

# ***West Bengal Electricity Regulatory Commission (Open Access) (Amendment) Regulations, 2019***

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## **STATEMENT OF REASONS**

### **1. Introduction**

After the coming into force of the Electricity Act, 2003, which envisaged Open Access, the West Bengal Electricity Regulatory Commission ('WBERC' or 'the Commission') published the West Bengal Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2005 and West Bengal Electricity Regulatory Commission (Terms and Conditions for Open Access – Schedule for Charges, Fees & Formats for Open Access) Regulations 2005, which were further repealed and replaced by West Bengal Electricity Regulatory Commission (Open Access) Regulations 2007 on 12.04.2007. Subsequently a minor amendment was carried out in 2009 to insert the clause for payment of Reactive Energy Charge by open access customers. West Bengal Electricity Regulatory Commission (Open Access) Regulations 2007 along with subsequent amendments are hereinafter termed as "Open Access Regulations 2007".

The Commission, in exercise of its power under section 181 read with sections 39(2)(d), 40(c), 42(2), 42(3), 42(4), 66 and in compliance with the requirement of previous publication under section 181(3) of the Electricity Act, 2003, published the draft West Bengal Electricity Regulatory Commission (Open Access) (Amendment) Regulations, 2019 (hereinafter referred as the "draft Amendment 2019") on its website and invited suggestions/objections/comments vide public notice No WBERC/Regulations/51/16-17/3/4450 published in 6 nos of leading newspapers on 06.08.2019. The last date of submission of comments was 30.08.2019.

### **2. Objective and background of the Draft Amendment 2019**

WBERC has notified the existing Open Access Regulations 2007 on 12<sup>th</sup> April 2007 and a minor amendment was carried out in 2009 to insert the clause for payment of Reactive Energy Charge by open access customers. With the passage of time the open access has gained its momentum in Indian Power System. All distribution Licensees in the State of West Bengal and many IPPs are participating in inter-state open access including Power Exchanges. For smooth and successful inter-state open access and open access through power exchanges the State Regulations are required to be aligned with the Regulations framed by the CERC so that conflicts of roles and responsibilities of different utilities and statutory bodies are minimised, at the same time the State specific issues are to be covered. Incorporating the major changes introduced by CERC in all these years and after evaluation of the working experience of open access in the State it was felt that need has been arisen to amend/ restructure the Open Access Regulations in order to accommodate the present sectoral and operational issues pertaining to open access. Accordingly,

WBERC published a draft West Bengal Electricity Regulatory Commission (Open Access) Regulations 2017 on 25.05.2017 but that was not finalised in order to capture the latest changes in the sector.

Considering the time gap and the recent developments of concept of open access registry it was felt that, a thorough review of the issues in the light of recent developments in the sector is required. However, to address the financial impact on the transmission and distribution licensees on account of short-term open access (STOA) charges, it was decided to amend the regulation to make the STOA charge equivalent to Long-term access (LTA) charges keeping in view the principles of ISTS charges specified by CERC.

Commission has in this connection noted the provisions and principles adopted by CERC while determining the STOA charges for the Inter-State Transmission system (ISTS). The relevant regulation from CERC (Sharing of Interstate Charges and Losses) Regulations 2010, as amended is produced below:

Regulations 5(4):

*5(4) “The Point of Connection transmission charges shall be computed in terms of Rupees per Mega Watt per month. The amount to be recovered from any Designated ISTS Customer towards ISTS charges shall be computed on a monthly basis as per these regulations. The Point of Connection transmission charges for short term open access transactions shall be in terms of Paisa/unit and shall be applicable for the duration of short-term open access approved by the RLDC/NLDC.” [ Emphasis added]*

Regulation 9:

*9. Differentiation among various categories of transmission Designated ISTS Customers*

*(1) There shall be no differentiation in Point of Connection charges between the long-term, medium-term and short-term designated ISTS Customers of the transmission system.” [Emphasis added]*

Accordingly, the Commission published the draft Amendment 2019 of Open Access Regulations seeking comments and suggestions from the stakeholders in terms of sub-section 3 of section 181 of the Electricity Act 2003.

### **3. ANALYSIS OF THE SUGGESTIONS/ OBJECTIONS/ COMMENTS RECEIVED ON DRAFT WBERC (OPEN ACCESS) (AMENDMENT) REGULATIONS 2019**

Suggestions/objections/comments from Four (4) stakeholders namely, West Bengal State Electricity Distribution Company Ltd. (WBSEDCL), West Bengal State Electricity Transmission Company Ltd. (WBSETCL), CESC Ltd and State Load Despatch Center, WB has been received within due date. The issues raised by the stakeholders are analysed below:

#### **4. Short Term open access charge to be expressed in Rs/ MW/day or Rs/MWh :**

#### 4.1 Suggestions/ objections/comments received from stakeholders:

(i) **Suggestions of WBSLDC:**

- WBSLDC suggested as per clause no 14.3.1 the Transmission charges for Short-term Open Access should be @ Rs./MW/Day;
- WBSEDCL further suggested different slabs for transmission charges for different times of the day for STOA as below:
  - (a) From 00.00 hrs to 08.00 hrs – 50% of normal rate
  - (b) From 08.00 Hrs to 16.00 hrs – 75% of normal rate
  - (c) From 16.00 hrs to 24.00 hrs - At normal rate

If any STOA transaction falls in between above two time slabs then Transmission charges should be at the higher slab on the highest quantum in MW

- (ii) **WBSETCL** submitted that, Transmission charges in case of STOA transactions for part of a day shall be computed for whole day considering energy corresponding to the maximum quantum in MW granted in that period, if an applicant submits application for short term open access for part of a day or different quantum in different time block within a day.

In support of their views WBSETCL submitted the followings:

- When Transmission Charges for STOA are calculated on unit basis (Rs. /MWh) whereas the Transmission Charges under LTOA are calculated on the quantum (Rs./kW/Month) basis. The consumers under STOA would generally have to pay lesser Transmission Charges as compared to LTOA.
  - Being aware of the advantage in Transmission Charges, the consumers are now deliberately seeking continuous and consecutive STOA that would otherwise come under LTOA.
  - STOA is granted only on the margins available in the transmission system and no augmentation is carried out for the purpose of granting STOA. As our transmission planning is connected with LTOA, this scenario is likely to lead to under building of transmission capacity thereby leading to instances of congestions.
- (iii) WBSEDCL submitted that, If an applicant submits application for short term open access for different quantum of power in different time block within an hour, in such case such applicant should pay Transmission charge against STOA corresponding to **maximum quantum allowed considering the application during that hour.**

## 4.2 Analysis and views of the Commission:

- (i) Now a days with interconnected national grid, open access is not limited within the boundaries of the State. It is also observed that majority of the Short -Term Open Access (STOA) happening in the State are related to purchase or sell of power to inter-state utilities including Power Exchange platform. Thus, it is required to maintain a uniformity in the approach and computations across the states for easy transaction and to avoid disputes.
- (ii) The relevant provision in CERC (Sharing of Interstate Charges and Losses) Regulations 2010 is already mentioned at paragraph 2 above which shows that, regulation 5(4) of CERC regulations inter-alia expresses transmission charges for short-term open access in terms of paisa/unit. Further in terms of Section 61 of the Electricity Act 2003, the principles adopted by CERC related to Transmission charges ought to be guiding factors for State Commissions.

In this connection it is worthy to mention here that while notifying the Open Access Regulations 2007, the Commission specified the transmission charge for short-term open access in line with the CERC regulation in vogue at that point of time. CERC (Open Access in Inter-state Transmission) (First Amendment) Regulations, 2005 specified the STOA charge for intra-regional as 25% of effective charge of long-term customer and expressed it in Rs/MW/day. Subsequently with development of open access market and introduction of Power exchanges, CERC expressed the transmission charges for STOA in terms of Rs/ MWh in their (Open Access in inter-State Transmission) Regulations, 2008 expressed and finally in the third amendment of CERC (Sharing of Inter-state Transmission Charges and Losses) (Third Amendment) Regulations 2015 it expressed transmission charges for STOA in terms of Paisa/unit.

- (iii) The concern of WBSETCL regarding deliberately seeking continuous and consecutive STOA by utilities has been addressed by making the STOA charge equivalent to LTOA in place of existing  $\frac{1}{4}$  rate. The per-unit charge effectively being equivalent to long-term charges coupled with uncertainty of allocation are likely to discourage such continuous and consecutive STOA.
- (iv) Regarding WBSEDCL's suggestion of considering maximum quantum allowed considering the application during that hour, will unnecessarily make the whole process complex. Further to allow the State utilities including distribution licensees participate in Power Exchange as well as to purchase and/or sell power to other states, it is required to make the process uniform and in line with CERC. This will help easy purchase and sale of power which will ultimately benefit the end consumers. Further as already stated, as per section 61 of the Electricity Act, the State Commission has to be guided by the principles and methodology specified by the CERC for determination of tariff applicable to transmission licensees.
- (v) Regarding the suggestion SLDC for slab-wise charging transmission charges for different time-slabs, SLDC has not specified any reason for considering such 75% or 50%. While reading the suggestions of SLDC it appears that they suggested for such slab-wise rate with RS/MW/day concept. The matter related to Rs/MW/day vs paisa/unit has already been deliberated in

above paragraphs. Now regarding suggestion of lower slab rates in off-peak and normal hours, it is observed that, this will make per-unit transmission charge during peak hour costly than off-peak hours. One reason for such suggestion for reduced tariff in off-peak period could be to utilise the underutilised transmission network during off-peak hours. But, on the other hand this will give a signal for purchasing power through STOA during off-peak hours and draw in consumer mode during peak-hours, thus the load curve of licensees will further deteriorate. So, the Commission finds it suitable to maintain a uniform transmission charge rate in "paisa/unit" through-out the day for simplicity and easy implementation.

- (vi) **With above observations and considering the reality of integrated national grid, increasing inter-state open access by state utilities and in-terms of broader guidelines under section 61 of the Electricity Act 2003, the Commission finds it suitable to express the transmission charges for Short-term open access in "paisa / unit" similar to that of CERC. Thus, the draft is modified to express the STOA charges as " paisa/unit" in place of proposed " Rs/Mwh".**

## **5. Formula for STOA charge by WBSEDCL:**

### **5.1 Formula for computation of short-term open access (STOA) proposed in the draft:**

Transmission charge for STOA =  $AFC / [SCL \times 365 \times 24]$  Rs / Mwh

Where,

- (i) "AFC" means the Annual Fixed Cost (Aggregated Revenue requirement) as specified in the Tariff Regulations.
- (ii) "SCL" means sum of the allotted transmission capacities in MW to all the long-term transmission customers of the transmission system concerned.

### **5.2 Suggestions / objections/ comments received from stakeholders:**

WBSEDCL submitted that, there is no mention of year-wise allotted transmission capacities (SCL) for WBSEDCL in the Transmission Service Agreement (TSA) executed between WBSETCL & WBSEDCL as WBSEDCL draws power through WBSETCL network at different substation points of the state simultaneously and such drawl varies from time to time within a day as well as season to season. Hence the average capacity in MW as projected by WBSETCL for the state system in its tariff application for MYT period is considered by Hon'ble Commission in the Tariff Order of WBSETCL upto 2016-17 for determination of long-term transmission charge of WBSETCL.

**After deduction of long term quantum of others from the above average capacity determined by Commission in Transmission order for WBSETCL for the state system, balance average capacity in MW should be considered as SCL for WBSEDCL for determination of Transmission charge from short term open access (STOA) customers as per given formula.**

### 5.3 Views of the Commission:

WBSETCL being the State Transmission Utility is responsible for planning and developing an efficient, co-ordinated and economical system of intra-State transmission lines for smooth flow of electricity from generating stations to load centers as well as to provide non-discriminatory open access u/s 39(2) of the Electricity Act.

The computation and payment to Transmission Charges for intra-State Transmission system from the long-term transmission customer has been specified under regulation 6.16 of the Tariff Regulations of WBERC, which inter-alia specifies that,

The transmission charge payable to a transmission licensee for a calendar month shall be = AFC x (NDM/ NDY) x (TAFM / NATAF)

Where,

AFC = Annual Fixed Cost = [Gross ARR – Non-Tariff Income – Income from other Business];

NDM = Number of days in the month;

NDY = Number of days in the year;

TAFM = Transmission system availability factor for the month;

NATAF = Normative annual transmission availability factor;

It is further specified that in case of more than one long-term transmission customer of the intra-state transmission system, transmission service charge for each long-term transmission customer shall be computed as below:

$$= \left\{ \sum_{i=1}^n \left[ \frac{AFC_i}{12} \right] - TRSC \right\} \times \frac{CL}{SCL}$$

Where,

AFC<sub>i</sub> = Annual Fixed charge for the i<sup>th</sup> transmission project in the transmission system;

n = number of projects in the transmission system concerned;

TRSC = Total recovery of the transmission charge for the month from STOA;

CL = Allotted transmission capacity of transmission system concerned to the long-term transmission customer;

SCL = Sum of the allotted transmission capacities to all the long-term transmission customers of transmission system concerned

Till such time WBSEDCL was the sole long-term transmission customer of WBSETCL, the entire Annual Fixed Cost (AFC) of WBSETCL was paid by WBSEDCL. Now with increase in number of long-term transmission customers the AFC of WBSETCL is required to be shared among the long-term

users on a common basis, i.e. the allotted transmission capacity as already specified in regulation 6.16 of the Tariff Regulations.

As a transmission licensee develop and maintain certain transmission network based on the capacity required or agreed with its long-term users, hence it is required to specify the allotted transmission capacity in the Transmission Service Agreement (TSA) for proper recovery of transmission charges. Other-wise it may lead to under recovery from one user and over recovery from other. The suggestion of WBSEDCL considering rest of all capacities to WBSEDCL will in turn burden the consumes of WBSEDCL itself.

In this connection the Commission recalls that in the MYT petition for 2017-18, WBSETCL has specified average transmission capacity as 6634 MW whereas CESC Ltd has 150 MW capacity and WBSEDCL submitted maximum average daily peak demand as 6171 MW. This shows an example of under recovery by WBSETCL if submission of WBSEDCL is considered or overburden of end consumers of WBSEDCL if rest of average transmission capacity is burdened with WBSEDCL.

**Hence, the suggestion of WBSEDCL is neither found suitable nor in accordance with the existing regulations. It would be appropriate for WBSEDCL to amend the Transmission Service Agreement with WBSETCL specifying the MW capacity allotment with a provision for regular update, at least once in a year for the purpose of transparent sharing of transmission charges and in the interest of the consumers.**

## **6. Minimum period for STOA in respect of open access customer other than distribution licensee by WBSEDCL:**

### **6.1 Suggestions / objections/ comments received from stakeholders:**

WBSEDCL submitted that, Transmission charge for Short-term open access customer in Rs/MW/Hour basis will increase number of application for shorter duration. Since distribution licensee presently having number of long-term contract with generators, it will face surplus power in some time blocks in different hours of a day and in other time blocks, it will face power requirement from those applicants. Such rapid change of power requirement will create operational difficulties for the distribution licensee to keep 24X7 power supply in the state. Further impact of such occasional surplus power for short duration due to STOA will burden other consumers of the state.

**Hence minimum period for short term open access in respect of open access customer other than distribution licensee should be one day or at least 12 hours.**

### **6.2 Views of the Commission:**



First of all, Commission observes that the proposed draft does not specifies STOA charge as Rs/MW/Hr, based on hourly MW as understood by WBSEDCL. Rather, it has proposed the STOA charge in energy terms i.e RS/MWh, which means the rate will be applicable to the total allotted capacity for the STOA application. All other existing terms and conditions of STOA being unchanged it will not impact the operational procedures.

**Suggestions of minimum period of STOA for open access customer other than distribution licensee is not related to open access charge proposed in the draft but related to allotment of consumers open access, which may be dealt subsequently while amending those provisions of the regulations.**

## **7. Proposal of relaxation of transmission charges for RE and co-generation:**

### **7.1 Suggestions / objections/ comments received from stakeholders:**

CESC Ltd. has submitted that due to paucity of localized renewable sources, particularly in CESC licensed area, it requires access to STU and entails pan-caking of transmission charges. Thus CESC requested to suitably relax the transmission charges for LTOA where open access source is renewable and co-generation so as to aid development and procurement of such capacity and to balance the interest of all the stakeholders.

CESC in this context also referred the repealed West Bengal Electricity Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations 2010, where the transmission charges payable for open access availed by cogeneration and renewable energy sources was two-third of the rate of such charges applicable for open access customers for Long-term and Short-term.

### **7.2 Views of the Commission:**

Commission has considered this amendment limited to STOA charges only, which is now amended as paisa/unit. The objective and background have already been detailed in paragraph 2 above. CESC's suggestion for relaxation of LTOA transmission charges will be dealt in subsequent amendment with detailed analysis following due procedures of seeking suggestions/ objections from all stakeholders.



## **8. Impact of WBERC (Open Access) (Amendment) Regulations 2019**

The Commission observes that at present the transmission charges for short-term open access is 25% of effective long-term access charges. Now this extant amendment suggests for per unit transmission charge in short-term open access will be equivalent to long-term access. This will no doubt increase the landed cost of short-term power procured by the Open Access customers including licensees. But as per Tariff Regulations the amount collected as Short-term Open Access charges by the Transmission licensees will be adjusted with the recoverable from Long-term customers. Thus, overall impact to long-term customers including licensees will be compensated at the end of financial year. Further this will discourage repeated and continuous drawl of power through short-term mode and gives signal to open access customers for planning long-term access, which in turn facilitate for proper transmission network planning and development and bring reliability and efficiency in the system.