HERC Draft Notification on "Green Energy Open Access Regulation 2023"

The Ministry of Power, Govt. of India, notified the Electricity (Promoting Renewable Energy through Green Energy Open Access) Rules, 2022 on 6th June, 2022 applicable on generation, purchase and consumption of green energy including waste-to-energy plants. In adherence to the same, HERC proposed the HERC (Green Energy Open Access) Regulations, 2023. The key highlights of the draft are mentioned below:

Objective: To contribute for the fulfilment of the India's target of non-fossil energy capacity of 500 GW by 2030, 5 million ton a year green hydrogen capacity by 2030 and Net Zero Carbon Emissions by 2070, HERC has proposed (Green Energy Open Access) Regulations, 2023.

The document can be accessed here.

Eligibility criteria for Green Energy Open Access:

- Consumers having contract demand or sanctioned load of 100 kW and above.
- Consumer of a distribution licensee who is connected through an independent feeder emanating from a grid sub-station.
- Group of two or more consumers of a distribution licensee having a contract demand or sanctioned load of 100 kW and above connected to distribution system at 11 kV or above through an independent feeder emanating from a grid sub-station.
- Consumers of distribution licensee with contract demand of 100 kW or above who are not on independent feeders provided that they agree to the system constraints as well as the power cut restrictions imposed by the distribution licensee serving them.

Nodal Agency:

- Grid India (formerly, POSOCO) is designated as Central Nodal Agency to set up and operate a single window green energy open access system for renewable energy.
- Nodal Agency for grant of short-term and medium-term green open access shall be SLDC, Panchkula and STU respectively.

Banking:

- Banking of energy consumed through green open access is permitted upon entering into the banking agreement with the discom and to be settled in the same billing cycle.
- At least 30% of the total monthly energy consumed by the consumer from the discom will be allowed for banking and excess energy will be treated as dumped energy.
- Applicable banking charges shall be @ of 8% of the energy banked.

Charges to be levied for Green Energy Open Access:

a) Transmission charges
b) Wheeling charges;
c) Cross subsidy Surcharge;
d) Standby charges wherever applicable;
e) Banking charges
f) Other fees and charges

Green certificate: The distribution licensee shall give 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.

CER Opinion

1. **Green Open Access:** Green open access is aimed at enhancing share of green energy in the power sector for the obligated entities as well for the final consumers. Our comments on "MOP Draft Electricity (Promoting Renewable Energy through Green Energy Open Access) Rules, 2021" can be found at https://cer.iitk.ac.in/blog/new_blog/?id=ODgx

2. **Quantum of green energy:** As per the draft Clause 4.C (d),
   "*Any requisition for green energy from a distribution licensee shall be for a minimum period of one year;*"
   Clause (e) further states that
   "*The quantum of green energy shall be pre-specified for at least one year*".

   The above provision would demotivate green OA consumers to opt for the same. The option for a consumer to seek green energy from a distribution licensee should be in line with consumers' ability to secure non-green electricity, which does not come with such limitations. To ensure greater acceptability of green energy by final consumers, such limitations should be avoided at the very outset and may be reviewed later, if required.

   Given that the RE sources like solar and wind are subject to variation in generation across months, it may not be possible to pre-specify the quantum for a year**. Under such circumstances, appropriate provisions to address cases of such a variation should be added. As a step towards encouraging renewables, a 10% variation (or as deemed fit by the Commission) in quantum and duration of green open access should be allowed.** This may be reviewed later based on experience. Over and above this variation, exceptions to **include force majure conditions, and curtailment of the transmission capacity, both at the inter- as well as intra-state level**.

   Furthermore, the regulation should provide for part or full surrender of load by the consumers that would limit the quantum of power as well as duration of green OA.

3. **Guarantee of origin of energy used for producing green hydrogen or green ammonia:** As per the draft Clause 4.F, *"the obligated entity can also meet their Renewable Purchase Obligation by purchasing green hydrogen or green ammonia and the quantum of such green hydrogen or green ammonia would be computed by considering the equivalence to the green hydrogen or green ammonia produced from one MWh of electricity from the renewable sources or its multiples, as per the norms notified by the Central Commission"* A mechanism would be required to ensure the origin of source of energy use for generation of green hydrogen or green ammonia. Similarly mechanism to verify the purchase and use of green hydrogen or green ammonia by the obligated entity would also be required for considering them for meeting the RPO. **The existing REC registry may be empowered to certify the same. Relevant procedures, protocols and accounting framework would be required to be specified for the same under the relevant CERC regulations.**

4. **Limitations of contracted demand or sanctioned load for captive consumers:** The draft Clause 5, "*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 (emphasis added).''* may be rephrased as "The consumers who have contracted demand or sanctioned load of one hundred kW and above shall be eligible to take power through Green Energy Open Access and there shall **be no such limit of supply of power** for the captive consumers taking power under Green Energy Open Access." (emphasis added)

5. **Energy requirement through green open access :** As per the 1st proviso to the draft Clause 5, "*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 (emphasis added)*." may be rephrased as "Provided that such open access shall be for **a minimum twelve continuous 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" (emphasis added). Our previous comments MoP[1] in this context may also be considered.

6. **Grant of green energy through green open access:** As per the 2nd proviso to the draft Clause 5, "Provided *further that all applications for open access of green energy shall be allowed by the State Nodal Agency within a period of fifteen days.*" It is suggested that the green open access should be deemed to have been granted in case there is no action on the **completed** applications submitted with required documents and fee, as may be required.

   Also, the fifteen days' timeline, specified in the draft Clause, may be utilised to scrutinize the application and inform/ ask the applicant for further information, if required, from the applicant in case of incomplete application. The above specified limit of 15 days would apply from the date of re submission of the complete application form with the Commission. The technical feasibility check of such requirement may be assessed prior to grant of green open access to such applicants, which may require more than fifteen days' time. Hence, appropriate clarification is required on the same.

7. **Type of consumers:** Eligibility criteria for green open access as define under Clause 5, may be clearly segregated for different types of consumers as on reading it as one may lose the applicability of the relevant proviso to the different types of consumers or group of consumers discussed in the said Clause.

8. **Energy Accounting between power drawn through green open access and distribution licensee:** It is suggested that provisions for appropriate energy accounting for energy drawal through a single meter but from two different energy contracts i.e. through green open access and distribution licensee should be clearly mentioned in the draft Clause 5. **A dispute similar**

[1] CER comments on " MOP Draft Electricity (Promoting Renewable Energy through Green Energy Open Access) Rules, 2021." https://ccer.iitk.ac.in/blog/new_blog/?id=ODgx

to M/s. Lords Chloro Alkali Ltd. Vs. JVVNL[2], for excess drawl from one source due to failure of another, may arise.

9. **Digitalisation and Central Green Open Access Registry**: The whole application process as well as the status of the open access and quantum of thereof should be transparently visible to the applicant as well as be archived at the public domain through a common portal.
   Further, it is suggested that an appropriate reference to the **centralised registry for Green Energy Open Access as mentioned in the Clause 6(2) of the Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022[3], may be included in the draft Regulations or appropriate provision for same be introduced.**

10. **Banking of Green Energy (Clause 8):** It is suggested that TOD based banking and withdrawal of green energy should be provided for green open access consumers. as also mentioned in our suggestion given to MoP[4].

11. **Un-utilised surplus banked energy:** As per the draft Clause 8(4), "*Provided further that the un-utilised 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 certificates to the extent of the lapsed banked energy."* The provision of providing REC for the lapsed banked energy, in this draft Clause, does not ensure the eligibility of the generator for receiving of REC in case the generator is not registered with and accredited by the nodal agency. Furthermore, as per Clause 11(6)(iii) of the HERC (Rooftop Solar Grid interactive System Based on net Metering/Gross Metering), Regulations, 2021[5], each unit (kWh) of energy generated and injected into the grid by eligible consumers/prosumer shall be paid by the Discom at Rs. 3.11/kWh. It is, thus, suggested that instead of giving REC for the lapsed banked energy, the generator may be paid at a rate applicable under the net metering framework (Rs. 3.11/kWh at present).

[2] Case of M/s. Lords Chloro Alkali Ltd. Vs. JVVNL, DFR No. 101/2020 pending at APTEL for penalty imposed by the Discom due to excess drawal from Discom in the event of failure of power supply from IEX. (RERC Order on Petition no 1547/2020, dt. 15/01/2020. https://rerc.rajasthan.gov.in/rerc-user-files/office-orders
[3] MoP (Promoting Renewable Energy through Green Energy Open Access) Rules, 2021. https://greenopenaccess.in/assets/files/Green%20Energy%20Open%20Access_rules.pdf
[4] CER comments no MOP Draft Electricity (Promoting Renewable Energy through Green Energy Open Access) Rules, 2021. https://ccer.iitk.ac.in/blog/new_blog/?id=ODgx
[5] HERC (Rooftop Solar Grid interactive System Based on net Metering/Gross Metering), Regulations, 2021 https://herc.gov.in/WriteReadData/Pdf/R20210430.pdf