

# **Uttarakhand Electricity Regulatory Commission (Terms and Conditions of Intra-State Open Access) Regulations 2015**

## **Statement of Reasons (SOR)**

Uttarakhand Electricity Regulatory Commission (Terms and Conditions of Intra-State Open Access) Regulations, 2010 were notified by the Commission vide notification dated 28.10.2010. These Regulations are in force since then without any amendment.

The number of open access consumers in the State have been steadily increasing. There were only 20 consumers who availed open access during the year 2010-11. The figure increased to 38 in year 2011-12 to 44 in 2012-13 and to 50 in the year 2013-14. In terms of energy drawal through open access during the year the figures for FY 2011-12, 2012-13 and 2013-14 are 10.34 MUs, 100.93 MUs and 281.03 MUs respectively.

The Commission had published draft of the Uttarakhand Electricity Regulatory Commission (Terms and Conditions of Intra-State Open Access) Regulations 2014 to invite comments/suggestions/objections from the stakeholders. The comments/suggestions/objections were received from 16 stakeholders thereafter Commission held hearing on the draft amendments on 24.11.2014 which was attended by large number of stakeholders, besides representatives of PTCUL/UPCL. Based on the comments/suggestions/objections of various stakeholders the Commission has finalized the amendments to draft Uttarakhand Electricity Regulatory Commission (Terms and Conditions of Intra-State Open Access) Regulations 2014.

Commission's decisions on the suggestions and comments received and submissions made during hearing are discussed in the succeeding paragraphs.

### **1. Regulations 3 Definitions**

**1.1. "Approved Capacity" means capacity in MW approved by NLDC/RLDC/SLDC for bilateral/collective transactions at the point(s) of injection for open access customers.**

## **Stakeholders Comments**

M/s Shree Cement Ltd. submitted that “at the point of injection” should be removed from the definition of Approved Capacity.

M/s Bhilangana Hydro Power Ltd. (BHPL) submitted that power exchange (PX) should also be included in the definition of Approved Capacity. The definition according to M/s BHPL should read as “Approved Capacity” means capacity in MW approved by NLDC/RLDC/SLDC/PX...

## **Commission’s View**

The transmission corridor for conveyance of power is allotted on the basis of approved capacity at the point of injection, therefore the suggestion of M/s Shree Cement Ltd. to remove “at the point of injection” from the definition of Approved Capacity is not acceptable. Moreover, the definition of Approved Capacity is in line with the methodology adopted by CERC in its Open Access Regulations.

The suggestion of M/s BHPL is not tenable as power exchange has no role in approval of capacity for bilateral/collective transactions.

**1.2. “Imbalance” in a time block for a generating station means its Actual Generation in MW minus its Approved Capacity (in MW) and for a consumer or buyer means its Actual Recorded Energy minus its Scheduled Energy at consumer premises**

## **Stakeholders Comments**

M/s PTCUL has stated that since buyer is not defined it should be removed from the definition.

## **Commission’s View**

It is necessary for both consumer and buyer to be included in the definition of “Imbalance” to also cater to a situation where an open access consumer is buying power through an intermediary like trader, who in turn is the actual buyer from a generator or buys power under a bilateral transaction or through an energy exchange under collective transaction. Therefore, the suggestion of PTCUL to remove buyer from the definition of “Imbalance” is not being accepted.

**1.3. "Short-term Open Access" means open access for a period up to one month at a time;**

**Stakeholders Comments**

M/s Kashi Vishwanath Steel Ltd. has suggested that Short term open access should mean open access for a period upto 2 months at a time.

**Commission's View**

There is predominately hydro generation in the State which depends on the seasons. The generation is more during the summer seasons and less in the winter seasons. Thus, month on month there is wide variation of power availability for the distribution licensee. On account of uncertainty in availability of power to discom month on month the definition of short-term open access as provided in the regulations is justified.

**1.4. "Stranded Transmission/distribution capacity" means the transmission/distribution capacity which is likely to remain unutilized due to relinquishment of access rights by a long-term open access customer;**

**Stakeholders Comments**

M/s BHPL Ltd. has suggested that since transmission/distribution system can remain stranded due to failure of open access customer to utilize the system specifically augmented keeping in view of overall power flow requirement apart from relinquishment of open access rights, the definition of "*Stranded Transmission/distribution capacity*" should be modified as:

"Stranded Transmission/distribution capacity" means the transmission/distribution capacity which is likely to remain unutilized due to relinquishment of access rights by a long-term open access customer; or the augmented transmission/distribution system which is likely to remain un-utilized due to the failure of the open access customers, for which the transmission/distribution system was augmented, to use it.

**Commission's View**

Augmentation of transmission/distribution system is only done for long term open access customers and not for medium term/short term open access customers, therefore, the suggestion of M/s BHPL is not acceptable.

## **2. Regulation 5 Application procedure for Connectivity at Intra-State transmission System**

*The Application shall be accompanied by a non-refundable fee of Rs. five lakh through demand draft in favour of Power Transmission Corporation of Uttarakhand (PTCUL) payable at Dehradun.*

### **Stakeholders Comments**

M/s KVS Ltd., M/s BHPL Ltd & M/s Him Urja Ltd. have suggested to reduce the application fee for connectivity to transmission system. M/s KVS Ltd. have suggested connectivity fee of Rs. 2 lakhs in place of Rs. 5 lakhs as specified in the draft regulations. M/s BHPL has suggested different application fee for connectivity depending upon the capacity in line with CERC Regulations.

### **Commission's View**

This is a onetime fee for processing the application for connectivity and is meant for compensating the STU for works to be carried out by it namely: route survey, system studies, deciding point of connection etc. The Commission is of the view that specified onetime fee of Rs 5 lakhs is not onerous and hence decides to retain it as per draft regulations.

CERC Regulations are applicable for inter-State open access where there is a mix of thermal/hydro/gas/nuclear generators with quantum of power to be injected/off taken into/from inter-State transmission system varying from several hundred MWs to several thousand MWs whereas, in the State the generation is mostly hydro and open access consumers are industrial consumers of much lesser capacity. Therefore, the submission of M/s BHPL to have graded connection fee based on MW capacity similar to that in CERC Regulations is also not being accepted.

## **3. Regulation 6 Processing of Application for Connectivity and Grant thereof by STU.**

*The State Transmission Utility shall, within thirty (30) days, from the receipt of an application under sub-regulation (1) above and after considering all suggestions and comments received from State Load Despatch Centre:*

- (a) *accept the application with such modifications or such conditions as may be specified by SLDC;*
- (b) *reject the application for reasons to be recorded in writing, if such application is not in accordance with the provisions of these Regulations.*

### **Stakeholders Comments**

M/s KVS Ltd. has submitted that instead of 30 days the time for acceptance/rejection of application for connectivity should be reduced to 20 days.

### **Commission's View**

The Commission is of the view that before granting connectivity the State transmission utility seeks suggestions and comments from State Load Despatch Center, moreover, if the application is to be rejected, STU has to give detailed reason in writing for doing so, therefore, time period of 30 days as mentioned in the draft regulations is appropriate and is being retained.

#### **4. Regulation 7 Application procedure for Connectivity to distribution system by Open Access customer**

*The Application shall be accompanied by a non-refundable fee of Rs. three lakh through demand draft in favour of UPCL payable at Dehradun.*

### **Stakeholders Comments**

M/s KVS Ltd., M/s BHPL Ltd & M/s Him Urja Ltd. have suggested to reduce the application fee for connectivity to distribution system. M/s KVS Ltd. have suggested connectivity fee of Rs. 2 lakhs in place of Rs. 3 lakhs as specified in the draft regulations.

### **Commission's View**

This has been discussed in the Commission's view at Para 2 of SoR above.

#### **5. Regulation 10 Eligibility for Open Access and conditions to be satisfied**

*Subject to the provisions of these regulations, open access shall be permissible to the consumers, located within the area of the distribution licensee of the State having a contracted load of 100 kVA and above and connected to the distribution system of licensee*

*at 11 kV or above, and are connected through an independent feeder emanating from a substation of licensee or industrial feeder.*

*Provided that when the consumer is connected to a industrial feeder, open access shall be allowed only if all the consumers on such industrial feeder opt for open access and are having simultaneous schedule of drawl under such open access.*

*Provided that the consumers who are not on independent feeders, shall be allowed open access subject to the condition that they agree to rostering restrictions imposed by utility on the feeders serving them.*

*A person having been declared insolvent or bankrupt or having outstanding dues against him of more than two months billing of distribution/transmission licensee at the time of application shall not be eligible for open access.*

### **Stakeholders Comments**

M/s BHPL, M/s Shree Cement Ltd., M/s Indian Energy Regulatory Services (IERS), M/s Association of Power Traders (APT) and Indian Glycols Ltd. have suggested that there should be no compulsion of simultaneous schedules for open access consumers on mixed feeders/industrial feeders.

M/s KVS Ltd. suggested that when two or more consumers connected to industrial feeder are availing continuous supply option then the condition of simultaneous schedule of drawal should not be applied to them.

M/s UPCL Ltd. suggested that currently embedded open access consumers are giving their schedule drawal from exchange only a day before and that to varying over various time slots which make power management difficult. Therefore, it is proposed that open access should be allowed for a fixed quantity of power throughout the day.

M/s BHPL Ltd. has further suggested to introduce concept of "Group Leader" for allowing open access on industrial feeder, wherein consumers can collectively apply for open access through a group leader to be nominated by all such consumers on that feeder. The group leader bids, pays and manages on behalf of the rest of the group.

M/s KVS Ltd. has suggested that a person having been declared insolvent or bankrupt or having outstanding dues against him of more than two months full billing of distribution/transmission licensee at the time of application shall not be

eligible for open access until settlement of dispute mutually by the parties in any manner.

### **Commission's View**

The suggestion of M/s BHPL, M/s Shree Cement Ltd., M/s Indian Energy Regulatory Services (IERS), M/s Association of Power Traders (APT) and M/s Indian Glycols Ltd. (IGL) that there should be no compulsion of simultaneous schedules for open access consumers on mixed feeders/industrial feeders is not agreed since during the period of power restrictions it will not be possible to restrict those consumers from drawing power who have not applied for open access, unless a separate penalty mechanism is introduced, which is not possible under varying period of usage throughout the day. However, where consumers are availing continuous supply option and are getting 24x7 hours supply, the unauthorised drawal during load restriction does not apply. In such cases even if more than one such consumer is connected to the same industrial feeder then the condition of simultaneous schedule of drawal need not be imposed on such consumers. Hence, regulation is being amended to this extent and a proviso in regulation 10 is being incorporated which shall read as:

*"Provided that when two or more consumers connected to industrial feeder are availing continuous supply option then they need not have simultaneous schedule of drawal under open access."*

With regard to the suggestion of UPCL that open access to any customer should be allowed for a fixed quantity of power throughout the day the Commission is of the view that open access customer is also a constituent of inter State ABT regime whose open access drawal and injection schedule are prepared by SLDC and forwarded to NRLDC. Therefore, their scheduling is also governed by State Grid Code Regulations which do not provide for any restrictions on quantum of schedule in any 15 minutes time block, meaning thereby that schedule over each 15 minutes time block can be uniform quantity or vary as given by open access customers, therefore, the contention of UPCL is not tenable under the provisions of regulation and hence not accepted.

Each open access customer whether long, medium or short term is responsible for compliance of the provision of Open Access Regulations, Indian Electricity Grid Code, State Grid Code, Electricity Act, 2003. One person cannot take responsibility as a

group leader of the above statutory compliances, therefore, the concept of Group leader suggested by M/s BHPL is not being considered.

The regulations are such that they mitigate the discretion on the part of the nodal agencies granting open access. Accordingly, a defaulter of electricity dues including open access charges has been clearly specified as a person having dues equal to two month billing of transmission/distribution licensee. Allowing open access to customers who have part paid their dues will allow discretion on the nodal agencies resulting in harassment of open access customers. Therefore, the suggestion of M/s KVS Ltd. that open access consumers having outstanding dues less than 2 months full billing of transmission/distribution licensee at the time of application be also allowed open access is not being accepted.

#### **6. Regulation 12 Application procedure for Open Access**

- (1) All applications for open access shall be made in the prescribed Form and submitted to the Nodal agency in accordance with these regulations. In case an Applicant is connected to the distribution licensee, the copy of the application shall also be sent to the distribution licensee.*
- (2) All Applicants seeking 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 open access is sought.*
- (3) The Nodal agency, Application fee, Documents to accompany the application and time frame for disposal of application shall be as specified in the following table:*

#### **Stakeholders Comments**

M/s Shree Cement Ltd. has suggested that as required in Regulations 12(1) the copy of the application should not be sent to the distribution licensee and if it all a copy is required to be sent to discom the same shall be taken care of by SLDC and not the applicant. Furthermore, the time line prescribed for issuance of NOC should be strictly adhered by the SLDC, irrespective of the fact whether they have received any consent from the Distribution licensee or not.

M/s PTCUL has suggested that instead of undertaking as required in Regulation 12(2) an affidavit should be submitted by the applicant. PTCUL further submitted that the



consent of distribution licensee should accompany the application for connectivity and open access. The timeframes and formats may be specified.

### **Commission's View**

With regard to the suggestion of the stakeholder that the copy of the application for open access should not be sent to the distribution licensee, the Commission is of the view that since distribution licensee is also a constituent of State Transmission/distribution network and the applicant is connected to the distribution network therefore, regulation provides for forwarding a copy of open access application to distribution licensee also. Since the application is simply for giving information to the distribution licensee the same can be mailed or if possible given personally.

The suggestion of M/s PTCUL that the applicant should submit an affidavit instead of undertaking of not having entered into Power purchase agreement (PPA) or any other bilateral agreement for the capacity (quantum of power) for which open access is sought is accepted by the Commission since affidavit has more legal authority than a simple undertaking.

With regard to the suggestion of PTCUL that in case an open access applicant is connected to the distribution licensee prior consent of distribution licensee should be taken before issuance of NOC by the nodal agency, the Commission is of the view that submitting the consent of the distribution licensee along with open access application to nodal agency has not been an effective procedure, rather this has resulted in delay of processing open access applications due to inherent hierarchical processing within the office of distribution licensee. Therefore, the Commission is of the view that these open access applications are going to increase with the passage of time as the electricity market in this regard evolves resulting in surmounting of pressure on the distribution licensee. Therefore, recourse has been factored in the regulations whereby instead of seeking consent from distribution licensee to whose network the open access applicant is connected, it has been provided that a copy of application may just be forwarded to the distribution licensee for information/record. Therefore, the suggestion of PTCUL is not tenable.

## 7. Regulation 15 Procedure for short term Open Access

### *(2) Without involving inter-State transmission system*

*Subject to the provisions of sub-regulation (1) herein above, intra-State short-term Open Access shall be in accordance with the provisions of clause (a) to (g) herein below:*

#### *(a) Open Access in advance*

*(i) Application may be submitted to the Nodal Agency seeking short-term open access upto the fourth month, considering the month in which an application is made being the first month.*

*Provided that separate application shall be made for each month and for each transaction.*

*(ii) The application to the Nodal agency shall be on the prescribed format [FORMAT ST-1] containing such details as capacity needed, generation planned or power purchase contracted, point of injection, point of drawl, duration of availing open access, peak load, average load and such other additional information as may be required by the Nodal agency. The application shall be accompanied by a non-refundable application fee in cash or by demand draft in favour of the officer so notified by Nodal agency.*

*(viii) Nodal agency shall check transaction for congestion of any element (line and transformer) of transmission and distribution system involved in transaction.*

*...*

*(ix) Nodal agency shall convey grant of open access or otherwise in format [FORMAT-ST2] along with schedule of payments to the customer latest by 19<sup>th</sup> day of such preceding month.*

### **Stakeholders Comments**

M/s KVS Ltd. has suggested that no separate application should be required for each month until there is any change of electricity load in the financial year. Further, M/s KVS has suggested that in addition to application fee in cash or by demand draft the application fee may be made either through cheque/RTGS mode.

M/s PTCUL has suggested that checking of congestion in distribution may be done by the distribution licensee as presently SLDC has no infrastructure to get real time updates of UPCL systems.

### **Commission's View**

There is predominately hydro generation in the State which depends on the seasons. The generation is more during the summer seasons and less in the winter seasons. Thus, month on month there is wide variation of power availability for the distribution licensee. Therefore, the suggestion of M/s KVS Ltd. of doing away with the requirement of submission of application for open access in each month is not accepted.

The suggestion of M/s KVS Ltd. with regard to submission of application fee through cheque/RTGS mode is accepted and the Commission is making necessary amendment to regulation 15(2)(a)(ii) which will now read as:

*"The application to the Nodal agency shall be on the prescribed format [FORMAT ST-1] containing such details as capacity needed, generation planned or power purchase contracted, point of injection, point of drawl, duration of availing open access, peak load, average load and such other additional information as may be required by the Nodal agency. The application shall be accompanied by a non-refundable application fee in cash or by demand draft in favour of the officer so notified by Nodal agency or any other mode acceptable to the nodal agency involved."*

Since SLDC has statutory duties conferred on it by the Electricity Act, 2003 which requires it to ensure integrated operation of the power system in the State, therefore, for checking or certification of congestion in the State transmission/distribution network it is the sole responsibility of SLDC and accordingly, it has to gear up for conducting its duties enshrined in the Act. Therefore, the suggestion of PTCUL that checking of congestion in distribution network may be done by the distribution licensee and not SLDC is not acceptable.

### **8. Regulations 19 Settlement of energy at drawal point in respect of Embedded OA consumers**

*(1) The Scheduled Drawal (in MW) for any 15 minute time block shall be worked out on the basis of Approved Capacity (in MW) for that block after adjusting the transmission*

*and distribution losses as determined by the Commission in the Tariff Order for the relevant year.*

*(2) The minimum of Actual Recorded Energy (in MWhr) and Scheduled Energy (in MWhr) calculated on the basis of Scheduled Drawal worked out in sub-regulation (1) above shall be considered as the quantum of energy drawn under open access. Further, the amount so calculated by applying the applicable tariffs on the aforesaid quantum of energy drawn under open access shall be adjusted from the energy bill of the consumer for the billing cycle.*

### **Stakeholder's Comments**

M/s Shree Cement Ltd. has suggested that direct credit of energy should be given based on the actual energy scheduled and consumed by the consumer through open access instead of adjusting the amount in the bill.

M/s UPCL has suggested that adjustment of open access energy may be allowed in the next billing cycle.

### **Commission's View**

With regard to the submission of the stakeholder that direct credit of energy should be given based on the actual energy scheduled and consumed by the consumer through open access instead of adjusting the amount in the bill, the Commission is of the view that since ABT compliant SEM meters record load (KVA) and energy (kWh/kVAh) and other parameters for every 15 minutes time block, therefore, a comparison between the recorded drawal and open access scheduled drawal can be made for every 15 minutes time block during the open access period, and accordingly, lower of the actual energy drawal and scheduled open access drawal derived as per the regulations can be adjusted from the recorded energy for each 15 minute time block. Now this net energy will have to be segregated for each time of the day block and thereafter, appropriate ToD tariffs be applied for the billing purpose. To this extent the suggestion of M/s Shree Cement has been accepted by the Commission and accordingly, provision in the draft Regulations have been modified to provide for adjustment of energy and not the adjustment of amount. The Regulation 19(2) shall now read as:

*“The minimum of Actual Recorded Energy (in kVAh) and Scheduled Energy (in kVAh) calculated on the basis of Scheduled Drawal worked out in sub-regulation (1) above shall be considered as the quantum of energy drawn under open access. Such quantum of energy drawn under open access shall be adjusted from the monthly consumption of energy recorded in the meter for each time of the day block for the billing purpose.”*

Since now regulation provide for adjustment of energy therefore, it is imperative that any adjustment on account of energy drawn under open access drawal has to be done for each billing cycle as a pre requisite. Moreover, for billing purposes, slabs of tariffs based on load factor has to be determined in accordance with formula given in order of the Commission which will again require for adjustment of energy drawn through open access. The suggestion of UPCL that adjustment of open access energy be allowed in the next billing cycle has not been accepted.

## **9. Regulation 20 Transmission Charges & Wheeling Charges**

### **(1) Transmission Charges**

*Open Access customer using transmission system shall pay the charges as stated hereunder:*

- (a) For use of inter-State transmission system–As specified by the Central Commission from time to time.*
- (b) For use of intra-State transmission system–Transmission charges payable to STU by an open access customer for usage of their system shall be determined as under:*

*Transmission Charges =  $ATC / (PLS_T \times 365)$  (Rs./MW/day)*

*Where,*

*ATC=Annual Transmission Charges determined by the Commission for the State transmission system for the relevant year*

*PLS<sub>T</sub>=Peak load served by the State transmission system in the previous year*

*Provided that transmission charges shall be payable on the basis of Approved Capacity.*

*Provided for Open Access, for part of the day, the transmission charges shall be levied as under:*

- (i) Upto 6 hours in a day: ½ of the transmission charges as determined in sub-regulation (1) (b) above.*
- (ii) Above 6 hours in a day: equal to the transmission charges determined in sub-regulation (1) (b) above.*

*Provided further that where augmentation of transmission system including construction of dedicated transmission system used for open access has been done for exclusive use of or being used exclusively by an open access customer, the transmission charges for such augmentation including dedicated system shall be worked out by STU for its system and got approved by the Commission and shall be borne entirely by such open access customer till such time the surplus capacity is allotted and used for by other open access customers, where after the cost of the above system will be shared on pro-rata basis depending upon open access capacity allotted to them.*

### **Stakeholder's Comments**

M/s IERS/APT/HERO Motor Corp./Air Liquid./Indian Glycols Ltd. have requested the Commission to remove slab wise transmission charges and fix them as half of the applicable prescribed rate for all open access transactions (any number of hours) during a day.

M/s BHPL has stated that since shifts in industries are for minimum of 8 hours and in some for 12 hours so block of 6 hours do not hold any meaning. M/s BHPL has requested the Commission to revise/reconsider the mentioned slabs.

M/s BHPL has also requested the Commission to exempt open access customers which are also renewable energy generators from payment of augmentation of transmission system including dedicated system beyond interconnection point, if such augmentation is built as a part of comprehensive transmission planning scheme of the Government of Uttarakhand/STU/DISCOM. In such a case, only open access charges, if applicable, should be payable as provided in these regulations from time to time.

M/s BHPL have further suggested that where augmentation of transmission system including construction of dedicating transmission system use for open access has been done for exclusive use of an open access customer, and such open access customer fails to use the augmented transmission system, then such customer should pay an amount equal to 80% of the transmission charges for such stranded transmission system.

Further M/s BHPL have suggested that where an open access customer is prevented from using the intra-State transmission system on account of outages in the STU system or for any other reason beyond the control of the generator, no transmission charges should be payable by the generator to the STU.

### **Commission's View**

The suggestions of the stakeholders to remove slab wise transmission charges and fix them as half of the applicable prescribed rate for all open access transactions (any number of hours) during a day is not acceptable since the rationale behind keeping transmission charges same for open access customers having drawal upto 6 hours in a day is to introduce a minimum level of transmission charges i.e. half of the overall transmission charges for all open access customers who schedule their power from 1 to 6 hours in a day and while for other category of open access customers who schedule for more than 6 hours in a day have been clubbed and will be required to pay full transmission charges for the day as approved by the Commission from time to time.

However, contention of one of the stakeholder that single shift operation in any process industry is for minimum 8 hours therefore, benefit of half transmission charges can be extended to single shift operation industry consumers is not accepted. The regulations cannot be aligned to working hours or method of operation.

With regard to the suggestion of M/s BHPL that renewable energy generators should be exempted from payment of augmentation of transmission system including dedicated system beyond interconnection point, if such augmentation is built as a part of comprehensive transmission planning scheme of the Government of Uttarakhand/STU/DISCOM the Commission is of the view and it has also been held in the Hon'ble ATE ruling (Appeal No. 183 of 2009 HPSEB Vs. UERC & UJVNL) that

ARR of the utilities with respect to the network under regulated regime (which is devoid of any budgetary support from Government) can only be recovered from the beneficiaries, therefore, any special treatment by way of exemption from payment of transmission charges to RE generator cannot be considered.

Further the suggestion of M/s BHPL that where augmentation of transmission system including construction of dedicated transmission system used for open access has been done for exclusive use of an open access customer, and such open access customer fails to use the augmented transmission system, then such customer should pay an amount equal to 80% of the transmission charges for such stranded transmission system is not acceptable in the light of the Hon'ble APTEL's Order against appeal No. 128, 129 & 163 of 2013 dated 29.11.2014 wherein, Hon'ble APTEL has upheld the decision of the Commission taken in its Order dated 29.04.2013 and Tariff Order dated 06.05.2013 in which the Commission had held in the matter of determination of ARR for 220 kV D/C Bhilangana-III Ghansali line that since only one circuit has been charged and put to use capital cost of only that circuit shall be payable by the generator namely: Bhilangana-III SHP irrespective of the overall cost incurred by PTCUL in construction of 220 kV D/C line.

## **10. Regulation 20 (2) Wheeling Charges**

*Wheeling charges payable to distribution licensee, by an open access customer for usage of its system shall be as determined as under:*

$$\text{Wheeling Charges} = (\text{ARR} - \text{PPC} - \text{TC}) / (\text{PLS}_D \times 365) \text{ (Rs./MW/Day)}$$

*Where,*

*ARR=Annual Revenue Requirement of the distribution licensee for the relevant year*

*PPC=Total Power Purchase Cost of distribution licensee for the relevant year*

*TC=Total transmission charges paid by distribution licensee for State and Inter-State transmission system for the relevant year*

*PLS<sub>D</sub>=Total Peak load served by the concerned distribution system for the previous year*

*Provided Embedded open access consumer shall pay wheeling charges as determined by the Commission in the following manner:*



$WC_{\text{Embedded consumer}} = WC - [FC * 0.85 * 12 * 1000 / 365]$  (in Rs./MW/day)

Where,

$WC_{\text{Embedded consumer}}$  = Net wheeling charges for embedded consumers

$WC$  = Wheeling charges as determined by the Commission in accordance with the methodology specified in Regulation 20(2) contained in Chapter 5 of these regulations.

$FC$  = Fixed/demand charges in Rs/kVA/month as per rate schedule approved in the Tariff Order for the relevant year. For the purpose of conversion of kVA into kW power factor of 0.85 has been taken.

Note: In case Wheeling Charges for Embedded consumer worked out as above becomes negative, such charge shall be zero.

Provided that wheeling charges shall be payable on the basis of Approved Capacity.

Provided for Open Access, for part of the day, the Wheeling Charges shall be levied as under:

- (i) Upto 6 hours in a day:  $\frac{1}{2}$  of the applicable wheeling charges as determined in sub-regulation (2) above.
- (ii) Above 6 hours in a day: Equal to the applicable wheeling charges as determined in sub-regulation (2) above.

Provided further that where a dedicated distribution system used for open access has been constructed for exclusive use of an open access customer, the wheeling charges for such dedicated system shall be worked out by distribution licensee for its respective system and got approved by the Commission and shall be borne entirely by such open access customer till such time the surplus capacity is allotted and used for by other open access customers, where after the cost of the above system will be shared on pro-rata basis depending upon open access capacity allotted to them.

### **Stakeholders Comments**

M/s IERS/APT/HERO Motor Corp./Air Liquid./Indian Glycols Ltd. have requested the Commission to remove slab wise wheeling charges and fixed them as half of the applicable prescribe rate for all open access transactions (any number of hours) during a day. They have also requested the Commission that in compliance of Order dated 12.09.2014 of Hon'ble APTEL wheeling charges should not be imposed on open access consumers for use of transmission assets (132 kV and above).

M/s Shree Cement Ltd. has suggested that wheeling charges should be levied on the energy calculated after deducting PoC drawal losses and state transmission losses, as this is the actual energy entering distribution periphery, whereas, if wheeling charges are calculated according to draft regulation then same are proposed to be charged on energy on regional end which is not justified. They have also suggested that wheeling charge should be on per unit basis and should be levied on the energy credited in the HT bill on OA consumer. Further they have requested the Commission to determine the wheeling charges for short term open access as per unit basis in line with CERC Regulations instead of slabs.

### **Commission's Views**

The suggestion of stakeholders to remove slab wise wheeling charges is not acceptable for the reasons already discussed in Para 9 above of SoR.

With regard to the suggestion of stakeholders that wheeling charges should not be imposed on open access consumers for using transmission assets, the Commission in compliance of the Order of Hon'ble ATE dated 12.09.2014 has decided that open access customers connected to transmission system at 132 kV and above voltage levels would not be liable for recovery of wheeling charges and accordingly second proviso in Regulation 20 (2) is being introduced which shall read as:

*"Provided further that wheeling charges shall not be levied on the open access customers connected to the transmission system i.e. 132 kV and above voltage levels."*

With regard to the suggestion of M/s Shree Cement Ltd. that wheeling charges should be levied on the energy calculated after deducting PoC drawal losses and state transmission losses, the Commission has already dealt with this issue in Para 1 of SoR and reiterates its views that distribution/transmission losses should be borne by open access customers. Accordingly, the provision of recovery of transmission/wheeling charges on the basis of approved capacity in case of open access transactions is justified.

The suggestion of M/s Shree Cement that the wheeling charges should be on per unit basis is not acceptable as capacity approved by NLDC/RLDC/SLDC for bi-lateral /collective transactions is in MW and such schedules are generally part of the day and for varying number of hours.

## **11. Regulation 21 SLDC Charges and Scheduling & System Operation Charges**

*(2) In respect of intra-State open access*

*(b) Short-term open access*

*(i) A composite operating charge per day or for part of the day shall be payable by a short-term open access customer for each transaction to SLDC as determined by the Commission from time to time.*

### **Stakeholders Comments**

M/s IERS/APT/HERO Motor Corp./Air Liquid./Indian Glycols Ltd. has suggested the Commission that scheduling and operating charges of SLDC should be charged in Rs./MWhr terms.

### **Commission's Views**

The Commission is of the view that the scheduling and operating charges are not ARR (comprising annual revenue expenditure and cost of capital expenditure) as determined by the Commission in accordance with MYT regulations on yearly basis, rather these are the charges payable to SLDC in lieu of the works carried out by the system operator like preparation of schedules, grant of NOC, energy accounting (on case to case basis for short term open access customers) etc. Based on the above, it is justified to have these charges as fixed charge rather than on per MWhr terms.

## **12. Regulation 22 Cross subsidy surcharge**

*(1) If open access facility is availed of by any consumer, then such consumer, in addition to transmission and/or wheeling charges, shall pay cross subsidy surcharge determined by the Commission. Cross subsidy surcharge determined on Per Unit basis shall be payable, each month, by such consumer based on the actual energy drawn during the month through open access. The amount of surcharge shall be paid to the distribution licensee.*

*Provided that the Commission may fix a lower surcharge in the situation of shortages and load shedding by the distribution licensee.*

*Provided further that such surcharge shall not be levied on long term/medium term open access consumer and a person who has established a captive generation plant for carrying the electricity to the destination of his own use.*

*Provided also that in case power supply position or the load of the consumers seeking open access changes substantially, the Commission may review the Cross Subsidy Surcharge as and when required.*

(2) *The cross subsidy surcharge for short term open access shall be determined in accordance with the following formula:*

***Surcharge formula:***

$$S = T - C$$

*Where,*

*S is the cross subsidy surcharge;*

*T is the Tariff payable by the relevant category of consumers;*

*C is the average cost of supply of distribution licensee*

### **Stakeholder's Comments**

M/s BHPL, M/s IERS/APT/HERO Motor Corp./Air Liquid./Indian Glycols Ltd. have requested the Commission that in light of Hon'ble APTEL judgment dated 01.08.2014 no cross subsidy surcharge should be imposed on the consumers availing open access during power shortage/load shedding.

### **Commission's View**

In accordance with the decision taken by Hon'ble ATE, in its ruling (Appeal No. 38 of 2013 dated 01.08.2014) that no cross subsidy surcharge would be levied on power available with consumers through open access to the extent of restrictions/power cuts imposed by the distribution licensee, 1<sup>st</sup> proviso of regulation 22(1) is being modified which shall now read as:

*"Provided that no cross subsidy surcharge would be levied on power availed by the consumers through open access during the period of power cuts imposed by the distribution licensee."*

### **13. Regulation 23 Additional Surcharge**

*Any consumer, receiving supply of electricity from a person other than the distribution licensee of his area of supply, shall pay to the distribution licensee an additional surcharge on the charges of wheeling, in addition to wheeling charges and cross-subsidy surcharge, to meet out the fixed cost of such distribution licensee arising out of his obligation to supply as provided under sub-section (4) of Section 42 of the Act.*

## **Stakeholder's Comments**

M/s BHPL Ltd. has suggested that the Commission in the interest of consumers should not impose additional surcharge on the old as well as new consumers.

## **Commission's View**

Any consumer or class of consumers when permitted to receive supply of electricity from a person other than the distribution licensee of his area of supply, a situation very similar to open access transactions by consumers, is liable to pay in addition to transmission/wheeling charges, cross subsidy as applicable from case to case, additional surcharge to distribution licensee subject to approval of the Commission for meeting licensee's stranded fixed cost arising out of his obligation to supply to such consumers/open access consumers. Therefore, the provisions of the regulations are based on the enabling provisions in this regard in the Electricity Act, 2003.

### **14. Regulation 24. Standby charges for drawal of power by open access customer from distribution licensee**

*(1) In case of outages of generator supplying to open access customer under open access, standby arrangements shall be provided by the distribution licensee subject to the load shedding as applicable to consumers of the licensee and the licensee shall be entitled to collect tariff under temporary rate of charge for that category of consumer in the prevailing rate schedule.*

*Provided that if a generator connected to the distribution system injecting power through open access requires start-up power, the rate of such power shall be the same as that of infirm power provided in regulation 6(8) above of these Regulations.*

*Provided further that in case of standby arrangements sought by continuous process industries, the licensee shall charge on the basis of actual cost involved in arranging power.*

*Provided also that open access customer would have the option to arrange standby power from any other source.*

## **Stakeholder's Comments**

M/s Shree Cement Ltd. has suggested that only the standby supply above the contract demand should be charged on temporary rate, the supply upto the contract demand should be charged at normal HT rate applicable to the consumer.

M/s UPCL has suggested that for Open access consumers who are continuous process industries, temporary rate should be made applicable for providing standby power.

### **Commission's View**

On the basis of the suggestions of the stakeholders the Commission hereby modifies regulation 24 which shall now read as:

- (1) *"In case of outages of generator supplying to open access customers not a consumer of the licensee under open access, standby arrangements shall be provided by the distribution licensee subject to the load shedding as applicable to consumers of the licensee and the licensee shall be entitled to collect tariff under temporary rate of charge for that category of consumer in the prevailing rate schedule. However from the consumers of the licensee the licensee shall be entitled to collect tariff under rate of charge for that category of consumer in the prevailing rate schedule.*

*Provided that if a generator connected to the distribution system injecting power through open access requires startup power, the rate of such power shall be the same as that of infirm power provided in regulation 6(8) above of these Regulations.*

*Provided also that open access customer would have the option to arrange standby power from any other source."*

### **15. Regulation 26 Scheduling:**

- (1) *Notwithstanding anything contained in the succeeding sub-regulation of this regulation, scheduling of inter-State open access transactions shall be in accordance with the Regulations specified by the Central Commission.*
- (2) *Subject to the foregoing clause, intra-State open access transactions in respect of all customers and generating stations irrespective of the capacity shall be scheduled by SLDC in accordance with the provisions of the State Grid Code.*

### **Stakeholder's Comments**

M/s UPCL has suggested that open access consumers should not be allowed to vary their demand from UPCL over a day. They should submit the drawal schedule from UPCL in a week advance.

## **Commission's View**

The suggestion of UPCL that open access consumers should not be allowed to vary their demand from UPCL over a day has already been discussed in Para 5 above of SOR. Based on the view of the Commission the suggestion of UPCL is not acceptable.

With regard to the suggestion of UPCL that open access consumers should submit their drawal schedule from UPCL in a week advance, the Commission is of the view that since State Grid Code requires the beneficiaries to give their schedule to SLDC by the day immediately preceding the day of scheduling, the contention of UPCL is not acceptable.

## **Regulation 27 Metering**

*All open access customers, existing as well as new, including generating stations, irrespective of their capacity, shall be provided with ABT compatible Special Energy Meters by the distribution licensee for and at the cost of the open access customers.*

*The distribution licensee shall provide Check Meter, at the cost of the open access customers, of the same specifications as Main Meters at the point(s) of injection and points(s) of drawal.*

## **Stakeholders Comments**

M/s Shree Cement Ltd. has suggested that the ABT meters already installed by consumer the same should be acknowledged & sealed by distribution licensee, and consumer should also be given the choice to procure the meters of the specified specifications of selected companies approved by UPCL/SLDC. The inability to supply check meter should not become a cause for denial of open access.

UPCL has suggested that the cost of testing of ABT meter should be borne by the open access consumer. M/s BST Textile Mills Pvt. and KGCCI have suggested that replacement of ABT meter should be in the scope of UPCL as payment of existing meter has already been done by the consumers.

M/s BHPL Ltd. has suggested that in order to reduce high lead time in procurement of SEMs, Discom should tie-up with a competitive vendor who can deliver the meters to the Discom in bulk.

M/s PTCUL has suggested that time frame may be specified for change of ToD meters to ABT compliant meters for the existing consumers.

M/s IERS, APT, HERO Motor Corp., Air Liquid and Indian Glycols Ltd. have suggested that since under model Regulations of FOR open access consumers upto 10 MW are not required to give scheduling to SLDC/licensee etc., the same provision should be incorporated in open access regulations. With no scheduling requirement necessity of installing ABT meter shall not be there therefore, it is requested that open access consumers of Uttarakhand should not be directed to install ABT meters.

### **Commission's view**

On the suggestion of M/s Shree Cement Ltd. that the ABT meters already installed by consumer should be acknowledged & sealed by distribution licensee the Commission is of the view that the existing set of ABT meters installed at the consumer premises shall be acceptable to UPCL. The Commission accepting the suggestion of the stakeholder has decided that the check meter should be provided by the distribution licensee and accordingly, the regulation is being modified to read as:

- (1) *"All open access customers, existing as well as new, including generating stations, irrespective of their capacity, shall be provided with ABT compatible Special Energy Meters by the distribution licensee for and at the cost of the open access customers.*
- (2) *The distribution licensee shall provide Check Meter of the same specifications as Main Meter at its own costs."*

*Provided that Main and Check ABT compliant meters can also be procured by open access customers from the suppliers notified by the distribution/transmission licensee as applicable. However, the cost of Check meter shall be adjusted in the open access charges bills of the customers.*

*Provided that open access can be allowed at the existing metering arrangement for a period of three months from the notification of these Regulations. Thereafter, the above provisions with regard to ABT compliant Main and Check meters shall become mandatory.*

With regard to the suggestion of M/s IERS, APT, HERO Motor Corp., Air Liquid and Indian Glycols Ltd that open access consumers upto 10 MW should not be required to give scheduling to SLDC/licensee etc. the Commission is of the view that since SLDC



has evolved over the years in the State and has requisite infrastructure to carryout scheduling, therefore, as it does scheduling for discom/State generators, it is capable of doing scheduling for open access customers. Moreover, the suggestion of stakeholders that customers upto 10 MW should not be required to give schedule of the basis of FOR Model Open Access Regulations is not acceptable as in the small State like Uttarakhand any capacity between 1 to 10 MW is a substantial quantity contracted for open access. Therefore, scheduling of open access customers upto 10 MW is justified.

## **16. Regulation 30 Imbalance Charge**

### **(c) Non-availability of the distribution system and/or intra-State transmission system.**

#### **30(2)(c)**

##### *(i) In case of under-drawal*

*In case of under-drawal is caused by non availability of the distribution system and/or intra-State transmission system the open access customer shall be compensated by the distribution licensee at the average power purchase cost of the distribution licensee as projected in the Tariff Order of the relevant year.*

## **Stakeholder's Comments**

M/s Shree Cement Limited has submitted that payment of underdrawal should be given for the under-drawn energy irrespective of the cause of under-drawal at the drawal end. CERC has also adopted this principle and the payment of UI is not linked/restricted to unavailability of distribution system. Furthermore, a practical aspect of determining the system availability of distribution system is required to be looked into. Practically no distribution licensee formally acknowledges non-availability of distribution system which makes the entire concept unworkable.

M/s BHPL Ltd. suggested that in case of non-adherence of schedule due to outages in STU/Discom network there should be no penalty on generator. UI incentive should be payable to the generator in case of no schedule as generator is still feeding power within the State and state is drawing power free of cost.

M/s UPCL suggested that underdrawal should not be measured in a time block and there should be a minimum 30% underdrawal during the billing period after which a

penalty might be imposed on the distribution licensee. The proposed provision shall hurt the distribution licensee.

Further, in case of non-availability of distribution network due to force majeure distribution licensee should not be penalised. In case of under drawal due to non-availability of intra-State transmission network distribution licensee should be allowed to recover compensation from STU.

### **Commission's View**

The suggestion of M/s Shree Cement Ltd. that payment of underdrawal should be given for the under-drawn energy irrespective of the cause of under-drawal at the drawal end is not acceptable since the distribution/transmission licensee should only be penalised if open access consumer under-draws power on account of the failure of distribution/transmission licensee to provide its system for conveyance of such open access power. Moreover, open access consumers should schedule their power through open access according to their requirement so that the position of under drawal does not arise.

To ascertain the reasons for under drawal by the open access consumers SLDC shall be the Nodal Agency for looking into the reasons for non availability of transmission/distribution system and for fixing the responsibility thereupon.

Considering the suggestion of M/s BHPL that incase of non-adherence of schedule due to outages in STU/discom network there should be no penalty on the generator, the provisions on over injection/under injection under various scenarios as stated below, attributable to either generator or STU/distribution licensee have been included in the new regulations similar to the provisions in the existing regulation on compensation to/recovery from open access consumer in case of underdrawal/overdrawal under various reasons attributable to either consumers or STU/distribution licensee:

#### *When open access customer is a generator*

- (i) *In case of under injection by generator due to reasons attributable to the generator.*

*Imbalance charges payable by the generator to the distribution licensee shall be charged at average power purchase cost of the distribution licensee as projected in the tariff order for the relevant year.*

- (ii) *In case of under injection by the generator due to non-availability of distribution/transmission network.*

*Imbalance charges payable by the distribution licensee to the generator shall be charged at average power purchase cost of the distribution licensee as projected in the tariff order for the relevant year.*

- (iii) *In case of over injection by the generator.*

*Imbalance charges payable by the distribution licensee to the generator shall be charged at average power purchase cost of the distribution licensee as projected in the tariff order for the relevant year.*

The suggestion of UPCL that under drawn energy over the billing period should be at least 30% or above the contracted energy under open access for making open access customer eligible for compensation has no basis because underdrawal compensation is only due to non-availability of distribution/transmission network and non-availability of power for even a day or two in a month would impact the consumer financially through loss of production etc. even while having his overall under drawn energy less than 30%.

The suggestion of UPCL that in case of non-availability of distribution network due to force majeure events distribution licensee should not be penalised is accepted by the Commission. Accordingly, proviso to regulation 30 is being incorporated which shall read as:

*“Provided that in case of non-availability of distribution/transmission system due to force majeure events then distribution/transmission licensee shall not be liable to pay any imbalance charges to the open access customers.”*

## **17. Regulation 35 Payment Security Mechanism**

In case of long-term access and medium-term open access, the Applicant for open access will open an irrevocable Letter of Credit in favour of the agency responsible

for collection of various charges for the estimated amount of various charges for a period of two months.

### **Stakeholder's Comments**

M/s BHPL. Ltd. has submitted that as open access consumers have already provided security deposit to Discom they should not be burdened with additional requirement of opening of irrevocable LC.

An additional statement can be added to the existing clause which would say:

Provided open access customers/consumers who have good credited rating and (or) not defaulted in payment of open access charges/transmission charges since 12 months of availing open access from Discom/STU in line with clause no. 32 (1) (b)(ii) of these regulations shall be exempted from opening of irrevocable Letter of Credit in favour of the agency responsible for collection of various charges.

M/s PTCUL has suggested that security should be in form of bank guarantee whose format should be specified.

### **Commission's View**

The Commission agrees with the suggestion of M/s BHPL that consumers of distribution licensee who avail open access should not be burdened with additional requirement of opening of irrevocable LC since consumption security deposit is available with the licensee of these consumers. Accordingly, regulation is being modified to read as:

*"In case of long-term access and medium-term open access, the Applicant for open access will open an unconditional, revolving, irrevocable Letter of Credit in favour of the agency responsible for collection of various charges for the estimated amount of various charges for a period of two months. The LC shall be opened in a scheduled Bank at Dehradun."*