all banking transactions shall be maintained by SLDC. The Distribution 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."*

Stakeholders Comments/Suggestions:

3.14.1. CEEW has submitted that UERC can include an additional section on the creation of green energy pool by the Discom which may sell this energy to consumers who have opted for green tariff. This was proposed in the Uttarakhand State Solar Policy 2023. Additionally, the Discom may sell part or whole of the aggregated unutilised banked energy in the market.

CEEW requested to make provisions in the Regulations such that during the time of the application, the applicant can opt either for banking of excess energy during off-peak hours or aggregation of unutilised banked energy by the discom under the green energy pool. This will provide certainty for the Discom.

- 3.14.2. On the sub-Regulation (1) of Regulation 9, Amplus Energy Solutions Private Limited has requested to clarify that such banking facility will also be allowed to consumers availing power under GEOA from generating station established in the State of Uttarakhand.
- 3.14.3. On the sub-Regulation (1) of Regulation 9, Ultratech Cement Limited requested to clarify that the banking shall be available for both intra as well as inter-state transmission system connected renewable energy project.
- 3.14.4. On the sub-Regulation (3) of Regulation 9, CEEW has submitted that, UERC may stipulate that the charges as mentioned in the Regulations shall not increase beyond a stipulated limit for the duration for which open access is granted. Having such a limit on the banking charges would provide consumers greater certainty to plan for the impact of any change in the banking charges.
- 3.14.5. On the sub-Regulation (4) of Regulation 9, CEEW has submitted that UERC may specify the permitted quantum of banked energy as an upper limit, rather than a lower limit, to the proportion of the consumer's monthly consumption of electricity. In order to promote deployment of renewable energy in the state, UERC may permit quantum of banked energy for a Green Open Access Consumer up to 100% of its total monthly consumption of electricity from the Distribution Licensee.
- 3.14.6. On the sub-Regulation (4) of Regulation 9, UTCL has suggested the Commission to permit the quantum of bank energy as a percentage of generation from such source rather than the monthly consumption from Distribution Licensee.

UTCL also requested the Commission to increase the minimum banking quantum from 30% to 50% and maximum upto 100%.

- 3.14.7. On the sub-Regulation (4) of Regulation 9, Amplus Energy Solution Private Limited has requested to the Commission to allow 100 % banking in order to promote RE. Fixing only the minimum percentage of banking to be allowed, would leave the decision of providing the extent of banking on the DISCOMS, which may lead to unwanted litigations and instances wherein the DISCOMS may take advantage of its position of power.

- 3.14.8. On the sub-Regulation (4) of Regulation 9, MPL has suggested that the 30% clause should be capped to generation or annual average consumption. MPL explained that as per the current clause, if any open access consumer meets up its total load demand from open access only during any month, then its drawl from DISCOM will be 0 MW for the same month. So, during that month he cannot bank its excess RE energy to DISCOM. Hence, they requested to consider the suggested clause.
- 3.14.9. On the sub-Regulation (5) of Regulation 9, Amplus Energy Solution Private Limited has submitted that that intent of the MoP Rules is that the banking not necessarily be restricted to monthly basis and can be extended for the year or any other period as deemed appropriate by the Commission and accordingly, the period of banking has been termed as "banking cycle". Therefore, in order to promote RE, it is requested to the Commission to allow annual banking as against the monthly cycle (billing cycle) being proposed in the draft Regulations.
- 3.14.10. On the sub-Regulation (5) of Regulation 9, UTCL has requested to allow banking on an annual basis as renewables are infirm source generation and this shall provide the flexibility to consumers to utilise the energy efficiently from renewable sources. Also, the Commission should clearly define the continuity of annual banking for 25 years as a significant investment is involved in setting up the project.
- 3.14.11. On the 3rd proviso of sub-Regulation (5) of Regulation 9, UTCL has requested the Commission to limit the additional banking charges in kind to 2% in addition to the 8% banking charges. Since, there is no wind potential in the State and consumer can only procure solar power which shall be available in daytime. Hence, in order to use open access power round the clock it is necessary to draw the power in peak hours.
- 3.14.12. On the sub-Regulation (6) of Regulation 9, MPL submitted that, this clause states that the unutilized banked energy will be lapsed, which is contradictory of Promotion of Green Energy by the commission, because maximum states, through their RE policies, are providing a 75% of APPC rate as the compensation cost for the lapsed banked energy at the end of the financial year. Further, MPL also sought clarification on whether the RECs issued can be traded.

- 3.14.13. On the sub-Regulation (6) of Regulation 9, CEEW has requested the Commission to formulate a compensation mechanism and accounting framework for unutilised banked energy for captive/group captive consumers with a total contracted demand as the UERC may specify. As banking has been proposed on a monthly basis with no carry-forward, hence the compensation for unutilised banked energy would improve the economics of the plant for MSMEs and similar small captive/group captive consumers.
- 3.14.14. On the sub-Regulation (6) of Regulation 9, UTCL has requested not to consider unutilised surplus banked energy as lapsed at the end of each billing cycle, instead of considered it as lapsed, the Commission may make provision to compensate the consumer for lapsed energy by the rate as specified by the Commission.
- 3.14.15. On the sub-Regulation (6) of Regulation 9, Amplus Energy Solution Private Limited has submitted that unutilised energy at the end of the banking cycle shall lapse and the RE generator shall be entitled to receive Renewable Energy Certificate, however, it does not specify that the RE generator would also get settlement for lapsed energy at the rate decided by the Commission. Therefore, it is requested to the Commission that a provision to compensate lapsed energy at the rate of lowest tariff discovered in competitive bidding may also be introduced in the said Regulations.
- 3.14.16. On the sub-Regulation (7) of Regulation 9, SLDC requested the Commission to replace the word “SLDC” by “Distribution Licensee” as all data related to energy consumption remains with the Distribution Licensee. SLDC also suggested the following addition in the above Regulation:

“Distribution Licensee shall submit the energy account to SLDC being Nodal Agency for records on weekly basis and for sharing the same with NRLDC.”

Commission’s View:

- 3.14.17. On the submission of the CEEW at point no. 3.14.1, it is pertinent to mention that as per the MoP rules the provision for procurement of Green Energy from Distribution Licensee is already incorporated in the UERC RE Regulations 2023. These Regulations deals with the open access of green energy and is not meant

to deal with the pooling provisions of green energy. *Hence, no change is required.*

- 3.14.18. On the submission of the AESPL and UTCL at point no. 3.14.2 and 3.14.3, it is to clarify that the banking facility will be allowed to all types of intra-State Consumers availing Open Access. *Hence, clarified.*
- 3.14.19. On the submission of CEEW at point no. 3.14.4, the Commission is of the view that the banking charges so decided in the Regulations are as per the model Regulations framed by FOR. *Hence, no change is required.*
- 3.14.20. On the submission of CEEW, UTCL and AESPL at point no. 3.14.5, 3.14.6 and 3.14.7, it is to state that the current sub-Regulation has fixed the minimum limit of banking and has not put any cap on the maximum limit for banking. *Hence, no change is required.*
- 3.14.21. On the submission of MPL at point no. 3.14.8, the commission is of the view that the sub-regulation is in line with the MoP rules and practically, no such case exists where an embedded consumer does not draw any power from DISCOM and the case presented seems to be hypothetical. *Hence, no change in the regulation is required.*
- 3.14.22. On the submission of AESPL and UTCL at point no. 3.14.9 and 3.14.10, it is pertinent to mention that the Commission has purposely named the banking cycle as a Billing Cycle for easy and fast settlement of banking account by the DISCOM on a monthly basis. *Hence, no change is required.*
- 3.14.23. On the submission of UTCL at point no. 3.14.11, the Commission is of the view that the current consideration of additional banking charges for withdrawal of power in peak hours for the Energy Banked during the non-peak hours is to discourage the practice of drawl of Banked Power during peak hours, as lower additional Banking Charges will encourage the green energy open access consumers to withdraw banked energy during peak hours which in turn burdens the Distribution Licensee financially. Since, DISCOM is required to recover its actual cost of supply and if we keep any such exception it will result in under recovery of ARR of DISCOM as per the MYT Regulations. *Hence, no change is required.*

3.14.24. On the submission of MPL, CEEW, UTCL and AESPL at point no. 3.14.12, 3.14.13, 3.14.14 and 3.14.15 regarding the payment of compensation on the un-utilised Banked Energy, the Commission is of the view that the provision of lapse of un-utilised banked energy is in line with the MoP rules and FOR draft Regulations. In the MoP rules, the provision for compensation in the form of RECs is provided to the RE generators only and these RECs can be traded in the market as usual. **Hence, no change is required.**

3.14.25. On the submission of SLDC at point no. 3.14.16, the Commission agreed on the submission made by the SLDC. Accordingly, the sub-Regulation (7) of Regulation 9 will be read as follows: -

“(7) The Distribution 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. The energy accounts of all banking transactions shall be maintained by Distribution Licensee and shall be submitted to SLDC on weekly basis.”

3.14.26. Additionally, in the sub-Regulation (5) of Regulation 9, the Commission has decided to replace the words “off-peak hours” by the “non-peak hours”, for which the definition of “non-peak hours” has been added in the sub-regulation 1 (o) of Regulation 2 i.e., in Definitions and Interpretations, Now, the sub-Regulation (5) of Regulation 9 will be read as follows in the final Regulations:

“(5) The Banking of energy shall be permitted only for the billing cycle:

Provided that the credit for banked energy shall not be permitted to be carried forward to subsequent billing cycles and the credit for energy banked shall be adjusted during the same billing cycle;

Provided further that, the energy banked during peak hours (TOD slots) shall be permitted to be drawn during peak as well as non-peak hours (TOD slots) by paying banking charges as specified in sub-Regulation (3) above;

Provided also that, the energy banked during non-peak hours (TOD slots) shall be permitted to be drawn during non-peak hours (TOD slots) by only paying the banking charges and from non-peak hours (TOD slot) to peak hours (TOD slot) by paying charges in kind @ equivalent to % of difference between the Peak hours energy charge rate and Normal hours energy charge rate (as

defined in the respective Tariff Orders issued by the Commission) of the energy banked in addition to the above banking charges as specified in sub-Regulation (3) above. “

3.15. The Regulation 10, i.e. Energy Losses:

The Commission had proposed the following in the draft Regulations:

“Energy losses of the transmission and distribution system shall be applicable to the Green Energy Open Access customers as specified by the Commission from time to time.”

Stakeholders Comments/Suggestions:

3.15.1. On the above Regulation, Amplus Energy Solution Private Limited has submitted that as per present practice in Uttarakhand, total distribution losses are applicable for all open consumers irrespective of the consumers voltage level. It is requested to the Commission that only losses pertaining to relevant voltage level be only made applicable to Open Access Consumers, which will also aid in adoption of more renewable energy in the State.

Additionally, Amplus Energy Solution Private Limited submitted that, as per existing OA Regulations in Uttarakhand, OA is allowed within the Contract Demand and over and above the Contract Demand. Accordingly, it can be understood that a consumer can take multiple open access at a time. Further, Hon'ble CERC has recently made applicable CERC (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022. As per the said Regulations it is not required to specify the exact injection point while availing GNA with limitation to keep total drawal within the GNA allowed. The said provision provides flexibility to consumers to procure power from different sources during different time blocks and in turn enable optimal utilization of the system. Similarly, in line with the GNA Regulations, a similar provision may be introduced while finalizing the Draft (Green Energy Open Access) Regulations, 2023. This would enable consumers to procure power under open access from different RE sources during different time periods without having to avail multiple Open Access and pay multiple Open Access charges. This would promote adoption of Open Access by larger consumers thereby promoting

competition in the electricity market and would also align the State Regulations with the Hon'ble CERC Regulation.

Commission View:

3.15.2. With regards to the submission of the AESPL on the voltage-wise Distribution losses it is pertinent to mention that currently in the State due to the non-submission of relevant data from UPCL, voltage-wise losses cannot be determined, therefore, cost of supply so determined is based on the pooled losses. So, there is no provision for calculating the losses pertaining to relevant voltage level. *Hence, no change is required.*

Further AESPL has requested to make applicable provisions of GNA Regulations for the connectivity in the State. The Commission is of the view that currently there are no intra-State GNA Regulations, therefore, provisions of inter-State GNA Regulations cannot be applicable in the State.

3.16. The Regulation 12, i.e. Curtailment Priority:

The Commission had proposed the following in the draft Regulations:

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

- (a) Short-term open-access customers other than Green Energy Open Access customers shall be curtailed first followed by Green Energy Open Access customers.*
- (b) Medium-term open-access customers other than Green Energy Open Access customers shall be curtailed first followed by Green Energy Open Access customers.*
- (c) Long-term open-access customers other than Green Energy Open Access customers shall be curtailed first followed by Green Energy Open Access customers."*

Stakeholders Comments/Suggestions:

3.16.1. IEX has submitted that the Hon'ble Commission has defined the curtailment priority within long-term, medium-term and short-term open access for conventional and green open access, however, the draft regulation does not provide curtailment priority within short-term transactions. Also, the CERC (Indian Electricity Grid Code) regulations, 2023 provide that within the short-term / T-GNA transactions, bilateral transactions will be curtailed first followed by

collective transactions. Same should be incorporated in clause 12 of the draft Regulations.

3.16.2. SLDC on the above-mentioned Regulation submitted that the curtailment priority of Short-Term Green Energy Open Access vs. conventional MTOA and conventional LTOA is not defined.

Commission's View:

3.16.3. On the submission of IEX and SLDC at Point no. 3.16.1 and 3.16.2, it is to mention that the above-mentioned curtailment priority is amongst the Conventional and Green Energy Open Access Customers. On the applicability of curtailment priority as per the GNA Regulations, the commission is of the view that existing provisions of the GNA regulations are applicable at the inter-state level. Hence, to bring more clarity, the Regulation 12 will now be read as follows:

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

- (a) Short-term open-access customers other than Green Energy Open Access customers shall be curtailed first followed by Green Energy Open Access customers.*
- (b) Next, Medium-term open-access customers other than Green Energy Open Access customers shall be curtailed first followed by Green Energy Open Access customers.*
- (c) Next, Long-term open-access customers other than Green Energy Open Access customers shall be curtailed first followed by Green Energy Open Access customers.*

Provided that within a category, the Green Energy Open Access consumers shall have equal curtailment priority and shall be curtailed on pro-rata basis.

Provided further that distribution licensees shall be curtailed as last resort."

1. *Amplus Energy Solution Pvt. Ltd (AESPL).*
2. *Council on Energy, Environment and Water (CEEW).*
3. *Bhilangana Hydro Power Pvt. Ltd (BHPL).*
4. *State Load Despatch Center (SLDC).*
5. *Sun Sustain Solar.*
6. *UltraTech Cement Limited (UTCL).*
7. *Manikaran Power Limited (MPL).*
8. *Indian Energy Exchange (IEX).*