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PART III

Notifications by High Court, Advertisement, Notices and Change of Name etc.

HARYANA ELECTRICITY REGULATORY COMMISSION

BAYS NO. 33-36, SECTOR-4, PANCHKULA – 134112

Notification

The 24th April, 2023

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

CHAPTER 1

PRELIMINARY

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

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

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

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

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

- 2. Definitions:** (1) In these regulations, unless the context otherwise, requires:
- (a) “Act” means the Electricity Act, 2003 (36 of 2003);
 - (b) “Banking” means the surplus green energy injected in the grid and credited with the distribution licensee energy by the Green Energy Open Access consumers and that shall be drawn along with charges to compensate additional costs if any
 - (c) “Billing Cycle” shall have the same meaning as has been specified under the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014, as amended from time to time.
 - (d) “Central Nodal Agency” means the nodal agency as specified by the Government of India as per the rules;
 - (e) “CERC” means the Central Electricity Regulatory Commission;
 - (f) “Commission” means the Haryana Electricity Regulatory Commission
 - (g) “Forum of Regulators (FOR)” means the forum as referred to in sub-section (2) of section 166 of the Act.
 - (h) “Fossil Fuel” means the fuels such as coal, lignite, gas, liquid fuel or combination of these as its primary source of energy, which are used in thermal generating station for generating electricity;
 - (i) “Green energy” means the electrical energy from renewable sources of energy including hydro and storage (if the storage uses renewable energy) or any other technology as may be notified by the Government of India from time to time and shall also include any mechanism that utilizes green energy to replace fossil fuels including production of green hydrogen or green ammonia as may be determined by the Central Government.
 - (j) “Obligated Entity” means the entities mandated to fulfill Renewable Purchase Obligation, which includes distribution licensee, captive user, and open access consumer, as specified under Haryana Electricity Regulatory Commission (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2021, as amended from time to time.
 - (k) “Rules” shall mean the Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022;
 - (l) “Standby charges” means the charges applicable to green energy open access consumers against the standby arrangement provided by the distribution licensee, in case such green energy open access consumer is unable to procure/schedule power from the generating sources with whom they have the agreements to procure power due to outages of generator, transmission systems and the like;
 - (m) “State Grid Code” shall mean Haryana Grid Code (HGC) Regulations, 2009 and any subsequent amendments thereafter.
- (2) The words and expressions used and not defined herein but defined in the Act shall have the meanings respectively assigned to them in the Act. The other expressions used herein but not specifically defined in the regulations or in the Act but defined under Haryana Electricity Reform Act, 1997 (Act 10 of 1998) or the Indian Electricity Grid Code or the Haryana Grid Code or the Haryana Electricity Regulatory Commission (Terms and Conditions for determination of Tariff for Generation, Transmission, Wheeling and Distribution & Retail Supply under Multi Year Tariff) Regulations, 2019,

HERC Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation Regulations, 2019, Haryana Electricity Regulatory Commission (Terms and conditions for grant of connectivity and open access for intra-State transmission and distribution system) Regulations, 2012 and Haryana Electricity Regulatory Commission (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2021 as amended / reenacted from time to time, shall have the meanings assigned to them respectively in the Haryana Electricity Reform Act, 1997 (Act 10 of 1998) or the Indian Electricity Grid Code or the Haryana Grid Code or any other relevant Regulations in vogue, provided that such definitions in the Haryana Electricity Reform Act, 1997 are not inconsistent with the provisions of the Electricity Act, 2003;

3. Scope and Extent of Application:

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

CHAPTER 2

GRANT OF OPEN ACCESS

4. Eligibility criteria for Green Energy Open Access:

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

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

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

Provided further that such consumer of a distribution licensee shall be entitled for seeking open access provided he is connected through an independent feeder emanating from a grid sub-station. In case of more than one such consumer on such independent feeder, the following condition shall apply: -

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

Provided further that the consumers of a distribution licensee with contract demand of 100 KW or above who are not on independent feeders may be allowed open access subject to the condition that they agree to the system constraints as well as the power cut restrictions imposed by the distribution licensee serving them. In such cases, under drawl, if any, on account of power cut restrictions shall not be compensated:

Provided further that such consumers, having been declared insolvent or bankrupt or having outstanding dues against him for more than two months billing of the distribution / transmission licensee or

having a case of unauthorized use of electricity/theft of electricity pending against him at the time of application, shall not be eligible for open access:

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

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

5. Nodal Agency:

- (1) SLDC Haryana shall be the State Nodal Agency for grant of green energy open access for short term (upto a month) and the State Transmission Utility (STU), shall be the nodal agency for grant of Green Energy Open Access, for medium (one month to three years) and long term (more than three years).
- (2) All the applications related to connectivity and green energy open access shall be received at STU Headquarter in accordance with the detailed procedure, through the single window green energy open access system for renewable energy developed by the Central Nodal Agency.

6. Procedure for grant of Green Energy Open Access:

- (1) The detailed procedure for grant of connectivity and Green Energy Open Access including the application format and applicable Bank Guarantees/Fee/Charges etc., shall be prepared by the State Nodal agency, within a period of 30 days from the date of notification of these regulations and filed in this Commission for approval. The STU may be guided by the procedure prepared by POSOCO (The Grid Controller of India Ltd.) for grant of green energy open access.
- (2) All the applications for the Green Energy Open Access complete in all respects, shall be submitted on the portal 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, by an order in writing, approve the applications for the Green Energy Open Access within a period of thirty days from the date of receipt of complete application for connectivity/open access, failing which it shall be deemed to have been approved subject to the fulfillment of the technical requirements as specified by the Commission:

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

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

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

Explanation:

For the purposes of this rule, the expression 'Fossil Fuel' includes the fuels such as coal, lignite, gas, liquid fuel or combination of these as its primary source of energy, which are used in Thermal Generating Station for generating electricity.

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

(9) Curtailment Priority:

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

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

CHAPTER 3**BANKING****7. Banking:**

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

- (1) The energy banked shall not be permitted to be carried forwarded to next billing cycle. The banked power shall be utilized within the same billing cycle failing which the unutilized energy at the end of the billing cycle shall lapse, and no compensation whatsoever shall be claimed/ paid for such lapsed banked energy and the renewable energy generating station shall be entitled to get renewable energy certificates to the extent of the lapsed banked energy.
- (2) Banking shall be permitted on a billing cycle basis on payment of charges in kind @ 8% of the energy banked.
- (3) The permitted quantum of banked energy by the Green Energy Open Access consumers shall be up to thirty percent of the total monthly consumption of electricity from the distribution licensee by the consumers.
- (4) The banking shall be allowed throughout the billing cycle; however, the drawl of banked power shall not be allowed during the peak load hours as mentioned in the ToD tariff approved by the Commission.
- (5) The RE power shall be adjusted on a first charge basis in order of consumption of energy by a consumer. The banking will be counted on daily basis for the purpose of monthly account.
- (6) Settlement of wheeled energy at consumer end shall be in the following order of priority:
 - a) RE generation after deduction of losses.
 - b) Captive Power
 - c) Banked Energy
 - d) Open Access Power through Exchange / Bi-lateral transactions
 - e) Discom power
- (7) The energy accounts of all banking transactions shall be maintained by SLDC. The licensee shall prepare a detailed procedure for banking along with model banking agreement within a period of 30 days of the notification of these regulations.

CHAPTER 4**CHARGES FOR GREEN OPEN ACCESS****8. Charges to be levied for Open Access:**

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

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

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

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

Provided that the cross-subsidy surcharge for Green Energy Open Access Consumer purchasing green energy, from a generating plant using renewable energy sources, shall not be increased, during twelve years from the date of operating of the generating plant using renewable energy sources, by more than fifty percent of the surcharge fixed for the year in which open access is granted:

Provided further that the additional surcharge shall not be applicable for Green Energy Open Access Consumers, if fixed charges are being paid by such a consumer:

Provided also that cross subsidy surcharge and additional surcharge shall not be applicable in case power produced from a non-fossil fuel-based Waste-to-Energy plant is supplied to the Open Access Consumer:

Provided also that Cross subsidy surcharge and additional surcharge shall not be applicable if green energy is utilized for production of green hydrogen and green ammonia:

Provided also that additional surcharge shall not be applicable in case electricity produced from offshore wind projects, which are commissioned upto December, 2025 and supplied to the Open Access Consumers.

- (3) The cross-subsidy surcharge payable by a consumer shall be such as to meet the current level of cross subsidy with in the area of supply of the distribution licensee.
- (4) In case of RE Open Access, the consumers taking power from such RE Generator may maintain its contract demand with the distribution licensee. In such cases, the distribution licensee is obligated to supply power to such consumer under universal service obligations and Open Access Consumer shall continue paying fixed charges to the distribution licensee.
- (5) The standby charges, in such cases, shall be 125% of the energy charges applicable to consumer tariff category, and such charges shall not be applicable if the Green Energy Open Access Consumers have given notice in writing, in advance at least a day in advance before closure time of the Day Ahead Market on D – (minus) day; “D” being the day of delivery of power for standby arrangement to the distribution licensee.
- (6) In addition to transmission charge, intra-State Transmission loss shall be applicable to consumers seeking Green Energy Open Access. It shall be determined as average of 52-week Intra-State Transmission loss for the previous financial year as approved by the Commission.

- (7) In addition to wheeling charge, wheeling loss shall be applicable to consumers seeking Green Energy Open Access and it shall be determined as average of 52-week wheeling loss for the previous year as approved by the Commission:
- (8) **Reactive Energy Charges:** The Green Energy Open Access consumer shall pay for the reactive energy in accordance with provisions of the State Grid Code notified by the Commission. In absence of the aforesaid regulation of the Commission or rates to be specified by the Commission, the rates specified in CERC (Indian Electricity Grid Code) Regulations 2010 or the rates specified by CERC shall be applicable.
- (9) **Collection of Charges:** The Charges in respect of Green Energy Open Access consumers shall be payable directly to State Nodal Agency in accordance with terms and conditions of payment specified by the State Nodal Agency.

CHAPTER 5

MISCELLANEOUS

9. **Green certificate.:** The distribution licensee shall provide green certificate on yearly basis to the consumers for the green energy supplied by the licensee to consumer on his request beyond the renewable purchase obligation of the consumers.
10. **Power to Relax.:** The Commission may by general or special order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected may suo moto relax any of the provisions of these regulations or on an application made before it by an interested person.
11. **Issue of orders or directions.:** Subject to the provisions of the Act and these regulations, the Commission may, from time to time, issue orders and procedural directions with regard to the implementation of these regulations and specify the procedure to be followed on various matters, which the Commission has been empowered by the regulations to direct and matters incidental thereto.
12. **Power to amend.:** The Commission may, at any time, add, vary, modify or amend any of the provisions of these regulations.
13. **Power to remove difficulties.:** If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may, by general or special order, make such provisions, which in the opinion of the Commission are necessary or expedient to do so.
14. **Savings.:** Nothing in these Regulations shall limit the inherent power of the Commission to make such orders as may be necessary to meet the ends of justice or to prevent abuses of the process of law / statutes. Nothing in these Regulations shall bar the Commission from adopting, any other procedure, which may be at variance with any of the provisions of these Regulations, as long as they are in conformity with the provisions of the Electricity Act, 2003 and the policies framed by the Central / State Government thereto:

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

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

By the order of the Commission

Panchkula:
The 24th April, 2023.

(Sd.)...,
Director/Tariff,
HERC.