

**GUJARAT ELECTRICITY REGULATORY COMMISSION (GERC)  
GANDHINAGAR**

**Draft Gujarat Electricity Regulatory Commission (Terms and Conditions for Green Energy Open Access) Regulations, 2023.**

**NOTIFICATION NO. \_\_\_\_\_ OF 2023**

In exercise of the powers conferred under Section 181 of the Electricity Act, 2003 (36 of 2003), read with Sections 39, 40, 42, 61 and 86 thereof and all other powers enabling it in this behalf, and after previous publication, the Gujarat Electricity Regulatory Commission hereby makes the following Regulations, namely Draft Gujarat Electricity Regulatory Commission (Terms and Conditions for Green Energy Open Access) Regulations, 2023.

**1. Short Title, Extent and Commencement**

1. These Regulations shall be called the Gujarat Electricity Regulatory Commission (Terms and Conditions for Green Energy Open Access) Regulations, 2023.
2. These Regulations will come into force from the date of their notification in the Official Gazette of Gujarat.
3. These Regulations shall extend to the whole State of the Gujarat.

**2. Objective**

The objective of these Regulations is to provide non-discriminatory Open Access for Renewable Energy for use of Intra-State Transmission System/s (InSTS)/or distribution system/s of licensee/s in State including Intra-State Transmission or Distribution System/s, which are incidental to Inter-State

Transmission of electricity, methodology for the determination of Open Access Charges and Banking Charges etc. for Green Energy Open Access consumers.

### **3. Definitions**

1. In these Regulations, unless the context otherwise requires,

- (a) “Act” means the Electricity Act, 2003 (36 of 2003);
- (b) “Applicant” means a consumer, trading licensee, distribution licensee or a Generating company who has applied seeking Green Energy Open Access as the case may be;
- (c) “Appropriate Commission” means the Central Regulatory Commission referred to sub-Section (1) of Section 76 or State Regulatory Commission referred to Section 82 or Joint Commission referred to Section 83 of the Act, as the case may be;
- (d) “Banking” means the surplus green energy injected in the grid and credited with the distribution licensee by the Green Energy Open Access consumers and that shall be drawn along with charges to compensate additional costs; if any;
- (e) “Captive Generating Plant” means power plant set up under Section 9 of the Electricity Act, 2003 by any person to generate the electricity primarily for its own use and includes power plant set by any co-operative society or association of person for generating electricity primarily for use of members of such co-operative society or association, and fulfill the conditions laid down in the Electricity Act, 2003 and Rules framed thereunder;
- (f) ‘Central Commission’ means the Central Electricity Regulatory Commission referred to in sub-section (1) of Section 76 of the Act;
- (g) “Central Nodal Agency” means a Central Nodal Agency as notified by the Central Government to set up and operate a single window green energy

open access system for renewable energy as specified by Ministry of Power in the Electricity (Promoting Renewable Energy through Green Energy Open Access) Rules 2022;

- (h) “Commission” means the Gujarat Electricity Regulatory Commission constituted under the Act;
- (i) “Consumer” means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be;
- (j) “Entity” means any consumer who has contracted demand or sanctioned load of Hundred kW or more either through single connection or through multiple connections aggregating Hundred kW or more located in the same electricity division of a distribution licensee, except for captive consumers. However, in case of captive consumers, there shall not be any load limitation.
- (k) “Existing Open Access Consumer/Customer” means a person already availing open access for sourcing/supplying renewable (green) energy from/to the transmission system and/or distribution system of the licensees in the State under an existing agreement or Commission’s Regulations/orders on the date of coming into force of this Regulations;
- (l) “Developer” means the generating company who generate electrical energy from renewable sources of energy.
- (m) “Day Ahead Market (DAM)” means a market where Day Ahead Contracts are transacted on the Power Exchange(s);

- (n) “Fossil Fuel” means 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;
- (o) “Green Energy/Renewable Energy” means the electrical energy from renewable sources of energy including hydro, pumped Storages Hydro generation, energy storage system and storage (if the storage uses only renewable energy), Municipal Solid Waste-to-Energy based generation, biomass and bagasse based co-generation plants or any other technology as may be notified by the Commission from time to time and shall also include any mechanism that utilizes renewable energy to replace fossil fuels including production of green hydrogen or green ammonia;
- (p) “Green Energy Open Access Consumer” means any person who has contract demand or sanctioned load of 100 kW or more, either through single connection or through multiple connections aggregating Hundred (100) kW or more located in same electricity division of a distribution licensee, shall be eligible to take Green Energy through Open Access (captive consumers shall not have any load limit) or such other limit as may be specified by Commission from time to time, who are supplied with electricity from green energy sources for their own use by a licensee or the Government or from its own Captive Generation Plant or by any other person engaged in the business of supplying electricity to the public including captive under the Electricity Act, 2003 or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving green energy with the works of a licensee, the Government or such person, as the case may be. There shall be no limit of supply of power for the captive consumers taking power under Green Energy Open Access:”

- (q) “Installation” means the whole of electric wires, fittings, motors, and apparatus installed and wired by or on behalf of the consumer of one or same premise starting from the point of the commencement of supply;
- (r) “Obligated Entity” means the entities mandated under Clause (e) of sub-section (1) of Section 86 of the Act to fulfill the Renewable Purchase Obligation, which includes distribution licensee, captive consumer / user and open access consumer;
- (s) “Open Access” means the non-discriminatory provisions for use of transmission lines and/or distribution system or associated facilities with such lines or system by any licensees or consumers or a person engaged in generation in accordance with the Regulations specified by the Appropriate Commission;
- (t) “Person” shall include any company or body corporate or association or body of individuals, whether incorporated or not or artificial juridical person;
- (u) “Premises” include any land, building or structure;
- (v) “Rules” means the Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022 and subsequent amendments;
- (w) “State Transmission Utility” means Board or Government company specified as such by the State Government under sub-Section (1) of Section 39 of the Act;
- (x) “State Nodal Agency” means a State Nodal Agency for the purpose of these Regulations set up and operate a single window Green/renewable energy Open Access System for renewable/green energy in the State of Gujarat is State Load Dispatch Centre for Short-Term Open Access and State Transmission Utility (STU) for Medium-Term Open Access and Long Term Access;

- (y) “State Load Dispatch Centre” means State Load Dispatch Centre established under sub-Section (1) of Section 31 of the Act;
- (z) “SERC” means the State Electricity Regulatory Commission;
- (aa) “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;
- (bb) “Wheeling” means operation whereby the distribution system and associated facilities of transmission licensee or distribution licensee as the case may be, are used by another person for the conveyance of electricity on payment of charges determined under Section 62 of the Act;

#### **4. Interpretation of Regulations**

In the interpretation of these Regulations, unless the context otherwise requires:

- (i) Words and expressions used and not defined in these regulations but defined in the Act or the IEGC or the State Grid Code or State Distribution Code or the State Electricity Supply Code shall have the meaning assigned to them under the Act or the IEGC or the State Grid Code, or State Distribution Code or the State Electricity Supply Code or any other Regulations notified by the Commission as the case may be.
- (ii) The General Clauses Act, 1897(10 of 1897) as amended from time to time, shall apply for the interpretation of these regulations as it applies for interpretation of an Act of Parliament.
- (iii) Words in the singular or plural term, as the case may be, shall also be deemed to include the plural or the singular term, respectively;

- (iv) The terms – “include” or – “including” shall be deemed to be followed by – “without limitation” or – but not limited to regardless of whether such terms are followed by such phrases or words of like import;
- (v) References herein to the – “Regulations” shall be construed as a reference to these Regulations as amended or modified by the Commission from time to time in accordance with the applicable laws in force;
- (vi) The headings are inserted for convenience and may not be taken into account for the purpose of interpretation of these Regulations;
- (vii) References to the statutes, Regulations or guidelines shall be construed as including all statutory provisions consolidating, amending or replacing such statutes, Regulations or guidelines, as the case may be, referred to.
- (viii) In case of inconsistency between any provisions of these regulations and any other regulations or order passed by the Commission the provisions of these regulations shall prevail.

## **5. Scope**

These Regulations shall be applicable for allowing Open Access to electricity generated from green energy sources as defined hereinabove in Regulation 3 of these Regulations, including the energy from non-fossil fuel based Municipal Solid Waste-to-Energy plant for use of Intra-State Transmission System (InSTS) or distribution system or both, which are incidental to Inter- State Transmission of electricity.

## **6. Criteria for Allowing Green Energy Open Access**

- I. The long-term Green Energy Open Access shall be allowed in accordance with the transmission planning criteria and distribution planning code stipulated in the State Grid Code.

- II. The Short-Term/Medium Term Green Energy Open Access shall be allowed, if the request can be accommodated, by utilizing:
  - a. Inherent design margins
  - b. Margins available due to variation in power flows and
  - c. Margins available due to in-built spare transmission system capacity and/or distribution system capacity created to cater to future load growth;

**7. Categorization of Green Energy Open Access:**

The Green Energy Open Access consumers shall be classified into the following categories based on the duration of use of the intra- state transmission and/or distribution system:

- I. “Long-term Green Energy Open Access” means the right to use the intra-State transmission system and/or distribution system for a period exceeding 12 years but not exceeding 25 years.
- II. “Medium-term Green Energy Open Access” means the right to use the intra-State transmission system and/or distribution system for a period exceeding three months but not exceeding three years.
- III. “Short-term Green Energy Open Access” means open access for a period up to one month at a time.

Provided that on expiry of granted short term Green Open Access, if such consumer/customer desires to avail the short-term Green Energy Open Access consumer for further period it shall require to file application for such period and such application shall be considered as fresh application and priority shall be fixed on basis of date of such application.



## **8. Application procedure for Green Energy Open Access**

- (1) All applications for Green Energy Open Access shall be made in the prescribed Form and submitted to the Nodal agency in accordance with these Regulations.
- (2) All applicants seeking Green Energy Open Access shall submit an undertaking of not having entered into Power Purchase Agreement (PPA) or any other bilateral agreement with more than one person for the capacity (quantum of power) for which Green Energy Open Access is sought.

## **9. Eligibility Criteria for applying Green Energy Open Access**

- I. Subject to the provisions of these Regulations and system availability, consumers, licensees and/or generating company shall be eligible for Green Energy Open Access to the intra-state transmission system of the State Transmission utility or any transmission licensee/s and/or distribution system/s of the distribution Licensee/s within the State.

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

Provided further that, such Green Energy Open Access shall be available on payment of such charges as may be determined by the Commission from time to time.

- II. Every person, who has constructed a Captive Generating Plant (CGP) shall have the right to open access as per the provisions of Section 9 of the Act read with rules and Regulations framed under the Act and Order(s) of the Commission on the subject matter.
  
- III. The person(s) who claim that it is having Captive Generating Plant and utilize Green Energy for own use (captive use) through Green Energy Open Access shall requires to provide the details of equity owned by it/them in the captive generating plant and utilization of energy generated from such captive generating plant for their own (captive) use as captive consumption on annual basis, i.e. financial year basis to the distribution licensee in whose area of distribution of electricity, such captive consumer(s) is situated and obtained green open access for transmission/wheeling of energy from its captive generating plant for own use and desire to obtain the benefit granted for captive use of energy for self-utilization (consumption of energy for own purpose) at the place of consumer(s).

Provided that the consumers who are having Rooftop Solar Power Project upto 1 MW at its premises under net-metering by setting up its Captive Generating Plant shall be exempted from providing the details of equity holding and consumption of energy for fulfillment of CGP with the distribution licensee. However, they shall require to provide undertaking stating that Rooftop project owned by them.

- IV. The details of documents require to submit by the captive consumer(s) to the distribution licensee for verification and commission for compliance of its captive consumption on financial year basis latest by 30<sup>th</sup> April of the ensuing year after completion of financial year.

**Explanation:** As for example on completion of financial year 2023-24 (i.e. from 1.04.2023 to 31.03.2024), the details for proving captive status of generator and captive consumer(s) require to submit to the distribution licensee on or before latest by 30<sup>th</sup> April, 2024 as per Schedule I of these Regulations.

- V. Failure to provide the above details to the distribution licensee within aforesaid time limit, the distribution licensee shall inform to the State Nodal Agency for non-compliance of provision of Regulations and take action according to provision of Regulations which includes the removal of captive status of such consumer and withdrawal of benefit of captive status like exemption from cross-subsidy surcharge, additional surcharge etc.
- VI. On receipt of necessary documents/evidences from captive consumer/generator the distribution licensee and the Commission shall verify about captive status of generator and captive consumption of the consumer as the case may be within three (3) months and take necessary action, if any, required with regard to failure of captive status of either generator or consumer(s) as per provision of Act, Rules and Regulations and/or Order(s) of the Commission. On verification of documents/evidences if the distribution licensee found that either generator or consumer fail to prove the captive generating plant status and/or captive consumer status or found sale of surplus energy from the captive generating plant which qualify under third party sale in that case the distribution licensee shall approach to the Commission (GERC) to take action in accordance with law against captive generating plant and/or captive consumer.
- VII. On submission of documents/evidence to the distribution licensee by the captive consumer the distribution licensee shall verify the compliance of

provisions of Act, Rules and Regulations for captive status of the generator and the consumer and raise the issue with regard to non-compliance of captive status by the generator/captive consumer and also approach to the Commission (GERC) to decide captive status of the generator or consumer and claim the recovery of charges payable by such consumer on account of not fulfilling of captive generating plant status by the generator or captive consumer status by the consumer which includes recovery of cross subsidy surcharge, additional surcharge and other charges benefits, if any availed by the person as captive generator and/or consumer under the provision of these regulations or orders of the Commission. Failure of proving captive status by the consumer or generator on completion of financial year they are treated as normal open access consumers, and they shall be liable to pay all charges as payable by the normal open access consumer and the benefits which are granted for captive use of energy shall be withdrawn during that year. Energy supplied from the generator and consumed by the consumer shall be considered as supply of electricity as normal consumer and not as captive consumer.

Provided that consumers (except captive consumers), who have contracted demand or sanctioned load of one hundred (100) kW and above shall be eligible for Open Access for sourcing Green Energy (RE) under these Regulations.

Provided further that there shall be no limit with respect to contracted load or sanctioned load for the captive use of energy by the consumer opting under Green Energy Open Access.

Provided further that minimum number of time blocks, which shall not be more than 12 time-blocks, for which the consumer shall not change the

quantum of power consumed through Green Energy Open Access so as to avoid high variations in demand to be met by the distribution licensee.

## **10. Nodal Agency**

- I. All the applications related to Green Energy Open Access shall be submitted to the portal set up by the Central Nodal Agency. The applications shall be routed to the State Nodal Agency (SNA) by the Central Nodal Agency.

Provided that, till such time the procedures and formats are devised by Central Nodal Agency, the existing procedures/formats laid down by the Gujarat SLDC may be followed in the matter.

- II. Gujarat State Load Despatch Centre shall operate as the State Nodal Agency for grant of Short-Term Green Energy Open Access and State Transmission Utility (STU) shall be State Nodal Agency for grant of Long-Term Green Energy Open Access and Medium-Term Green Energy Open Access.
- III. The State Nodal Agency shall coordinate with transmission licensees including STU and the Distribution Licensees to make available all relevant information regarding green energy open access to the public on the portal of the Central Nodal Agency.

## **11. Treatment for existing Green Energy (RE) Open Access consumer(s)**

The Green Energy Open Access availed or to be availed by the consumer/generator/licensee sourcing power from the RE generator (Green Energy Generator) which were commissioned prior to date of notification of these Regulations shall continue to be governed by the relevant provisions of the Government Policy or the Order(s) of the Commission or Regulations

notified by the Commission under the control period under which the RE generator (Green Energy Generator) was commissioned.

Provided that if the consumer/generator/licensee avail Green Energy Open Access by sourcing power from the RE Generator commissioned after notification of these Regulations shall be governed as per the provisions of the Orders of the Commission and/or Regulations of the Commission as the case may be.

Provided further that in case of inconsistency between the provisions of Order(s) issued after these Regulations of the Commission with regard to Banking facility and charges, the provisions of these Regulations shall prevail.

Provided also that if Open Access for any additional Green Energy (RE) capacity is sought by any existing consumer(s)/generators/licensee in addition to the capacity already contracted under Green Energy Open Access, shall be treated as new application for Green Energy Open Access to the extent of additional capacity commissioned after notification of these Regulations.

## **12. Allotment Priority**

- (i) Distribution licensee shall have highest priority over other Green Energy Open Access consumers;
- (ii) Green Energy Open Access consumers shall have preference (priority) over normal Open Access consumers in the same category of open access;
- (iii) Amongst the Green Energy Open Access consumers, long-term Green Energy Open Access consumers shall have preference (priority) followed by Medium term Green Energy Open Access consumers and

subsequently short-term Green Energy Open Access consumers, at any given time, subject to availability of spare transmission/distribution system capacity margins;

Provided that the decision for allowing the Green Energy Open Access shall be on the basis of first come first serve.

### **13. Procedure for grant of Green Energy Open Access.**

- I. The Green Energy Open Access applicant shall submit a complete application in all aspects, in the format as specified by Central Nodal Agency on the central portal set up by the Central Nodal Agency.
- II. The application shall be forwarded to the concerned State Nodal Agency by the Central Nodal Agency for further verification and the same shall be decided by the nodal agency within 15 days from the date on which received by State Nodal Agency from Central Nodal Agency. The following time schedules shall be followed for processing the Application:

Sl. No.	Particulars	Time-Line	Remarks
1	Date on which application is received by State Nodal Agency from Central Nodal Agency	$T_0 = \text{Zero Date}$	
2	Acknowledgement of receipt of Application	$T_0 = \text{Zero Date}$	The acknowledgement shall be provided immediately by electronic mode
3	Acceptance of application by	$T_0 + 1 \text{ working day}$	In case the application is incomplete, the State

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	State Nodal Agency after confirming that all the relevant documents are furnished by the applicant including processing fees and BG		Nodal Agency shall inform the same in writing rejecting the application and furnishing the details of the defects. After rectifying the defects, a fresh application shall be made.
4	Forwarding of application to GETCO/concerned DISCOMs.	T <sub>0</sub> + 3 working days	On acceptance of the application, the same shall be forwarded to GETCO / concerned DISCOMs for ensuring the system availability, metering infrastructure, no pending dues and that there is no subsisting PPA for the capacity for which the Green Energy Open Access is sought.
5	Intimation from GETCO/ DISCOMs.	T <sub>0</sub> + 7 working days	<p>Upon the receipt of application GETCO/DISCOMs shall carry out the system study, and availability of other necessary infrastructure, if required and confirmation of no pending dues.</p> <p>In case margin is available in the network and also availability of necessary infrastructure then GETCO/DISCOMs shall intimate to the State Nodal Agency about validity of its application.</p>



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			<p>In case of LTOA, if system strengthening is required, GETCO/DISCOM shall intimate to the Applicant and the State Nodal Agency regarding the work involved for system strengthening.</p> <p>In case system strengthening is required, probable date of granting Green Energy Open Access shall be intimated to State Nodal Agency within the same time.</p> <p>In case intimation is not received within the specified time from GETCO/DISCOM as the case may be, the State Nodal Agency shall consider it to be deemed valid application.</p> <p>Provided that the system studies at the drawl point to ascertain the availability is not required for a consumer of the licensee availing Open Access, subject to the applicant furnishing an undertaking that, he would not exceed the contract demand specified in his supply agreement with the</p>
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			<p>licensee even after opting for Open Access.</p> <p>Provided that in case of captive generating plant the limit of contract demand of 100 kW and above is not applicable for availing the green energy open access.</p>
6	Intimation by State Nodal Agency to the Applicant	T <sub>0</sub> + 8 working days	<p>The State Nodal Agency shall intimate the Applicant, regarding the validity of the Application for grant of Green Energy Open Access within the time specified.</p> <p>In case Green Energy Open Access cannot be granted, the same shall be intimated by the State Nodal Agency to the Applicant within the above time furnishing the reasons in writing for non-grant of Green Energy Open Access sought.</p> <p>In case, State Nodal Agency fails to intimate the grant of Green Energy Open Access or otherwise, within the above specified time, the same shall be deemed to have been granted, to be subject to system availability.</p>

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7	Submission of Agreement by the applicant for long term Green Energy Open Access	T0 + 13 working days	<p>The applicant shall submit draft copy of Transmission and/or Wheeling Agreement to the licensee to be executed and obtain due acknowledgment of the designated authority notified by the concerned licensee of such submission. Thereafter, the concerned authority will ensure for execution of Agreement with the Applicant within five days and also provide the copy of such executed Agreement to the Applicant.</p> <p>The time limit for signing of Transmission Agreement by GETCO and Wheeling Agreement by distribution licensee shall be five days in each case, where it is required to sign both Agreements.</p> <p>Thereafter, the Applicant within three days of receipt of such executed Agreement(s) shall submit copy(ies) of signed Transmission and/or Wheeling agreement to the State Nodal Agency and the State Nodal Agency shall provide</p>
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			<p>acknowledgement of receipt./licensee(s).</p> <p>The Transmission and Wheeling Agreement to be executed in the standard format as the case may be prepared by State Nodal Agency / licensee(s) as approved by the Commission.</p> <p>The existing Wheeling/Transmission Agreement as modified as approved from the Commission for REC and Non-REC route projects in accordance with these Regulations shall be adopted.</p> <p>In case the Applicant fails to submit the Transmission and/or Wheeling Agreement within the specified time, the Open Access granted is deemed to have been cancelled.</p>
8	Submission of signed copies of agreement by GETCO/ concerned DISCOMs	T <sub>0</sub> + 15 working days	<p>In case GETCO/ DISCOMs fail to sign/submit the Transmission and/or Wheeling Agreement submitted by the applicant within the specified time above, the Transmission and/or Wheeling is deemed to have been approved.</p>

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			<p>In case of deemed approval, the provisions of standard Agreement(s) approved by the Commission shall be applicable and binding.</p> <p>Accordingly, the applicant is allowed transmission and / or wheeling of energy from the effective date subject to filing of an 'Undertaking' on affidavit that it shall avail the transmission and / or wheeling of energy and terms &amp; conditions of the deemed approved Agreement(s) are binding on it.</p>
9	Effective date for wheeling	In case the State Nodal Agency receives from the applicant the copy of the executed agreement(s) / 'Undertaking on Affidavit with regard to deemed approval, as the case may be, the effective date for commencement of Green Energy Open Access of the applicant shall be the next date from the date of submission of signed copy of the agreement	The applicant is allowed to wheel the energy from the effective date.

		to the State Nodal Agency.	
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- III. The State Nodal Agency shall ensure that non-refundable processing fee of Rupees Fifty Thousand for long-term, and (ii) Rupees Twenty-Five thousand for medium-term Green Energy Open Access and (iii) Rupees Five Thousand for Short-Term Green Energy Open Access shall be paid by the Applicant to the State Nodal Agency.
- IV. An application for a short-term Green Energy Open Access, for Renewable Generating plant(s) or its/their generating unit(s) which are yet to be commissioned, shall be made not before two months prior to the commissioning date of such RE Generating plant(s) or its/their generating unit(s), to avoid unnecessary blocking of corridor.
- V. An application for long-term/medium-term Green Energy Open Access shall be accompanied by a Bank Guarantee (BG) of Rupees Fifty thousand (Rs. 50,000/-) for Green Open Access capacity less than 1 MW and Rupees One lakh per MW (Rs. 1,00,000/- per MW) for 1 MW & above which shall be kept valid and subsisting till the signing of agreement for transmission and/or wheeling of electricity and such BG shall be encashed by the Nodal Agency, if the application is withdrawn by the applicant prior to the signing of such agreement. On signing of the agreement for transmission and/or wheeling of electricity, the BG shall be returned immediately to the applicant by the State Nodal Agency.
- VI. In case there is any material change with regards to the location of the injection point or quantum of power to be interchanged using the intra-State transmission and/or distribution system, a fresh application shall be made for

the entire capacity to ascertain the system availability and such application shall be accompanied by relevant documents, application fees. Moreover, in case of Long-Term Green Energy Open Access with required bank guarantee for the additional capacity. It is also clarified that in case the additional capacity sought for cannot be accommodated in the existing network, the applicant is entitled for Green Energy Open Access to the extent of his original allotment.

- VII. Where any application is rejected for any deficiency or defect, the Bank Guarantee shall be returned to the applicant and in such cases a fresh application to the Central Nodal portal shall be made by the applicant after curing the deficiency or defect.
- VIII. The State Nodal Agency shall communicate to the applicant through a recognized mode of communication regarding the grant of Green Energy Open Access or otherwise.
- IX. Further, during the pendency of application for grant of Green Energy Open Access, the applicant shall not inject any energy to the licensees' network and the licensee shall not be liable to pay any charges for the energy injected during such period.
- X. The transmission Licensee/s, distribution licensee's and the SLDC shall ensure proper coordination while arranging for Green Energy Open Access.
- XI. New Green Energy (RE) generating plant(s) or generating Unit(s) who has applied for seeking long-term Green Energy Open Access and entering into agreement for wheeling, shall commission such plant(s) or unit(s) within twenty-four months from the date of submission of Green Energy Open

Access application, failing which the Green Energy Open Access granted shall be deemed to have been cancelled, to avoid unnecessary blocking of the corridor.

- XII. A Green Energy Open Access consumer shall enter into commercial agreements with generators, trading licensee, distribution licensee, as may be applicable, and such agreements shall include provisions pertaining to payment security mechanism.
- XIII. The State Nodal Agency shall host on its website the details of every application received from the Central Nodal Agency and the status of such application on a continuous basis, which shall be made available to the public.
- XIV. The State Nodal Agency/Distribution Licensee shall prepare procedure for Green Energy Open Access consisting of documents, formats etc. required to be submitted for Green Energy Open Access in line with the provisions of Act, rules, Regulations, orders and procedure followed by Central Nodal Agency, for smooth implementation of the Green Energy Open Access in the State and get approved from the Commission.

#### **14. Procedure for applying for Day Ahead Green Energy Open Access Transactions.**

The applicant shall apply to the Central Portal for Day Ahead Green Energy Open Access Transactions in the standard application format.

For the applications received by the State Nodal Agency from the Central Nodal Agency, before 13:00 hours of the day immediately preceding the day of scheduling for day-ahead Green Energy Open Access transaction, the State Nodal Agency shall check for congestion in the system and convey grant of approval or



otherwise to the applicant through e-mail or fax, not later than 15:00 hours of the day immediately preceding the day of scheduling for day-ahead transaction, after ensuring that there is no subsisting PPA for the capacity sought under Green Energy Open Access.

Non-refundable processing fee of Five Thousand rupees for each transaction shall be paid by the applicant, in manner as prescribed by the State Nodal Agency like by way of a demand draft or proof of payment through electronic transfer in favour of the State Nodal Agency.

Provided that the actual operationalization of Green Energy Open Access shall be effected subject to payment by the applicant of the charges as specified in these Regulations and orders passed by the Commission from time to time, before 17:00 hours of the day immediately preceding the day of scheduling for day-ahead transaction.

Provided further that minimum 12 time-blocks for which the consumer shall not change the quantum of power consumed through open access so as to avoid high variations in demand to be met by the distribution licensee.

Where Green Energy Open Access is denied, the State Nodal Agency shall furnish reasons thereof to the applicant.

## **15. Utilisation, Non-Utilisation of service by Green Energy Open Access Consumers**

- I. A medium-term/long-term consumer shall not relinquish or transfer his rights and obligations specified in the Green Energy Open Access agreement without prior approval of the State Nodal Agency/DISCOM. The relinquishment or transfer of such rights and obligations by a long-term and

medium-term consumer shall be subject to payment of compensation, as per the provisions of these Regulations.

- II. Provided further that minimum 12 time-blocks for which the consumer shall not change the quantum of power consumed through open access so as to avoid high variations in demand to be met by the distribution licensee.

In addition, the Green Energy Open Access Consumer shall pay the monthly (a) Transaction charges of Rs. 3,000 (Rupees Three Thousand only) for maintaining the transaction details to the State Nodal Agency and (b) Monthly Meter reading charges of Rupees One thousand (Rs. 1000/-) to the concerned licensee(s) who carry out such meter reading.

## **16. Energy Accounting**

### **1) Inter-state transactions**

In case of Green Energy Open Access carried out under inter-state transaction energy accounting shall be as per the CERC Regulations.

Provided that if the generator situated in the State of Gujarat and connected with the State grid and selling power outside the State the energy accounting for deviation settlement be carried out wherein the deviation charge shall be either (A) Reference Charge Rate or (B) Normal Rate of Charges for deviation, whichever is higher.

Explanation: Reference Charge Rate and Normal Rate of Charges shall have the meaning as defined in CERC DSM Regulations from time to time.

## **2) Intra-state transactions**

Long Term Access/Medium-Term Open Access/Short-Term Open Access:

The deviation charges shall be payable by the generator as per the GERC (Forecasting and Scheduling and Related Matters for Solar and Wind Generation Sources) Regulations, 2019.

Provided that the Green Energy Generator (RE generator) other than solar, wind and Wind-Solar Hybrid generator which were commissioned under the respective RE tariff orders passed by the Commission from time to time and in operation shall be governed by the provisions of relevant orders of the Commission.

In case of intra-state transactions, forecast/schedule shall be replaced with actual metered data at the time of preparing post-facto schedule in energy accounting of wind and solar energy projects.

## **17. Charges for Green Energy Open Access**

The charges payable by the Green Energy Open Access consumers shall be as follows: -

1. Transmission charges;
2. Wheeling charges;
3. Cross subsidy Surcharge;
4. Additional Surcharge;
5. Standby Charges wherever applicable;
6. Banking Charges and

7. Other fees and charges such as SLDC fees and scheduling charges, deviation settlement (DSM) charges as per the relevant Regulations, Orders of the Commission.

### **17.1 Transmission Charges**

Green Energy Open Access Consumer using transmission system shall pay the charges as stated hereunder:

#### **17.1.1 For use of inter-State transmission system:**

- (i) As specified by the Central Commission from time to time.

#### **17.1.2 For use of intra-State transmission system:**

The determination of Transmission Charges for Long-Term, Medium-Term and Short-Term for open access shall be determined by the Commission as per the prevailing provisions of the GERC MYT Regulations from time to time.

The applicable rate of Transmission Charge payable by Green Energy Open Access Consumer shall be specified by the Commission in its Tariff Order of Green Energy Technology based generation including projects like wind, solar, Wind-Solar Hybrid, Biomass, bagasse, hydro, mini hydro, Municipal Solid Waste to Energy, Green Hydrogen and Green Ammonia based projects.

### **17.2. Wheeling Charges**

- a. Wheeling charges payable to distribution licensee, by the Green Energy Open Access Consumer for usage of its system shall be as determined by the Commission in the tariff order from time to time:
  - i. The Commission shall specify the wheeling charge of Distribution Wires Business of the Distribution Licensee in its Order passed under sub-section (3) of Section 64 of the Act:

- ii. The rate of Wheeling Charge payable by Green Energy Open Access Consumer shall be specified by the Commission in its Tariff Order of Green Energy Technology based generation including projects like wind, solar, Wind-Solar Hybrid, biomass, bagasse, hydro, mini hydro, Municipal Solid Waste to Energy based projects, Green Hydrogen and Green Ammonia.
- iii. Wheeling Charge for Green Energy Open Access shall be computed in Rs./kWh and it shall be charged on the scheduled energy wheeled.

Provided that the charges payable by a Distribution System User under these Regulations may comprise any combination of fixed/demand charges, energy charges and other charges, as may be stipulated by the Commission in such Order.

- b. In addition to Wheeling Charge, Wheeling loss shall be applicable to consumers or generator as case may be seeking Green Energy Open Access and it shall be as determined by the Commission.

### **17.3. Cross Subsidy Surcharge**

1. The Green Energy Open Access facility availed by a consumer shall be required to pay cross subsidy surcharge as provided in relevant Tariff Order issued by the Commission from time to time, in addition to transmission and/or wheeling charges. Cross subsidy surcharge determined by the Commission on Per Unit basis shall be payable, on billing cycle basis, by the open access customers based on the actual energy consumed during the billing period through open access. The amount of surcharge shall be paid to the distribution licensee in whose area of supply such consumer is situated.

2. The Cross-subsidy surcharge shall be determined by the Commission in accordance with the provisions of Electricity Act, 2003 read with the principles and formula stipulated in the Tariff Policy notified by the Ministry of Power, Govt. of India.

Provided also that such cross-subsidy surcharge shall not be levied in case distribution access is provided to a person who has established a captive generation plant for carrying the electricity to the destination of his own use.

Provided further that the cross-subsidy surcharge for Green Energy Open Access Consumer purchasing green energy, from a generating plant using green energy (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 also that Cross Subsidy Surcharge shall not be applicable in case power produced from a non-fossil fuel-based Municipal Solid Waste-to-Energy plant is supplied to the Open Access Consumer;

Provided also that Cross-Subsidy Surcharge shall not be applicable if green energy drawn through green energy open access is utilized for production of green hydrogen and green ammonia.

3. Cross-Subsidy Surcharge shall not exceed 20% of the tariff or Average Billing Rate (ABR) applicable to the category of the consumers seeking Green Energy Open Access.
4. The Cross Subsidy Surcharge payable by a consumer shall be such so as to meet the current level of cross subsidy within the area of supply of the distribution licensee.

#### **17.4. Additional Surcharge**

- i. The Additional Surcharge shall not be applicable to the Green Energy Open Access consumer for the quantum of Green Energy Open Access availed if the fixed charge is being paid by such Green Energy Open Access consumer to the distribution licensee for the quantum of Green Energy Open Access availed up to contract demand / sanctioned load with the licensee.

Provided that in case the quantum of Green Energy Open Access availed by the Green Energy Open Access consumer is more than the contracted demand / sanctioned load with the licensee and no fixed charge or demand charge is being paid or payable for additional quantum, in that case the Additional Surcharge determined by the Commission from time to time as per the Orders of the Commission shall be applicable for such additional quantum availed over the contracted demand / sanctioned load.

Provided further that such additional surcharges shall not be levied in case distribution access is provided to a person who has established a Captive Generation Plant for carrying the electricity to the destination of his own use.

Provided also that Additional Surcharge shall not be applicable in case power produced from a Municipal Solid Waste-to-Energy plant is supplied to the Green Open Access Consumer.

Provided further also that additional surcharge shall not be applicable in case electricity produced from offshore wind projects, which are commissioned up to December, 2032 and supplied to the Open Access Consumers.

Provided also that Additional Surcharge shall not be applicable if green energy is utilized for production of green hydrogen and green ammonia.

**17.5. Standby charges for drawl of power by Green Energy Open Access customer from distribution licensee**

In case the 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, 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 Twenty-Five per cent 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.

Provided also that the standby charges shall be in addition to the applicable tariff on standby energy supplied by the Distribution Licensee to the Green Energy Open Access Consumer.

Provided further that the standby charges shall not be applicable, if the green energy open access consumer has given notice, in advance at least a day in advance before closure time of Day Ahead Market on “D – (minus) 1” day, “D” being the day of delivery of power for standby arrangement to the distribution licensee.

Provided also that Green Energy Open Access consumers would have the option to arrange standby power from any other source.

**17.6. Banking**

- (i). Banking facility shall be provided to the consumers availing Green Energy Open Access.



- (ii). For the purpose of these Regulations, the banking means surplus energy injected in the grid and credited with the distribution licensee the energy by Green Energy Open Access consumers and that shall be drawn than it shall require to pay banking charge to compensate the distribution licensee.
- (iii). The banking shall be permitted on monthly/billing cycle basis.
- (iv). The permitted quantum of banked energy by the green energy open access consumers shall be at least 30% of total monthly consumption of electricity from the distribution licensee by the consumers.
- (v). Provided that if the generator situated in the State of Gujarat and connected with the Inter-State Transmission System (ISTS) grid and selling power outside the Gujarat State, the banking charges shall not be applicable.
- (vi). The Banking Charges shall be adjusted in kind @ 8% of the energy banked.
- (vii). The injection of energy from 'Green Energy' Generating Station to the grid shall also be subject to scheduling subject to the limits specified in GERC (Forecasting, Scheduling, Deviation settlement Mechanism and related matters of wind and Solar generating stations) Regulations, 2019 as amended from time to time and relevant Orders of the Commission on different renewable energy based (Green Energy) projects.

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

Provided further that the unutilized surplus banked energy shall be considered as lapsed at the end of each banking cycle and the renewable energy generating station shall be entitled to get Renewable Energy Certificate (REC) to the extent of the lapsed banked energy.

Provided further that the unutilized surplus banked energy shall be considered as lapsed at the end of each banking cycle and the renewable energy generating station shall be entitled to get Renewable Energy Certificate (REC) to the extent of the lapsed banked energy as per certificate issued by concerned distribution licensee wherein the consumer is situated.

**17.7. In respect of consumers availing banking of power from generating plants set up under various policies including the Green Energy Open Access; following shall be the hierarchy of settlement:**

The Green Energy Open Access availed by the Green Energy Open Access consumer from the different Green Energy generating plants having different mechanism for energy accounting and set-off of the energy simultaneously in the same time block and/or daily basis and/or monthly basis/billing cycle basis. In such case the energy accounting is carryout by the SLDC/ALDC/Distribution Licensee for giving set-off as under:

1. The energy wheeled/transmit from the renewable energy generator (green energy generator) shall be given energy accounting treatment for long-term open access, medium-term open access or short-term open access as per the provisions of relevant Government Policy under which such projects set up or commissioned, orders of the Commission on renewable energy generator read with the wheeling agreement with the licensee.
2. The priority for energy accounting purpose for the purchase of the Green Energy (RE) through LTA/MTOA/STOA shall be as under:
  - (i) LTA based purchased energy/wheeled energy at highest;
  - (ii) MTOA based purchased energy/wheeled energy after LTA energy;
  - (iii) STOA based purchased energy/wheeled energy after MTOA energy;

- (iv) Priority amongst same category of aforesaid open access cases FIFO (First in First Out) principle shall be followed.
3. The surplus energy after consumption set-off in a time-block basis or daily basis is accounted as banked energy and the same shall be consumed by the consumer as per the provisions of these Regulations.
  4. The banking facilities available, settlement of energy mechanism is provided different for different renewable energy generators.
  5. If the total energy generated from the different RE sources cannot be accounted for and adjusted in the aforesaid manner, the surplus energy available has to be treated as per deemed sale to the distribution licensee at the rate specified in the relevant Government Policy, Commission Order, and agreement between the parties at the tariff rate specified in the relevant Government Policy, Commission Order, and agreement between the parties.
  6. Green Energy Open Access will get priority over fossil fuel-based power.

**17.7.1. Scheduling charges**

The Green Energy Open Access consumers shall require to pay Rs. 2000/MW/day basis scheduling charges to the SLDC or as decided by the Commission from time to time.

**17.7.2. RE Deviation Settlement Charges (RE-DSM)**

The Green Energy Open Access consumers (RE generators) from wind and solar energy shall be governed by the GERC (Forecasting, Scheduling, Deviation Settlement and Related Matters of Solar and Wind Generation Sources) Regulations, 2019 notified by the Commission. They shall be liable to pay deviation charges as per aforesaid Regulations as case may be. While other RE technology-based generators shall be governed by the provision of relevant technology based tariff determined by the Commission orders, Government

Policies provisions under which such generators are commissioned or as decided by the Commission from time to time.

#### **17.8. Payment Security Mechanism**

The Green Energy Open Access consumer seeking open access of long-term access, medium-term and/or short-term Green Energy Open Access, the applicant/Green Energy Open Access Consumer shall require to open and provide an irrevocable Revolving Letter of Credit or Bank Guarantee in favour of the agency responsible for collection of various charges specified in these regulations for the estimated amount of various charges for a period of two months. Such LC/BG must be available to the State Nodal Agency, licensee during the period of Green Energy Open Access granted by them and avail by the open access consumer. Failure to provide above valid financial instruments as payment security to the State Nodal Agency, licensee the green energy open access granted shall be considered as deemed cancelled.

#### **17.9. Relinquishment and its Charges**

**Option for relinquishment of Under-Utilization or Non-Utilization of open access capacity in intra-State transmission system/distribution systems by Green Energy Open Access consumers.**

##### **(1) Long-term access:**

A long-term Green Energy Open Access consumer may relinquish the long-term access rights fully or partly before the expiry of the full term of long-term access, by making payment of compensation for relinquishment capacity sought, as follows:-

**(a) Long-term Green Energy Open Access consumer who has availed access rights for at least 12 years**

(i) Notice of one (1) year – If such a Green Energy Open Access consumer submits an application to the State Transmission Utility/Transmission Licensee and/or Distribution Licensee at least 1 (one) year prior to the date from which such customer desires to relinquish the access rights, there shall be no charges.

(ii) Notice of less than one (1) year – If such a Green Energy Open Access consumer submits an application to the State Transmission Utility/Transmission Licensee and/or Distribution Licensee at any time less than a period of 1 (one) year prior to the date from which such customer desires to relinquish the access rights, such customer shall pay an amount equal to 66% of the transmission charges and/or wheeling charges for the relinquishment transmission capacity and/or Distribution Capacity requested and for the period falling short of a notice period of one (1) year.

**(b) Long-term Green Energy Open Access consumer who has not availed access rights for at least 12 (twelve) years**

Such customer shall pay an amount equal to 66% of the estimated transmission charges and/or wheeling charges (net present value) for the relinquishment of transmission capacity and/or distribution capacity requested and for the period falling short of 12 (twelve) years of access rights:

Provided that such a Green Energy Open Access consumer shall submit an application to the State Transmission Utility/Transmission Licensee and/or Distribution Licensee at least 1 (one) year prior to the date from which such customer desires to relinquish the access rights:

Provided further that in case a Green Energy Open Access consumer submits an application for relinquishment of long-term access rights at any time at a notice period of less than one year, then such customer shall pay an amount

equal to 66% of the estimated transmission charges and/or wheeling charges (net present value) for the period falling short of a notice period of one (1) year, in addition to 66% of the estimated transmission charges and/or wheeling charges (net present value) for the relinquishment transmission capacity and/or distribution capacity requested and for the period falling short of 12 (twelve) years of access rights.

(c) The discount rate that shall be applicable for computing the net present value as referred to in sub-clause (a) and (b) of clause (1) above shall be the discount rate to be used for bid evaluation in the Central Commission's Notification issued from time to time in accordance with the Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by distribution Licensees issued by the Ministry of Power.

(d) The compensation paid by the long-term Green Energy Open Access consumer for the relinquished transmission capacity and/or distribution capacity shall be used for reducing transmission charges payable by other long-term Green Energy Open Access consumer and medium-term Green Energy Open Access consumer in the year in which such compensation payment is due in the ratio of transmission charges and/or wheeling charges payable for that year by such long-term customers and medium-term Green Energy Open Access consumers.

## **(2) Medium-term Green Energy Open Access consumers –**

A medium-term open access Green Energy Open Access consumer may relinquish rights, fully or partly, by giving at least 30 days prior notice to the nodal agency:

Provided that the medium-term Green Energy Open Access consumer relinquishing its rights shall pay applicable transmission charges and/or wheeling charges for the period of relinquishment or 30 days whichever is less.

**(3) Short-term Green Energy Open Access consumer**

(a) The short-term open access schedules accepted by the nodal agency in advance or on first-come-first-served basis may be cancelled or revised downwards on an application to that effect made to the nodal agency by the short-term Green Energy Open Access consumer:

Provided that such cancellation or downward revision of the short-term open access schedules shall not be effective before expiry of a minimum period of two (2) days:

Provided further that the day on which notice for cancellation or downward revision of schedule is served on the nodal agency and the day from which such cancellation or downward revision is to be implemented, shall be excluded for computing the period of two (2) days.

(b) The person seeking cancellation or downward revision of short term open access schedule shall pay the transmission charges and/or wheeling charges for the first two (2) days of the period for which the cancellation or downward revision of schedule, as the case may be, in accordance with the schedule originally approved by the nodal agency, and thereafter in accordance with the revised schedule prepared by the nodal agency during the period of such cancellation or downward revision.

(c) In case of cancellation, operating charges specified in these Regulations shall be payable for two (2) days or the period of cancellation in days, whichever is less.

## **18. Curtailment Priority**

In case due to transmission/distribution system constraints or otherwise, it is necessary to curtail the service, the following priority shall be followed:

- a. The short-term open access consumer (other than Green Energy Open Access consumer) shall be curtailed first followed by short-term Green Energy Open Access consumers.
- b. Next, medium-term open access consumer (other than Green Energy Open Access consumer) followed by medium-term Green Energy Open Access consumer shall be curtailed.
- c. Next long-term open access consumer (other than Green Energy Open Access consumer) followed by long-term Green Energy Open Access consumer shall be curtailed.

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.

## **19. Dispute Resolution:**

All disputes and complaints relating to Green Energy Open Access shall be made to the concerned State Nodal Agency, i.e. SLDC/STU as case may be, which may endeavor to resolve the grievance.

No application for open access shall be denied unless the applicant has been given an opportunity of being heard in the matter and all orders denying open access shall be speaking orders by the concerned nodal agency.



Appeal against an order of the concerned nodal agency, shall be preferred before the Appropriate Commission, within a period of thirty days from the date of receipt of order under sub-rule (4) of rule 7.

The Appropriate Commission shall dispose the Appeal within a period of three months and the order issued by it, shall be binding on the parties.

## **20. Metering**

Green Energy Open Access consumer shall have to provide four quadrant ABT compliant meters at the generator end, interface points, consumption place which shall conform to the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, as amended from time to time.

The metering point as well as the interconnection point for grid connectivity shall be the nearest transmission/distribution licensee sub-station.

Above Meters shall always be maintained in good condition and shall be open for inspection by any person authorized by the State Transmission Utility, Distribution Licensee or the State Load Despatch Centre.

All the Green Energy Open Access consumers shall be abide by the metering standards of CEA.

## **21. Reactive Energy Charge**

In respect of Green Energy Open Access consumer the payment for the reactive energy charges shall be in accordance with provisions stipulated in the Tariff Order passed by the Commission from time to time.

Provided that when Green Energy Open Access consumer procuring power from the distribution licensee and simultaneously wheeling the power from Green Energy supplier in that case the Reactive Energy Charge shall be as per the applicable tariff orders for relevant class of consumers.

**22. Compliance of Grid Code, Distribution Code, Regulations, Orders etc.**

Green Energy Open Access consumers shall abide by the State Grid Code, Distribution Code and all other Codes and Standards, DSM Regulations and other Regulations and Orders of the Commission as applicable from time to time.

**23. Collection and Disbursement of charges**

The charges in respect of Green Energy Open Access consumers shall be payable directly to the State Nodal agency and Distribution licensees in accordance with the terms and conditions of payment as specified in these Regulations. The State Nodal Agency shall disburse the amount received to the appropriate licensees. In case of more than one distribution licensee is supplying in the same area, the licensee from whom the consumer is availing supply shall collect the Green Energy Open Access charges.

**24. Information System:**

- a) SLDC shall post the following information in a separate web page titled 'Green Energy Open Access Information' and also issue a monthly and annual report containing following information;
  - i. A status report on long term consumers/medium-term/short term consumers;
  - ii. Floor rate for bidding in case of congestion
  - iii. Peak load flows on EHV
  - iv. Information regarding average loss in the transmission system as determined by the licensee/s on a monthly basis, and distribution loss as determined by the Commission in its respective tariff order.
- b) The information shall be updated on every change in status.
- c) All previous report shall be available in the web-archives.

- d) The SLDC shall host the above information on its website within one month from the date of notification of these Regulations.

## **25. Reports**

The transmission/distribution licensee shall submit a monthly report to the Commission or as often directed by the Commission in the following format or other format:

Sl. No.	Name and address of the Green Energy Open Access/wheeling consumer	Point of injection	Point of drawal	Capacity allowed (MW)

## **26. Communication facility**

Green Energy Open Access consumer shall have the requisite communication systems in place to facilitate seamless communication of data/orders/information to/from the generator place to State Nodal Agency (SLDC), ALDC (Area Load Despatch Center), and LMU (Load Management Unit) and from consumer place to distribution licensees on real time basis.

Provided that the data of generators having collective capacity of 1 MW and above shall be utilized by the State Nodal Agency (SLDC) for energy accounting and real time grid management.

Provided further that the data of Green Energy Open Access consumer consists of the generators and the consumer of 100 kW to 1 MW shall be utilized by the Area Load Despatch Center (ALDC) who is also working as Load Management Unit (LMU) for energy accounting and real time load management grid management.

**27. Issue of Orders and Directions**

Subject to the provisions of the Electricity Act, 2003 and these Regulations, the Commission may, from time to time, issue orders and practice directions with regard to the implementation of the Regulations and procedures to be followed.

**28. Power to give directions**

The Commission may from time to time issue such directions and orders as considered appropriate for implementation of these Regulations.

**29. 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 relax any of the provisions of these Regulations on its own motion or on an application made before it by an interested person.

**30. Power to amend**

The Commission may from time to time add, vary, alter, suspend, modify, amend, or repeal any provisions of these Regulations.

**31. Power to remove difficulties**

If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by an order, make such provisions, not inconsistent to the provision of the Act and these Regulations, as may appear to be necessary for removing the difficulty.

**32. Inconsistency and main Open Access Regulations:**

Whenever there is inconsistency between the provisions of the Government Policy, Commission Order, Regulations, rules and Act in such cases the prevailing provisions shall be as under:

- (i) Provisions of Act shall prevail over the other provisions, Rules, Regulations, Orders and Government Policy (ies),
- (ii) The provisions of Rules shall prevail over provisions, Regulations, Orders and Government Policy (ies),
- (iii) The provisions of Regulations prevail over order and Government Policy (ies), and;
- (iv) The provisions of Order shall prevail over the Government Policy (ies).

### **33. Saving Clauses:**

- 33.1 Save as otherwise provided in these Regulations, the GERC (Open Access) Regulations, 2011 and all subsequent amendments thereto shall stand repealed to the extent, the provisions made out in these regulations and as may be amended from time to time with regard to open access for availing green energy.
- 33.2 The existing consumer(s)/generators including green energy (RE) ~~may~~ shall continue to be governed under the existing granted open access and they shall avail the Open Access for Green Energy (RE)/customer/licensee/generator under existing open access Regulations, as per the existing agreements for the period specified in those agreements or Orders of the Commission for the period of granted open access.
- 33.3 The provisions of the GERC (Open Access) Regulations, 2011 which are not inconsistent with provisions under these Regulations or not covered under these Regulations shall be also applicable *mutatis mutandis* as part of these Regulations.

**34. Notwithstanding such repeal:**

- a) anything done or any action taken or required to be taken or purported to have been done or taken or permission granted, or any document or instrument executed, or any direction given under the repealed Regulations/Orders passed by the Commission shall, in so far as it is not inconsistent with the provisions of these Regulations, be deemed to have been done or taken under the corresponding provisions of these Regulations;
- b) As far as treatment of Open Access granted under the provisions of repealed GERC (Open Access) Regulations, 2005 and 2011 shall be governed as per the provisions of those Regulations till the period of Open Access granted under those Regulations.

**Sd/-**  
**[Roopwant Singh, IAS]**  
**Secretary**  
**Gujarat Electricity Regulatory Commission**  
**Gandhinagar, Gujarat**

**Place: Gandhinagar.**

**Date: 23/06/2023.**

### **Schedule - I**

**Details shall be provided by the Captive Generating Plant/Captive Consumers on completion of financial year on affidavit to the distribution licensee in whose area such consumer is situated and also to the Commission for verification of status of Captive Generating Plant(s) and Captive consumer(s) when said consumer transmit/wheel power from their Captive Generating Plant situated either within the State or outside the State.**

The Captive Generating Plant (CGP) and captive consumer shall require to submit the details with regard to consumption of energy and equity shareholding as prescribed under the Electricity Rules 2005 framed under the Electricity Act, 2003 and amended from time to time annually (Financial Year basis) to the distribution licensee and to the Commission after the end of financial year within 3 months from completion of financial year for verification of CGP and captive consumer status by the Commission and the distribution licensee along with necessary documents/evidence/proof stated in these Regulations as per the provisions of the relevant Acts, Rules & Regulations framed thereunder.

1. While applying to grant Green Energy Open Access the generator shall require to prove their captive status with supporting documents.
2. Details of equity shareholding with voting right by the Captive Consumer in the Captive Generating Plant.
3. Change in equity shareholding in the Captive Generating Plant during the Financial Year, if any, amongst different persons, specified periods and quantum of change in shareholding.
4. Period of equity shareholding by the Captive Consumer(s) in the Captive Generating Plant and corresponding consumption for the same during the financial year from the Captive Generating Plant.
5. Captive Generating Plant and captive consumer(s) shall file an affidavit in specified format giving details regarding their electricity generation, entity wise consumption and equity shareholding during the previous Financial Year before 30<sup>th</sup> April each year.

6. The distribution licensee/Commission shall take assistance of the concerned RLDC, SLDC for the verification of Captive status of Captive Generating Plant or captive consumer based on the affidavit along with necessary documents/evidences submitted by such Captive Generating Plant and captive consumer(s).
7. In case of Change in shareholding pattern due to transfer of shareholding etc. in such cases an undertaking is required to provide by the person who acquire shareholding with voting right from the forgoing captive user that in case of failure of comply with Rules framed for captive generating plants, it shall be liable to pay the charges and for other consequences effect.

**8. Verification of Annual (Financial Year basis) consumption criteria:**

- a) Verification of criteria of consumption shall be based on the net electricity generated from the generating unit(s) in a generating station, i.e. gross electricity generated less auxiliary consumption, identified for captive use recorded in four quadrant ABT compliant Energy Meter installed at the generating end inter-connection with grid as well as consumption end which are certified as per the energy accounting done by the RLDC/SLDC/Distribution licensee as the case may be.
- b) Any sale/purchase agreement executed amongst the equity holders of the captive generating plant for sale/purchase of energy generated from such generating plant is qualify as sale of energy to the consumer under third party sale and the same shall not be qualified as captive consumption (own consumption).
- c) The details of energy supplied from the Captive Generating Plant even above 51% by way of sale/purchase agreement between the parties/equity owners, if any, the same falls under third-party sale and does not qualify as captive consumption (own consumption), if it is in contravention of the provisions of Electricity Rules, 2005.
- d) The net electricity shall be determined on annual basis (Financial-Year basis) at the end of the year.



**9. Verification criteria:**

Verification criteria for various types of captive consumers / users shall be as follows:

<b><i>Sr. No.</i></b>	<b><i>Type of captive consumer / user</i></b>	<b><i>Criteria</i></b>
i	Single Captive consumer/user	The self-consumption shall not be less than 51% of the net electricity generated on an annual basis.
ii	Partnership firm / Limited Liability Partnership (LLP)	The self-consumption shall not be less than 51% of the net electricity generated on an annual basis.
iii	Association of Persons (AoP)	The captive consumers/users shall consume not less than 51% of the net electricity generated on annual basis for captive use in proportion to their share in the power plant within the variation not exceeding 10%.
iv	Co-operative Society	Members of Society shall collectively consume not less than 51% of the net electricity generated on annual basis
v	Special Purpose Vehicle (SPV)	The captive consumers / user(s) shall consume not less than 51% of the net electricity generated on annual basis in proportion to their shares in the units identified for captive use.

**10. Manner of assessment of data related to generation from Captive Generating Plant and consumption by captive consumer(s)/user(s):**

<b><i>Sr. No.</i></b>	<b><i>Location</i></b>	<b><i>Method of assessment</i></b>
i	CGP and its captive consumers / user(s) are co-located	Based on net generation from the CGP and consumption by the captive consumers / user shall be based on the reading of the meter installed for recording the generation at the generation side (“generation meter”) and the electricity sourced from the captive generating plant at the consumption side (“consumption meter”).
ii	CGP and its captive consumers / users are located within the State (but not co-located),	Based on actual generation from the CGP as per the data provided by the respective SLDC/ALDC/licensee and the actual consumption based on the meter reading at the consumer / user interface with the grid as provided by the concerned SLDC/ALDC/licensee and the distribution licensee in whose area the consumer(s) / user(s) are located.
iii	The CGP and its captive consumer(s) / user(s) is/are located in different States	Based on actual generation from the CGP as per the data provided by the respective RLDC and the actual consumption, based on the meter reading at the consumer(s) / user(s) interface with the grid as provided by the concerned SLDC and the distribution licensee in whose area the consumer(s) / user(s) are located.

**11. Verification of equity share holding criteria:**

Verification criteria for various types of CGP shall be as follows:

<b>Sl No</b>	<b>Type of captive generating plant / user(s)</b>	<b>Criteria</b>	<b>Support Document</b>
i	Single captive consumer / user	The consumer / user shall hold 100% of the equity share capital having voting rights throughout the year	(i) A certified copy of Share Register and Share Certificate and (ii) Certificate issued by the Chartered Accountant/CS alongwith (iii) balance sheet of the company/Individual if any and (iv) Annual Audited Account.
ii	Partnership firm/ Limited Liability Partnership (LLP)	Ownership in the captive plant shall be with respect to not less than 26% proprietary interest and control over the generating station or power plant on annual basis.	A certified copy of (i) Partnership Deed and (ii) Share Holding and (iii) return filed before the Registrar of Firms by Partnership firm on annual basis as per provisions of the relevant Act.
iii	Limited Liability Partnership Company (LLPC)	Ownership in the captive plant shall be with respect to not less than 26% proprietary interest and control over the generating station	(i) A certified copy of Share Register and (ii) Share Certificate and (iii) certificate from the Company Secretary and return filed before the Registrar of Firms/ Companies by LLP respectively on annual

*Draft Gujarat Electricity Regulatory Commission (Terms and Conditions for Green Energy Open Access) Regulations, 2023.*

		or power plant on annual basis.	basis as per provisions of the relevant Act.
iii	Association of Persons (AoP)	The captive consumers / users shall hold in aggregate not less than 26% of the ownership/paid up equity share capital with voting rights throughout the year	(i) A certified copy of returns filed before the Registrar of Companies, (ii) Registrar of Firm or Registrar of Society on annual basis as per provisions of the relevant Act, (iii) Share Register showing equity share holding with voting rights of the members/shareholders of the Association of Persons in the Captive Generating Plant and (iv) a certificate from a registered Chartered Accountant, alongwith Audited Annual Account and Balance Sheet and Certificate from Company Secretary.
iv	Cooperative Society	Members of society shall collectively satisfy not less than 26% of the ownership on annual basis.	(i) A certificate from the District Registrar of Cooperative Society along with (ii) copy of Share Register of Co-Operative Society showing shareholding of respective shareholders (members) with voting

			rights for respective financial year.
v	SPV/ Company	The captive consumer(s) / user(s) shall hold in aggregate not less than 26% of the proportionate paid up equity share capital with voting rights of the units identified for captive use (i.e. the proportionate of the Equity of the company related to the generating unit or units identified as the CGP throughout the year.	A certified copy of (i) return filed before the Registrar of Companies on annual basis as per provisions of the relevant Act, (ii) Certified copy of Share Register showing equity holding with voting right of the members of the SPV in the Captive Generating Plant as share holder(s) and (iii) their equity holding along with voting rights, (iv) Memorandum of Associations, (v) Articles of Association and a certificate from a registered Chartered Accountant and Company Secretary.

**12. Consequence of failure to meet Captive consumer / user status:**

12.1. If the CGP or Captive Consumer / user fails to meet the criteria of ownership and consumption, specified in Rule 3 of the Electricity Rule 2005, as amended from time to time, by the end of the financial year, such CGP or Captive Consumer / user shall lose its Captive status for that year leading to imposition of Cross Subsidy Surcharge and Additional Surcharge and such other charges as applicable on open access consumers.

12.2. The Captive consumer / user shall deposit by 30<sup>th</sup> April of every year, the security deposit in the form of unconditional and irrevocable Revolving L.C./Bank Guarantee equivalent to 51% of captive consumption, to the concerned distribution licensee as payment security against estimated Cross Subsidy Surcharge and Additional Surcharge as may be decided by the Commission.

Provided that there shall be no exemption from Cross Subsidy Surcharge on the electricity consumed by non-Captive consumers.