

KARNATAKA ELECTRICITY REGULATORY COMMISSION

No.9/2, 6th & 7th Floors, Mahalaxmi Chambers, M.G. Road
Bangalore-560001

Present:

Sri K.P. Pandey	Chairman
Sri H.S. Subramanya	Member
Sri S.D. Ukkali	Member

ORDER

No.Y/03/4

Dated 31st May 2006

Sub : Karnataka Electricity Regulatory Commission (Terms and Conditions for Open Access)(First Amendment) Regulations, 2006.

In exercise of the powers conferred on it by the Electricity Act 2003, Karnataka Electricity Regulatory Commission had notified the Karnataka Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2004 on 12.11.2004, which is published in the Karnataka Gazette on 16.12.2004. Subsequently, Gol has issued the National Electricity Policy, Electricity Rules and the Tariff Policy apart from several orders to remove difficulties in implementation of the Act, which necessitate certain amendments to Karnataka Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2004.

In order to comply with the National Electricity Policy, Electricity Rules, the Tariff Policy and orders on removal of difficulties, the Commission had issued Draft KERC (Terms and Conditions for Open Access)(First Amendment) Regulations, 2006 inviting comments from stakeholders/experts which was also hosted on website of the Commission. In response only KPTCL and BESCOM have furnished their comments. The gist of comments of KPTCL and BESCOM and Commission's views thereon are discussed below:

1. In the proposed amendment to clause 5(2) of the Regulation, in compliance with the order dated 8.6.05 issued by Gol on removal of difficulties, the Commission has proposed that no surcharge would be required to be paid by the open access consumer under 42(2) of the Act if the electricity supplied by a generating company to such consumer is with the consent of the government under section 43A of the erstwhile Electricity (Supply) Act 1948 or section 27 of the Indian Electricity Act 1910, till the current validity of such consent/authorization.

KPTCL in its comments has stated that if the consent/authorization period for existing consumer were long, ESCOMs would lose substantial revenue on account of surcharge not being levied to such consumers, especially if such consumers are large consumers. BESCO has stated that if generating companies start supplying to consumers under Open access, the concerned distribution licensee will suffer loss and therefore open access can be allowed only when the distribution licensee is compensated for the loss.

The Commission is of the view that since proposed amendment is in compliance with the order on removal of difficulties issued by Gol on 08.06.2005, comments of KPTCL/BESCO are not capable of consideration.

2. In the proposed amendment to clause 16 of the regulation, it has been proposed that it would allow average loss compensation of the relevant voltage level for open access transactions in accordance with the methodology specified by the Commission. This amendment proposed is in compliance with para 8.5.5 of the tariff policy.

KPTCL has requested the Commission to come out with the methodology to calculate energy losses before finalizing the amendment.

According to the tariff policy, the Commission has to follow the methodology to be specified by Forum of Regulators. Until, FoR specifies the same, the Commission would follow the methodology specified in its Tariff Orders.

3. Regarding the duration for short-term open access (clause 6.1(a) of the regulation), BESCO has expressed a view that it shall be less than one year or till the system is not affected by such open access. Further BESCO has proposed certain modification to the surcharge formula proposed under clause 11(iv) of the regulations. Regarding the proposed amendments to clause 11 (vii) of the Open access regulations on additional surcharge, BESCO has stated that such additional surcharge shall be payable by open access consumer during the 1st year to distribution licensee stating that once open access is given, it is obligatory on the part of the licensee to extend supply to such consumers under back up supply and hence additional surcharge shall be payable to licensee.

Regarding duration of the short-term open access, the Commission has proposed to reduce the upper limit of the duration from the existing 5-year to 1-year keeping in view that such open access is allowed based on inherent design margins, margin available due to variation in power flows and margins available due to in-built spare capacity created to cater to future load growth. The proposed duration is the upper limit and depending upon the system availability the licensees can allow short-term open access for a lesser period.

The surcharge formula proposed by the Commission is as per the formula specified in the National tariff policy and does not necessitate any modification. The amendment to clause 11 (vii) on additional surcharge is proposed in compliance with clause 8.5.4 of National tariff policy.

After considering the views/comments expressed by stakeholders as discussed above, the Commission approves Karnataka Electricity Regulatory Commission (Terms and Conditions for Open Access)(First Amendment) Regulations, 2006 as enclosed to this order.

Sd/-

K.P. Pandey
Chairman

Sd/-

H.S. Subramanya
Member

Sd/-

S.D. Ukkali
Member

KARNATAKA ELECTRICITY REGULATORY COMMISSION

Bangalore-560001

Notification No.Y/03/4 date 31st May 2006

Karnataka Electricity Regulatory Commission (Terms and Conditions for Open Access)(First Amendment) Regulations, 2006.

Preamble:

In exercise of the powers conferred on it by the Electricity Act 2003, Karnataka Electricity Regulatory Commission has notified the Karnataka Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2004 on 12.11.2004 which is published in the Karnataka Gazette on 16.12.2004. Subsequently, Govt has issued the National Electricity Policy, Electricity Rules, the Tariff Policy apart from several orders to remove difficulties in implementation of the Act, which necessitate certain amendments to Karnataka Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2004. In order to comply with the National Electricity Policy, Electricity Rules, the Tariff Policy and orders on removal of difficulties, the Commission deems it appropriate to incorporate certain amendments to the aforesaid regulations. Hence, this amendment.

AMENDMENTS

In exercise of the powers conferred on it by Section 181 read with Sections 39(2)(d), 40(c), 42(2), 42(3) and 86(1)(c) of the Electricity Act, 2003 and all other powers enabling in this behalf, the Karnataka Electricity Regulatory Commission, makes the following Regulations further to amend KERC (Terms and Conditions for Open Access) Regulations, 2004.

1. Short Title & Commencement

- i. These regulations shall be called the Karnataka Electricity Regulatory Commission (Terms and Conditions for Open Access)(First Amendment) Regulations, 2006.
- ii. These Regulations shall come into force from the date of publication in the official Gazette of Karnataka.
- iii. These Regulations shall apply to the open access customers for use of intra-state transmission system/s and/or distribution system/s of licensee/s in the State, including such system/s, which are incidental to inter-state transmission of electricity.

2. Amendments to KERC ((Terms and Conditions for Open Access) Regulations, 2004

The existing clauses, sub-clauses & provisos as in Column -2 of the Table below shall be substituted by clauses, sub-clauses & provisos as in Column -3

Col.-1	Col.-2	Col.-3
Clause No.	Regulation as existing	Regulation as modified
Clause 5(2) First Proviso	"Provided further that the Existing Customers shall pay the applicable surcharge and other charges as may be specified by the Commission from time to time."	"Provided further that no surcharge would be required to be paid, in terms of sub-section (2) of section 42 of the Act on the electricity being sold by the generating companies with consent of the competent government under clause (c) of sub-section (1) of section 43A of the Electricity (Supply) Act, 1948 (now repealed by the Act), and on the electricity being supplied by the distribution licensee on the

Col.-1	Col.-2	Col.-3
Clause No.	Regulation as existing	Regulation as modified
		authorization by the State Government under section 27 of the Indian Electricity Act, 1910 (now repealed by the Act), till the current validity of such consent or authorizations."
Clause 6(1)(a)	"Short-term Open Access customer- persons availing or intending to avail the open access for a period of less than five years."	"Short-term Open Access customers are those Open Access Customers other than the long-term open access customers. Provided that the maximum duration for availing short-term access shall not exceed one year. Provided that the short – term open access customer shall be eligible & re-eligible to obtain fresh reservation on filing of application after the expiry of his term and subject to availability. Such eligibility shall be on priority fixed on the basis of the date of application"
Clause 11(ii)	"Where open access is availed from a distribution licensee under section 42(2) of the Act, wheeling charges as determined by	"Where open access is availed from a distribution licensee under section 42(2) of the Act, wheeling charges as determined by

Col.-1	Col.-2	Col.-3
Clause No.	Regulation as existing	Regulation as modified
	<p>the Commission under section 62(1)(c) of the Act shall be applicable from time to time, in addition to transmission charges payable under sub-clause (i) above. The wheeling charges as determined by the Commission in its Tariff Order 2003 shall be applicable till such time wheeling charges are determined by the Commission afresh."</p>	<p>the Commission from time to time shall be applicable, in addition to transmission charges payable under sub-clause 11(i)."</p>
<p>Clause 11(iv)</p>	<p>"According to section 42(2) proviso 1 of the Act, surcharge to meet the current level of cross subsidy is payable if open access is availed. The open access customer shall be liable to pay the surcharge so determined by the Commission from time to time. The Commission would determine the surcharge based on cost of supply of electricity to various categories of consumers."</p>	<p>"The open access customer shall be liable to pay the surcharge as determined by the Commission from time to time. The Commission would determine the surcharge as per the formula indicated below: Surcharge formula: $S = T - [C (1 + L / 100) + D]$ Where S is the surcharge T is the Tariff payable by the relevant category of consumers; C is the Weighted average cost of power purchase of</p>

Col.-1	Col.-2	Col.-3
Clause No.	Regulation as existing	Regulation as modified
		<p>top 5% at the margin excluding liquid fuel based generation and renewable power D is the Wheeling charge L is the system Losses for the applicable voltage level, expressed as a percentage</p>
Clause 11 (vii)	<p>"According to section 42(4) of the Act, additional surcharge as may be specified by the Commission on charges of wheeling are payable by the consumer seeking open access for receiving supply from a source other than the distribution licensee of his area of supply to meet the fixed cost of the distribution licensee arising out of his obligation to supply. The open access customer shall be liable to pay such additional surcharge as may be determined by the Commission from time to time. However, in the case of a new open access</p>	<p>"According to section 42(4) of the Act, additional surcharge as may be specified by the Commission on charges of wheeling are payable by the consumer seeking open access for receiving supply from a source other than the distribution licensee of his area of supply to meet the fixed cost of the distribution licensee arising out of his obligation to supply. The open access customer shall be liable to pay such additional surcharge as may be determined by the Commission from time to time. Such additional surcharge shall be</p>

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Clause No.	Regulation as existing	Regulation as modified
	<p>customer (i.e. if the open access customer was not a consumer of the licensee), no such additional surcharge is payable. The additional surcharge would be determined on a case-to-case basis.</p>	<p>applicable only if it is conclusively demonstrated that the obligation of a licensee, in terms of existing power purchase commitments, has been and continues to be stranded, or there is an unavoidable obligation and incidence to bear fixed costs consequent to such a contract. However, in the case of a new open access customer (i.e. if the open access customer was not a consumer of the licensee), no such additional surcharge is payable."</p>
<p>Clause 11 (viii)</p>	<p>"Charges for arranging backup supply from the grid shall be payable by the open access customer in the event of failure of contracted supply to cover the risk. The amount of back up charges shall be mutually agreed between the parties."</p>	<p>"Charges for arranging backup supply from the grid shall be payable by the open access customer in the event of failure of contracted supply. In case of outages of generators supplying to a consumer on open access, standby arrangements should be provided by the licensee on payment of</p>

Col.-1	Col.-2	Col.-3
Clause No.	Regulation as existing	Regulation as modified
		tariff for temporary connection to that consumer category as specified by the Commission"
Clause 11 (xii)	" An open access consumer shall pay 2 months' charges as security deposit to the concerned Nodal agency, as applicable, to secure the nodal agency against default in payments"	" An open access consumer shall pay 2 months' charges as security deposit to the appropriate licensee, as applicable, to secure the licensee against default in payments"
Clause 16	"Energy Losses Energy losses of the transmission and distribution system shall be calculated in accordance with the methodology specified by the Commission from time to time. The losses as determined in Tariff Order 2003 shall be applicable for the present."	"Energy Losses The Commission would allow average loss compensation of the relevant voltage level for open access transactions. Energy losses of the transmission and distribution system shall be calculated in accordance with the methodology specified by the Commission from time to time."
Clause 18	"Collection and Disbursement of charges The charges in respect of	"Collection and Disbursement of charges The charges may be

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Clause No.	Regulation as existing	Regulation as modified
	<p>open access customers shall be payable directly to respective nodal agency. The Nodal Agency shall specify the terms and conditions of payment"</p>	<p>collected either by the distribution licensee, the transmission licensee or the STU, depending on whose facilities are used by the consumer for availing open access. In all cases the amounts collected from a particular consumer should be given to the distribution licensee in whose area the consumer is located. In case of two licensees supplying in the same area the licensee from whom the consumer was availing supply shall be paid the amounts collected.</p> <p>Provided further that transmission charges shall be payable to the concerned transmission licensee."</p>

BY Order of the Commission

Sd/-

Secretary

Karnataka Electricity Regulatory Commission