

**BEFORE THE ANDHRA PRADESH ELECTRICITY REGULATORY
COMMISSION**

O.P.NO.3 OF 2020

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**PRELIMINARY OBJECTIONS / COMMENTS /
SUGGESTIONS SUBMITTED BY THE ANDHRA
PRADESH TEXTILES MILLS ASSOCIATION TO THE
DRAFT REGULATION PROPOSED BY APERC TO
AMEND PARAGRAPH 17.1 OF THE ANDHRA PRADESH
ELECTRICITY REGULATORY COMMISSION (TERMS
AND CONDITIONS OF OPEN ACCESS) REGULATION,
2005**

Andhra Pradesh Textiles Mills Association, formerly known as the Andhra Pradesh Spinning Mills Association, hereinafter referred to as the Association, was formed with the primary objective of promoting the textile industry in the State of Andhra Pradesh. The Association was registered under Section 25 of the Companies Act, 1956, before the Registrar of Companies, Vijayawada. Copies of the Bye-Laws of the Association along with the Certificate of Incorporation are filed herewith collectively marked as **Annexure-1**.

There are around 92 members in the Association who engage in the business of establishing / operating / maintaining various spinning mills in the State of Andhra Pradesh. Some of the members of the Association established and setup captive wind power generation plants in pursuance of the incentives / benefits conferred on such captive plants under and on basis of the covenants/representations/promises contained in:

- a) Para 12 of G.O.Ms.No.48, Energy (RES) Department, dated 11.04.2008,
- b) Para 8 of the Andhra Pradesh Solar Power Policy, 2012, formulated under G.O.Ms.No.39, Energy (Res-A1) Department dated 26.09.2012,
- c) Para 4 of the Andhra Pradesh Solar Power Policy, 2015, formulated under G.O.Ms.No.8, Energy, Infrastructure & Investment (PR.II) Department dated 12.02.2015,



- d) Para 8 of G.O.Ms.No.9, Energy, Infrastructure & Investment (PR.II) Department dated 13.02.2015,
- e) Para 17.1 of the Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions of Open Access) Regulation, 2005, hereinafter referred to as the 2005 Regulations, as amended by the Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions of Open Access) (First Amendment) Regulation, 2016,
- f) Para 8 of the Andhra Pradesh Wind Power Policy, 2018 formulated under G.O.Ms.No.2, Energy, Infrastructure & Investment (PR.II) Department dated 03.01.2019,
- g) Para 4 of the Andhra Pradesh Solar Power Policy, 2018 formulated under G.O.Ms.No.1, Energy, Infrastructure & Investment (PR.II) Department dated 03.01.2019, and
- h) Para 9 of the Andhra Pradesh Wind-Solar Hybrid Power Policy, 2018 formulated under G.O.Ms.No.3, Energy, Infrastructure & Investment (PR.II) Department dated 03.01.2019.

The incentives/benefits extended the aforesaid policies/regulations to the aforesaid members of the Association can be broadly classified into:

- a) Exemption of Transmission and Wheeling Charges,
- b) Availability of Banking Facility with 2% banking charges,
- c) Utilisation of banked energy during the months of January and from July to December, and
- d) Purchase of unutilized banked units by APDISCOMs at pooled cost.

Wheeling is a transmission service that enables the delivery of electricity between a buyer and seller. Banking is a financial and accounting mechanism enabling a power generating unit to earn credit for excess and surplus Renewable Energy (RE) supplied to the grid at different points of time that would be adjusted in the later months.

On basis of the definite commitments and firm promises made by the State Government and the Andhra Pradesh Electricity Regulatory Commission, hereinafter referred to as APERC, for grant of the aforesaid incentives / benefits, some members of the Association acted immediately



and invested more than Rs.475 Crores (approx.) to construct and commission captive wind power generation plants and facilities for operating their spinning mill units. Around 1.95 Lakh persons are directly and indirectly employed by the said members of the Association for construction, operation and maintenance of the said spinning mills and captive power generating plants. The members of the Association purchased and installed equipment and machinery at a cost of Rs.475 Crores (approx.) and have also made further financial commitments for more than Rs.700 Crores in relation thereto. Members of the Association have also borrowed a sum of Rs.340 Crores (approx.) from banks and financial institutions and invested substantial portion of that sum to set up, operate and maintain the captive power plants.

Having coaxed the members of the Association to set up and establish captive power plants in pursuance of the incentives / benefits promised under the aforesaid policies, the APERC has now issued Public Notice dated 17.02.2020 in O.P.No.3 of 2020 proposing to amend Para 17.1 of the 2005 Regulations by withdrawing all the said incentives / benefits conferred on the members of the Association, in a retroactive manner. Copy of the said public notice is filed herewith marked as **Annexure-2**. If the proposed amendment is given effect to, the members of the Association who acted upon the aforesaid promises would suffer huge financial loss. Details relating thereto are set out infra.

Needless to mention that the representations and promises made by the State Government and APERC to provide incentives / benefits to the members of the Association for establishing and operating captive power plants conferred vested rights on the said members to avail the said incentives / benefits for the prescribed time period. The members of the Association acted on the said promises and representations and invested huge amounts of money on the legitimate expectation that the said incentives / benefits could be availed by them for the prescribed time period. At this juncture, the APDISCOMs and the APERC are estopped from resiling from the said promises/representations and withdraw the incentives/benefits before expiry of the prescribed time period. In addition, there is no



overriding public interest that necessitated amendment of Para 17.1 of the 2005 Regulations with retroactive effect. Suffice it to state that the proposed amendments are arbitrary, unreasonable, violative of the principles of natural justice, without any authority / jurisdiction, violative of the principles of legitimate expectation and promissory estoppel, and contrary to the provisions of Electricity Act, 2003, hereinafter referred to as the Electricity Act.

Apart from the above, it is seen from the 'Introduction' of the said Draft Regulation that APERC proposes to amend Para 17.1 in pursuance of GO Ms.No.35, Energy (Power.II) Department, dated 18.11.2019, issued by the Government of Andhra Pradesh and the representations submitted by APEPDCL and APSPDCL. Apart from stating that GO Ms.No.35 dated 18.11.2019 has been issued by the Government of Andhra Pradesh and that representations have been submitted by APEPDCL and APSPDCL regarding the unviability of promoting renewable energy in the present scenario, no reasons for the said unviability have been set forth in the Draft Regulation for proposing amendments to Para 17.1. As already stated supra, the proposed amendments have adverse impact on the business operations as well as the finances of some of the members of the Association, who have set up units on basis of Para 17.1 of the 2005 Regulations, as amended in 2016.

Under the circumstances, the Association requested APERC, APEPDCL and APSPDCL to furnish various clarifications/documents in order to enable the Association to submit its detailed objections/ comments/ suggestions to the Draft Regulation, including a copy of the said statutory audit report and copies of all the documents/records/statistics relied on by the State Government for issuing GO Ms.No.35, Energy (Power.II) Department, dated 18.11.2019, and copies of representations submitted by APEPDCL and APSPDCL to APERC along with copies of all the documents/records/statistics relied on therein. Copies of the said letters along with postal receipts are collectively filed herewith marked as **Annexure-3**. The said information was also sought by the Association under the Right to Information Act, 2005. Copies of the said applications along



with postal receipts are filed herewith collectively marked as **Annexure-4**. The Association has not received any response to the said letters / applications from APERC and APEPDCL till date. APSPDCL issued Acknowledgement dated 06.03.2020 stating that the RTI Application submitted by the Association is transmitted to the concerned authorities. Copy of the said acknowledgement is filed herewith marked as **Annexure-5**. Further, none of the information solicited by the Association in order to submit detailed objections / comments / suggestions to the Draft Regulation has been furnished to the Association. Under the circumstances, the Association is not in a position to submit detailed objections to the Draft Regulation. On basis of the information available, the Association is constrained to submit the following objections / comments / suggestions to the Draft Regulation. The Association reserves its right to file additional objections / comments / suggestions after receipt of the information solicited under the aforesaid letters / applications.

Notwithstanding the same and without prejudice to the above, the Association is submitting the following preliminary objections / comments / suggestions to the Draft Regulations. Before adverting to the said objections, it is necessary to summarize some of the policies relating to wind energy relevant to the Draft Regulation. The said policies would make it abundantly clear that the State Government and the APERC have constantly and consistently encouraged and assured the members of the Association to set up and operate captive wind generating plants in view of the incentives / benefits conferred.

The Government of India has set ambitious energy growth targets: to deliver electricity to all Indian citizens by 2020 and to deploy 175 GW of renewable energy (41% of total power generation capacity) by 2021-22, which includes 100 GW of solar and 60 GW of wind energy. India formulated various policy measures to promote the development of renewable energy sources including fiscal incentives like capital subsidy, accelerated depreciation benefits, and tax exemption in some cases. Section 86 (1)(e) of the Electricity Act mandates the State Electricity Regulatory Commissions (SERCs) to promote cogeneration and generation of electricity



from renewable sources by providing suitable measures for grid connectivity and sale of electricity to any entity. Accordingly, all SERCs are required to procure a certain percentage of the total electricity by way of renewable energy. This is known as the renewable purchase obligation (RPO) of the SERCs. As per the Electricity Act, the obligated entities include distribution licensees, open access customers (those who purchase power from someone other than a distribution licensee), and captive customers (those who are self-generating). Apart from the same, the National Electricity Policy, stipulates several conditions for promotion of RE, and the Tariff Policy, elaborates on the role of SERCs.

APERC in exercise of the powers conferred by sections 181(1) read with Sections 42(2), 42(4), 39(2)(d)(ii) and 40(c)(ii) of the Electricity Act framed the 2005 Regulations. Copy of the 2005 Regulations is filed herewith marked as **Annexure-6**. It is clear from the 'Introduction' of the 2005 Regulations that the 2005 Regulations have been framed considering relevant factors including operational constraints and after seeking comments/suggestions from interested persons. Para 17.1 of the 2005 Regulations is extracted hereunder:

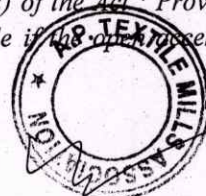
"17. Open Access charges 17.1

The charges for the use of the transmission and / or distribution system by an open access user shall be regulated as under:

- (i) *Open Access users connected to the transmission/distribution system shall pay the transmission charges and / or wheeling charges and any other applicable charges as determined by the Commission from time to time, and notified in the relevant Tariff Order or otherwise, and as per the conditions stipulated therein:*

Provided that the wheeling charges so payable shall be subject to a minimum level, as fixed by the Commission in the relevant Tariff Order or otherwise.

- (ii) *In case of utilization of inter-state transmission system in addition to the intra-state transmission system and/or distribution system by an open access user, the transmission charges and / or wheeling charges shall be payable for the use of intra- state system in addition to the charges for utilization of the inter-state transmission system.*
- (iii) *The Open access users of the Transmission and / or Distribution System where such open access is for delivery of electricity to the consumer's premises in the area of supply of a distribution licensee, shall pay to the distribution licensee the (cross- subsidy) surcharge as determined by the Commission from time to time under Section 42 (2) of the Act : Provided that no (cross-subsidy) surcharge shall be payable if the open access is*



provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.

- (iv) *The Open Access user shall also be liable to pay additional surcharge on charges of wheeling as may be specified by the Commission from time to time under section 42(4) of the Act, in case open access is sought for receiving supply from a person other than the distribution licensee of such consumer's area of supply, to meet the fixed cost of the distribution licensee arising out of his obligation to supply.*
- (v) *Where an electrical plant or electrical line is to be constructed by the Licensee in order to extend power supply to an open access user, the Licensee may recover such expenditure as per the Andhra Pradesh Electricity Regulatory Commission (Licensee's Duty for Supply of Electricity on Request) Regulation, 2004(Regulation No.3 of 2004)*
- (vi) *If network augmentation is required for providing access to an applicant, the Licensee shall carry out such augmentation only if (a) the Licensee can recover within a reasonable time the costs, the capital investment and a reasonable rate of return on the capital investment in respect of the augmentation, and (b) the Licensee has the ability to raise funds to finance such capital expenditure: Provided that the Licensee may require the open access user to make a capital contribution towards such network augmentation.*
- (vii) *Scheduling and system operation charges shall be payable by all open access users under scheduling by SLDC. Such charges shall be governed by the relevant Regulations issued by the Commission."*

As per Para 17.1 of the 2005 Regulations, an open access user is liable to pay:

- a) Wheeling Charges and/or Transmission Charges and any applicable charges determined by APERC
- b) Cross Subsidy Surcharge except for captive generating plants
- c) Additional Surcharge on Charges of Wheeling
- d) Expenditure incurred for constructing electrical plant or electrical line, as applicable
- e) Costs and other amounts relating to network augmentation, as applicable
- f) Scheduling and System Operation Charges

In order to promote Wind Power Projects, the State Government issued **G.O.Ms.No.48, Energy (RES) Department, dated 11.04.2008**, hereinafter referred to as G.O.Ms.No.48. Paragraph 12.3 of G.O.Ms.No.48 provides that eligible developers may be given concessional wheeling and transmission charges and that concessional wheeling and transmission charges for captive views may be in kind at 5% of the energy delivered to



the grid which includes transmission and distribution losses. A copy of G.O.Ms.No.48 is filed herewith marked as **Annexure-7**.

During the years 2013 to 2015, there was severe shortage of power and the spinning mill units run by members of the Association were subjected to frequent power cuts. In order to survive the members of the Association were constrained to consider setting up captive power plants, to meet the energy requirements of their spinning mill units. In order to promote Wind Power Projects, the State Government issued **G.O.Ms. No. 9, Energy, Infrastructure & Investment (Pr.II) Department, dated 13.02.2015**, hereinafter referred to GO Ms.No.9, formulating **Andhra Pradesh Wind Power Policy, 2015**. It is stated in GO Ms.No.9 that the same has been issued after detailed discussions with Wind Power Developers, Associations and other interested persons, and that the State Government is keen to promote wind power generation in a big way. Objectives of GO Ms.No.9 are set out hereunder:

- a) To encourage, develop and promote wind power generation in the State with a view to meet the growing demand for power in an environmentally and economically sustainable manner.
- b) To attract private investment to the State for the establishment of large wind power projects.
- c) To promote investments for setting up manufacturing facilities in the State, which can generate gainful local employment.

Para 1 of GO Ms.No.9 stipulates that wind power projects that are commissioned during the operative period shall be eligible for the incentives declared under the said policy, for a period of ten years from the date of commissioning, unless the period is specifically varied for any incentive. Para 8 of GO Ms.No.9 confers certain incentives to developers to set up wind power projects in relation to Power Evacuation, Transmission and Distribution charges for wheeling of power, Energy Banking, etc. It is clearly stipulated in G.O.Ms.No.9 that supervision charges towards evacuation infrastructure, and transmission and distribution charges for wheeling will not be collected from Wind power projects. Though Para 14 of G.O.Ms.No.9 states that the State Government may undertake mid-term



review of the said policy after a period of two years or as and when need arises in view of any technological breakthrough, the Association understands and believes the same to be true that no such review took place until issuance of the Andhra Pradesh Wind Power Policy, 2018. A copy of G.O.Ms.No.9 is filed herewith marked as **Annexure-8**.

Thereafter, the APERC issued and notified the **Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions of Open Access) (First Amendment) Regulation, 2016** after considering the requests and views of wind energy developers and interested persons. It is stated in the said Regulation that the State Government formulated policies for promoting and encouraging captive wind power generating plants. By the said Regulation, APERC amended Para 17.1 of the 2005 Regulations. Relevant portion of the said Regulation is extracted hereunder:

“Para 17.1 of Principal Regulation

- a) The following proviso shall be added as second proviso to Para 17.1(i)
“Provided further that the Transmission and Wheeling charges shall be exempted for wheeling of power generated from such Solar and Wind Power Projects and for such operative periods as mentioned in G.O.Ms.No.8, Dated 12-02-2015 and G.O.Ms.No.9, Dated 13-02-2015 respectively for only captive use / third party sale within the State.”
- b) The following proviso shall be added as third proviso after the above proviso to Para 17.1 (i)
“Provided also that the Distribution losses shall be exempted for such Solar Power Projects and for such operative period as mentioned in G.O.Ms.No.8, Dated 12-02- 2015 injecting at 33 kV or below irrespective of voltage-level of the delivery point within the Discom for such projects.”
- c) The following proviso shall be added as the second proviso to Para 17.1 (iii)
“Provided further that the Cross Subsidy Surcharge and additional surcharge shall be exempted for third party sale if the source of power is from such Solar Power Projects set up within the State as mentioned in G.O.Ms.No.8, Dated 12-02-2015 for a period of five (5) years from the date of commissioning of such projects.””

By the aforesaid Regulation, Para 17.1 conferred various incentives / benefits to captive wind power generating plants and exempted them paying transmission and distribution charges, etc. By way of the said Regulation, APERC in furtherance of the aforesaid policies of the State Government, amended Para 17.1 in a manner so as to encourage the members of the



Association to invest huge amounts to set up and operate captive power generating plants by borrowing funds from Banks and financial institutions. It is pertinent to point out that the Banks extended credit facilities to the members of the Association solely on basis of the aforesaid benefits /incentives. A copy of the said Regulation is filed herewith marked as **Annexure-9**.

The **National Tariff Policy, 2016** was formulated and notified in pursuance of the National Electricity Policy focusing on renewable energy and sourcing of power through competitive bidding. As per Para 4 of the Tariff Policy, 2016, one of the objectives of the said Policy is to promote generation of electricity from Renewable sources. Proviso to Para 5.2 of the Policy stipulates that the State Government can notify a policy to encourage investment in the State by allowing setting up of generating plants, including from renewable energy sources. As per Para 6.4 of the Policy, SERCs are obligated to fix a minimum percentage of the total consumption of electricity in the area of a distribution licensee for purchase of energy from renewable energy sources, taking into account availability of such resources and its impact on retail tariffs. Para 6.3 of the Policy provides that harnessing captive generation is an important means to making competitive power available, that SERCs should create an enabling environment that encourages captive power plants to be connected to the grid, and that Wheeling charges and other terms and conditions for implementation should be determined in advance by the respective State Commission, duly ensuring that the charges are reasonable and fair. A copy of the Tariff Policy, 2016 is filed herewith marked as **Annexure-10**.

The Government of India formulated **National Wind-Solar Hybrid Policy, 2016**. Para 8 of the said Policy stipulates that the Government will encourage development of wind-solar hybrid systems and all fiscal and financial incentives available to wind and solar power plants will also be made available to hybrid projects. A copy of the said Policy is filed herewith marked as **Annexure-11**.



The State Government issued **G.O.Ms.No.3, Energy, Infrastructure & Investment (PR.II) Department, dated 03.01.2019** stating that it is keen to harness the huge solar and wind potential of the State, that several initiatives such as investor friendly solar and wind power policies, green corridor investment for power evacuation and power procurement through PPA's with APDISCOMs have been undertaken to promote Renewable Energy (RE) capacity addition, that the State Government set a target to achieve 18,000 MW of renewable energy capacity by the year 2021-22, which is 10 % of the national target, and that the State Government is also keen to encourage wind solar hybrid projects inline with National Wind Solar Hybrid Power Policy notified by the MNRE, Government of India. Various incentives were provided to wind-solar hybrid systems including exemption from payment of transmission and distribution charges, etc. A copy of G.O.Ms.No.3 is filed herewith marked as **Annexure-12**.

Thereafter, the State Government issued **G.O.Ms.No. 2, Energy, Infrastructure & Investment (Pr.II) Department, dated 03.01.2019**, formulating the **Andhra Pradesh Wind Power Policy-2018**, with the same representations /covenants / promises, to further attract investments from the members of the Associations to set up and establish captive wind power generation plants. It is stated in GO Ms.No.2 that the same has been issued after detailed discussions with Wind Power Developers, Associations and other interested persons, and that the State Government is keen to promote wind power generation in a big way. The State Government has constantly assured and encouraged the members of the Association to set up captive power generating plants by extending various incentives /benefits. Though Para 14 of G.O.Ms.No.2 states that the State Government may undertake mid-term review of the said policy after a period of two years or as and when need arises in view of any technological breakthrough, the Association and other interested stakeholders had no notice of any such review undertaken by the State Government and understand and believe the same to be true that no such review was conducted. A copy of G.O.Ms.No.2 is filed herewith marked as **Annexure-13**.

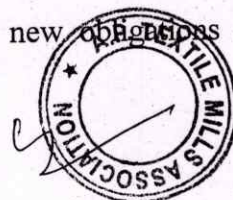


Thereafter, the State Government issued **G.O.Ms.No.35, Energy (Power.II) Department, dated 18.11.2019**, hereinafter referred to as G.O.Ms.No.35, withdrawing the aforesaid incentives / benefits extended under the Andhra Pradesh Solar and Wind Power Policies. A copy of G.O.Ms.No.35 is filed herewith marked as **Annexure-14**. G.O.Ms.No.35 is arbitrary, void, without jurisdiction, violative of the principles of natural justice and violative of the principles of legitimate expectations and promissory estoppel. The said aspect is substantiated infra.

In light of the above, the Association is submitting the following preliminary objections / comments / suggestions to the Draft Regulations:

- a) The Draft Regulation impairs vested rights accrued in favour of the members of the Association retroactively and is violative of the principles of legitimate expectation and promissory estoppel. As is evident from the above, both the State Government and the APERC have formulated policies / regulations attracting members of the Association to set up and operate captive wind generating plants on basis of the incentives / benefits extended. The covenants / promises / representations contained in the aforesaid policies / regulations conferred vested rights on the members of the Association to avail the said incentives / benefits for the prescribed time period. The members of the Association having acted on the said promises and representations by investing huge amounts of money legitimately expected that the same would not be withdrawn during the prescribed time period. At this juncture, the APDISCOMs and the APERC are precluded from giving effect to the proposed amendment on basis of the doctrine of promissory estoppel evolved on the principles of equity to avoid injustice. It may be noted here that the incentives/benefits conferred on the members of the Association are not a mere privilege or expectation, but are accrued and vested rights, having the sanction of law.

The proposed amendment not only impairs vested rights acquired under existing laws but also creates new obligations and



imposes new financial burden and obligation on the members of the Association in respect of past transactions/considerations already past. As such, the proposed amendments by necessary implication have the effect of retroactive operation of taking away or impairing vested rights of the members of the Association. The proposed amendment has 'retroactive' effect inasmuch as the members of the Association who established and set up captive wind generating plants in pursuance of the incentives/benefits under Para 17.1 of the 2005 Regulations will now not be entitled to avail the said incentives/benefits. Retroactive intention cannot be attributed to the proposed amendment inasmuch as it prejudicially affects vested rights and past transactions.

Whatever alleged circumstances prompted the authorities to bring about the proposed amendments, the same could not be made applicable with retroactive effect so as to prejudice the members of the Association and deprive them of the benefit which had accrued to them under the Para 17.1 of the 2005 Regulations, as amended in 2016. Without the definite promise of the State Government and the APERC to grant various incentives / benefits to captive wind generating plants, the members of the Association would not have acted on the said promise to make huge investments to set up and operate the said plants. When the aforesaid incentives / benefits are granted for a period of 10 years from the date of commission of the captive wind generating plants, the members of the Association become entitled to do their business and avail the said incentives / benefits during that period. Such a right is not merely a procedural right, but a substantive right.

In view of the above factual matrix, both the State Government and the APERC are bound to continue the incentives/benefits guaranteed and provided by them to captive plants established by the members of the Association, as discussed above. The members of the Association have a legitimate right to expect that these incentives/benefits will be continued in the same manner.



out, the legitimacy of the expectation of the members of the Association is founded on the sanction of law and the conduct of the State Government and the APERC followed in regular and natural sequence. In addition, the proposed amendment is also arbitrary, discriminatory, unfair, and amounts to gross abuse of power.

As the incentives/benefits conferred under Para 17.1 of the 2005 Regulations are clear, unequivocal and unambiguous, the State Government and the APERC, in all fairness should not infringe the existing rights of the members of the Association who acted on basis of the said Regulation to set up captive plants, and apply the proposed amendment retroactively. There is no overriding public interest that necessitated amendment of Para 17.1 of the 2005 Regulations with retroactive effect. Mere alleged financial burden cast on APDISCOMs to facilitate the aforesaid incentives cannot be the only factor to necessitate amendment of Para 17.1 of the 2005 Regulations so as affect the vested rights, interest and business of the members of the Association. Needless to mention that encouraging captive solar and wind power generating units by extending the aforesaid incentives / benefits is imperative for the transmission and distribution companies to meet their renewable purchase obligations.

Further, as already stated, the Association is still awaiting receipt of all the relevant documents / records from the APDISCOMs as well as APERC relating to the Draft Regulation and as such it reserves its right to file additional Objections after receipt of the said information.

- b) G.O.Ms.No.35 relied on by the APERC to issue the Draft Regulation is void without jurisdiction, violative of the principles of natural justice and violative of the principles of legitimate expectation and promissory estoppel: As already pointed out, it is evident from the 'Introduction' of the said Draft Regulation that APERC proposes to amend Para 17.1 in pursuance of GO Ms.No.35, and the representations submitted by APEPDCL and APSPDCL. It is



pertinent to point out here that G.O.Ms.No.35 has been issued to amend the provisions of the Andhra Pradesh Solar Power Policy, 2018, the Andhra Pradesh Wind Power Policy, 2018, and the Andhra Pradesh Wind Solar Hybrid Power Policy, 2018 and withdraw the incentives / benefits granted to captive power generating plants thereunder. At the very outset, while the aforesaid policies formulated under G.O.Ms.Nos.1, 2 and 3 dated 03.01.2019 indicate that the same have been formulated after detailed discussions with stakeholders and interested persons, G.O.Ms.No.35 indicates that the State Government decided to withdraw the said incentives / benefits solely on basis of an alleged statutory audit conducted in relation to the financial position of APDISCOMs, without affording an opportunity of hearing to any of the stakeholders / interested persons. Needless to state that the same is violative of the principles of natural justice. It may be noted here that as already stated, the Association requested the APERC as well as APEPDCL and APSPDCL to furnish a copy of the alleged statutory audit report along with all the relevant documents. Without the said documents, the Association is not in a position to submit detailed objections in relation to G.O.Ms.No.35. The Association reserves its right to submit additional objections / comments / suggestions after receipt of the required information.

Notwithstanding the same, G.O.Ms.No.35 is without jurisdiction, arbitrary and void. Section 42 of the Electricity Act is extracted hereunder:

"Section 42 (Duties of distribution licensee and open access):

(1) It shall be the duty of a distribution licensee to develop and maintain an efficient, co-ordinated and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in this Act.

(2) The State Commission shall introduce open access in such phases and subject to such conditions, (including the cross subsidies, and other operational constraints) as may be specified within one year of the appointed date by it and in specifying the extent of open access in successive phases and in determining the charges for wheeling, it shall have due regard to all relevant factors including such cross subsidies, and other operational constraints:



Provided that [such open access shall be allowed on payment of a surcharge]¹ in addition to the charges for wheeling as may be determined by the State Commission:

Provided further that such surcharge shall be utilised to meet the requirements of current level of cross subsidy within the area of supply of the distribution licensee:

*Provided also that such surcharge and cross subsidies shall be progressively reduced [***]² in the manner as may be specified by the State Commission:*

Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use:

[Provided also that the State Commission shall, not later than five years from the date of commencement of the Electricity (Amendment) Act, 2003, by regulations, provide such open access to all consumers who require a supply of electricity where the maximum power to be made available at any time exceeds one megawatt.]³

(3) Where any person, whose premises are situated within the area of supply of a distribution licensee, (not being a local authority engaged in the business of distribution of electricity before the appointed date) requires a supply of electricity from a generating company or any licensee other than such distribution licensee, such person may, by notice, require the distribution licensee for wheeling such electricity in accordance with regulations made by the State Commission and the duties of the distribution licensee with respect to such supply shall be of a common carrier providing non-discriminatory open access.

(4) Where the State Commission permits a consumer or class of consumers to receive supply of electricity from a person other than the distribution licensee of his area of supply, such consumer shall be liable to pay an additional surcharge on the charges of wheeling, as may be specified by the State Commission, to meet the fixed cost of such distribution licensee arising out of his obligation to supply.

(5) Every distribution licensee shall, within six months from the appointed date or date of grant of licence, whichever is earlier, establish a forum for redressal of grievances of the consumers in accordance with the guidelines as may be specified by the State Commission.

(6) Any consumer, who is aggrieved by non-redressal of his grievances under sub-section (5), may make a representation for the redressal of his grievance to an authority to be known as Ombudsman to be appointed or designated by the State Commission.

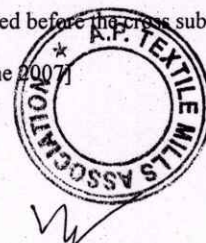
(7) The Ombudsman shall settle the grievance of the consumer within such time and in such manner as may be specified by the State Commission.

(8) The provisions of sub-sections (5), (6) and (7) shall be without prejudice to right which the consumer may have apart from the rights conferred upon him by those sub-sections."

¹ Subs. by Act 26 of 2007, Sec.7 for the words "such open access may be allowed before the cross subsidies are eliminated on payment of a surcharge" [w.e.f. 15th June 2007]

² The words "and eliminated" omitted by Act 26 of 2007, Sec.7 [w.e.f. 15th June 2007]

³ Ins. by Act 57 of 2003, Sec.3 [w.e.f. 27th January, 2004]



As per Section 42, APERC shall introduce open access subject to such conditions including the cross subsidies, and other operational constraints. Further, APERC in determining the charges for wheeling shall have due regard to all relevant factors including such cross subsidies and other operational constraints. It is further provided in Section 42 that open access shall be allowed on payment of a surcharge in addition to the charges for wheeling as may be determined by the APERC, except in case open access is provided to a person who has established a captive generating plant.

The APERC issued Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions of Open Access) (First Amendment) Regulation, 2016, by exercising powers under Section 181(1) read with Sections 39 (2) (d) (ii), 40 (c) (ii), 42 (2), 42 (3), 42 (4) and 86 (1) (e) of the Electricity Act. By the said Regulation, the APERC amended Para 17.1 of the 2005 Regulations exempting transmission in wheeling charges for captive solar and wind power generating projects. The amendments carried out by the APERC conferring incentives / benefits to captive power generating plants in exercise of the aforesaid powers for a period of 10 years from the date of commission of the said projects cannot be unilaterally withdrawn or tinkered by the State Government under G.O.Ms.No.35. The same is without jurisdiction and consequently void. It may be noted here that Sections 180 of the Electricity Act deals with the powers of the State Government to make rules. Unlike Section 181(2), Section 180(2) does not confer any power on the State Government to make rules in relation to the stipulations relating to transmission and wheeling charges under Section 42.

In addition, as already stated supra, G.O.Ms.No.35 unilaterally resiles from the express promises/covenants/representations made by the State Government and the APERC to promote captive wind generating plants by providing them various incentives/benefits for the prescribed time period. The same is violative of the principles of legitimate expectation and promissory estoppel. Details relating



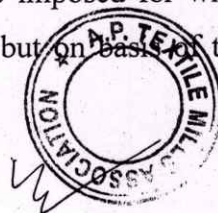
thereto have already been elaborated supra and the same are not repeated hereunder for the sake of brevity.

In view of the above, the APERC would not be pleased to rely on G.O.Ms.No.35 for the purposes of considering the proposed amendments to Para 17.1 of the 2005 Regulations.

- c) The Draft Regulation not only withdraws the fiscal incentives conferred on the members of the Association but also imposes additional financial burdens/obligations on them. As already stated, the members of the Association setup and established captive wind generating plants solely on basis of the aforesaid promises / representations of the State Government and APERC to extend incentives / benefits to them. If the Draft Regulation is given effect to, the financial burden on the members of the Association would be tremendous. The same would eventually disrupt the business operations of the members of the Association and would even incapacitate them to clear and repay their respective financial loans in a timely manner. To illustrate, transmission and wheeling charges that would be payable by any member of the Association in relation to 2.1 MW wind generator setup by it at 33 KV Level is as under:

Financial year	Wheeling charges (Rs)	Transmission charges (Rs)	Total cost per KW /Month (Rs)	Total charges per 2.1 MW(Rs) payable	Expected generation	Cost per unit (Rs)
2019-2020	61.61	119.28	180.89	45,20,000	40,00,000	1.13
2020-2021	64.11	138.88	202.99	50,80,000	40,00,000	1.27
2021-2022	69.34	154.54	223.88	56,40,000	40,00,000	1.41
2022-2023	75.44	173.79	249.23	62,80,000	40,00,000	1.57
2023-2024	79.48	188.38	267.86	67,20,000	40,00,000	1.68

It may be noted here that transmission and wheeling charges are imposed on the basis of installed capacity for a conventional power plant in which Plant Load Factor (PLF) is 70-80%, whereas PLF for solar and wind power plants is only 20-25%. Under the circumstances, transmission and wheeling charges should not be imposed for wind power plants on basis of their installed capacity but on basis of the



actual energy produced. Further, wind generation is variable from season to season. Peak time for generation of Wind energy is June, July and August. It is medium during the months of September, October, November and December and lean during the months of January, February, March, April and May.

If the Draft Regulation is given effect to, a member of the Association who is running a captive 2.1 MW wind generator plant, will suffer financial burden of Rs.57 Lakhs per annum (approx.) towards wheeling and transmission charges, Rs.21 Lakhs per annum (approx.) towards Banking and Rs.30 Lakhs (approx.) per annum towards maintenance charges and auxiliary consumption charges.

RE generation is variable and unpredictable even after use of modern technology forecasting tools. In such a scenario, the aforesaid incentives / benefits granted under Para 17.1 of the 2005 Regulations, as amended in 2016 sustain the projects and make them financially viable. If the said incentives / benefits are withdrawn, banks would also not extend any credit facilities to the members of the Association. As such, if the Draft Regulation is give an effect to, the same would invariably lead to financial ruination of some of the members of the Association, eventually leading to their declaration as NPAs.

To illustrate and substantiate the above, details of some of the members of the Association are set out hereunder:

- a) Sri Dhanalakshmi Cotton and Rice Mill Private Limited, Ganapavaram is a member of the Association and was incorporated under the provisions of the Companies Act, 1956. The said Company is engaged in the business of textiles for the last 40 years. The spinning mill unit of the said Company is set up at Ganapavaram. On basis of the definite promises of the State Government and APERC, the said Company set up 3 captive 2.1 MW wind generating plants at 220 KV Level at Vajrakaroor. Needless to mention that the said plant was set up in pursuance of the aforesaid policies / regulations, as discussed above. PLF of the said plant is 23%. By virtue of Para 17.1



of the 2005 Regulations, as amended in 2016, the said member of the Association is saving Rs.11,39,607 per month towards transmission and wheeling charges, and Rs.3,00,000 per month towards Banking. It is pertinent to point out that the said expenditure saved by the Company is utilized to repay loans and other financial commitments. If the Draft Regulation is given effect to, the financial burden created on the said Company would be around Rs.14.39 Lakhs per month. The same would disrupt the business in financial operations of the said Company. The said Company has also borrowed Rs.30 Crores from banks and financial institutions for the purpose of setting up the captive plant and business operations. The said Company would not be in a position to repay the loans periodically if the Draft Regulation is given effect to. Documents evidencing the same are filed herewith collectively marked as **Annexure-15**.

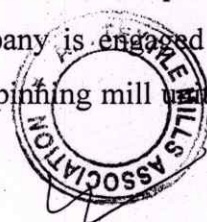
- b) Kalpataru Spinning Mills Private Limited is a member of the Association and was incorporated under the provisions of the Companies Act, 1956. The said Company is engaged in the business of textiles for the last 14 years. The spinning mill unit of the said Company is set up at Timmapuram. On basis of the definite promises of the State Government and APERC, the said Company set up a captive 2.1 MW wind generating plant at 220 KV Level at Vajrakaroor. Needless to mention that the said plant was set up in pursuance of the aforesaid policies / regulations, as discussed above. PLF of the said plant is 23%. By virtue of Para 17.1 of the 2005 Regulations, as amended in 2016, the said member of the Association is saving Rs.3,79,869 per month towards transmission and wheeling charges and Rs.1,00,000 per month towards banking. It is pertinent to point out that the said expenditure saved by the Company is utilized to repay loans and other financial commitments. If the Draft Regulation is given effect to, the financial burden created on the said Company would be around 4.80 Lakhs per month. The same would disrupt the business in financial operations of the said Company. The said Company has also borrowed Rs.12 Crores from banks and financial



institutions for the purpose of setting up the captive plant and business operations. The said Company would not be in a position to repay the loans periodically if the Draft Regulation is given effect to. Documents evidencing the same are filed herewith collectively marked as **Annexure-16**.

- c) Idupulapadu Cotton Mills is a member of the Association and was incorporated under the provisions of the Companies Act, 1956. The said Company is engaged in the business of textiles for the last 25 years. The spinning mill unit of the said Company is set up at Ganapavaram. On basis of the definite promises of the State Government and APERC, the said Company set up a captive 4 MW wind generating plant at 33 KV Level at Bhogasamudram. Needless to mention that the said plant was set up in pursuance of the aforesaid policies / regulations, as discussed above. PLF of the said plant is 25%. By virtue of Para 17.1 of the 2005 Regulations, as amended in 2016, the said member of the Association is saving Rs.2,50,000 per month towards transmission and wheeling charges and Rs.2,00,000 per month towards banking. It is pertinent to point out that the said expenditure saved by the Company is utilized to repay loans and other financial commitments. If the Draft Regulation is given effect to, the financial burden created on the said Company would be around Rs.4.5 Lakhs per month. The same would disrupt the business in financial operations of the said Company. The said Company has also borrowed Rs.28 Crores from banks and financial institutions for the purpose of setting up the captive plant and business operations. The said Company would not be in a position to repay the loans periodically if the Draft Regulation is given effect to. Documents evidencing the same are filed herewith collectively marked as **Annexure-17**.

- d) Sri Nukala Rama Koteswara Rao Textiles Private Limited is a member of the Association and was incorporated under the provisions of the Companies Act, 1956. The said Company is engaged in the business of textiles for the last 25 years. The spinning mill unit of the



said Company is set up at Molagavalli. On basis of the definite promises of the State Government and APERC, the said Company set up a captive 2 MW wind generating plant at 220 KV Level at Molagavalli. Needless to mention that the said plant was set up in pursuance of the aforesaid policies / regulations, as discussed above. PLF of the said plant is 25%. By virtue of Para 17.1 of the 2005 Regulations, as amended in 2016, the said member of the Association is saving Rs.1,25,000 per month towards transmission and wheeling charges, Rs.1,00,000 per month towards banking. It is pertinent to point out that the said expenditure saved by the Company is utilized to repay loans and other financial commitments. If the Draft Regulation is given effect to, the financial burden created on the said Company would be around Rs.2.25 Lakhs per month. The same would disrupt the business in financial operations of the said Company. The said Company has also borrowed Rs.12.3 Crores from banks and financial institutions for the purpose of setting up the captive plant and business operations. The said Company would not be in a position to repay the loans periodically if the Draft Regulation is given effect to. Documents evidencing the same are filed herewith collectively marked as **Annexure-18**.

- e) Guntur Spinning Mills Limited is a member of the Association and was incorporated under the provisions of the Companies Act, 1956. The said Company is engaged in the business of textiles for the last 16 years. The spinning mill unit of the said Company is set up at Guntur. On basis of the definite promises of the State Government and APERC, the said Company set up a captive 2 MW wind generating plant at 220 KV Level at Guntur. Needless to mention that the said plant was set up in pursuance of the aforesaid policies / regulations, as discussed above. PLF of the said plant is 25%. By virtue of Para 17.1 of the 2005 Regulations, as amended in 2016, the said member of the Association is saving Rs.1,25,000 per month towards transmission and wheeling charges, and Rs.1,00,000 per month towards banking. It is pertinent to point out that the said expenditure saved by the



Company is utilized to repay loans and other financial commitments. If the Draft Regulation is given effect to, the financial burden created on the said Company would be around Rs.2.25 Lakhs per month. The same would disrupt the business in financial operations of the said Company. The said Company has also borrowed Rs.9.2 Crores from banks and financial institutions for the purpose of setting up the captive plant and business operations. The said Company would not be in a position to repay the loans periodically if the Draft Regulation is given effect to. Documents evidencing the same are filed herewith collectively marked as **Annexure-19**.

Date: 10.03.2020

Place: Hyderabad



P. KOTI RAO

P.Koti Rao, S/o. Hanumaiah, aged about 66 years, resident of Chilakalurpeta, Guntur District, who is one of the Executive Committee members of the Association, has been duly authorised by the Association to file and submit these Preliminary Objections / Suggestions on behalf of the Association before APERC.

**BEFORE THE ANDHRA PRADESH
ELECTRICITY REGULATORY
COMMISSION**

O.P.NO.3 OF 2020

**PRELIMINARY OBJECTIONS /
COMMENTS / SUGGESTIONS
TO THE DRAFT REGULATION
PROPOSED BY APERC TO
AMEND PARAGRAPH 17.1 OF
THE ANDHRA PRADESH
ELECTRICITY REGULATORY
COMMISSION (TERMS AND
CONDITIONS OF OPEN
ACCESS) REGULATION, 2005**

**SUBMITTED BY
THE ANDHRA PRADESH
TEXTILES MILLS ASSOCIATION**

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ANDHRA PRADESH TEXTILE MILLS ASSOCIATION (APTMA)

(INCORPORATED UNDER SEC.25 OF COMPANIES ACT, 1956)

**MEMORANDUM
AND
ARTICLES OF ASSOCIATION**

INCORPORATED UNDER THE COMPANIES ACT, 1956 (SEC.25)

MEMORANDUM OF ASSOCIATIONS OF
ANDHRA PRADESH TEXTILE MILLS ASSOCIATION

01. The name of the Company is "Andhra Pradesh Textile Mills Association". Here in after called as "APTMA"

02. The Registered Office of the Company will be situated in the State of Andhra Pradesh.

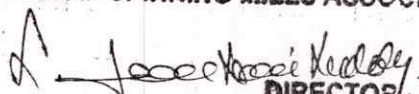
03. A) THE OBJECTS FOR WHICH THE COMPANY IS INCORPORATED ARE :

- a) To safeguard the interest, rights and privileges of the Textile Mills in the manufacturing of yarn (Spinning mills) and value added Textile activities such as Weaving units, Knitting units, Preparatory units, Processing units, Technical Textiles and Garments/Apparels in the state of Andhra Pradesh here in after referred to as Textile Mills Industry in particular and related trade & commerce in general.
- b) To encourage unity and friendly relations amongst Textile Mills industry and bring unanimity on all subjects affecting the common good of the Textiles industry.
- c) To undertake and carry on scientific research in the field of cotton cultivation, Processing, Spinning Weaving, Knitting, Preparatory, Technical Textiles and Garments/Apparels and other related activities, development of new products and processes with the aim of making available to the society high quality cotton products at competitive rates and improve the profitability of the mills and to make the products internationally competitive.
- d) To undertake, assist and encourage agricultural, Industrial, Technological and economic research for the benefit of Textile Mills Industry.
- e) To advance, encourage and promote technical education and also to establish and maintain such institutions for instructing and training persons connected with manufacture, trade and commerce particularly in relation to Textiles Mills Industry
- f) To encourage, promote, develop, support and maintain exports of products of Textile mills industry by collecting and providing information on international market.

3. B) OBJECTS INCIDENTAL TO THE ATTAINING OF MAIN OBJECTS:

- a) To canvass, advertise for the cause of Textile Mills Industry through various media and to collect classify compile and circulate statistics and other information connected with or useful to Textile Mills Industry or any of its constituents.
- b) To promote, support, oppose or seek modifications in prospective legislation, acts and orders, regulation, Rules and notifications of the Government and other authorities and their other measures affecting the Textile Mills Industry.

For AP SPINNING MILLS ASSOCIATION.


DIRECTOR
DIN: 01216988

- c) To undertake special inquiries and to compile and prepare evidence for presentation thereof to Commissions, Select Committees, Government and Semi-Government or Municipal Authorities, Or other public bodies in order to secure privileges, rights, concessions, relief, benefits for or the redress of the grievances of the Textile Mills Industry
- d) To conduct, undertake the conduct of and participate in exhibitions and to set up museums or show rooms to exhibit the products of the Textile Mills Industry.
- e) To formulate, promulgate and prescribe common forms of contract and to provide Arbitration or other facilities for settlement of disputes and differences arising in the course of business and to secure, if thought necessary, the services of experts or any other person or body or institution for the purpose.
- f) To regulate the supply, distribution and or prices of or engage in the operations of acquisition, import, purchase, stocking, distribution and or sale of raw materials, stores, colors, chemicals, machinery, equipment, intermediate products and finished products or any controlled commodities pertaining to the Textile Mills Industry when considered desirable.
- g) To provide legal assistance in connection with all or any objects of the Association.
- h) To establish a fund or funds for carrying out any one or more of the objects of the Association.
- i) To invest the money of the Association or of the funds of the Association not immediately required in such manner and in such assets or properties, in accordance with the provision of Companies Act, 1956.
- j) To borrow or raise money in such manner and to such extent as the Association shall think fit and as may be permissible under the provisions of the Indian Companies Act, 1956.
- k) To undertake and execute any trust the undertaking of, which may seem desirable to the Association.
- l) To do all or any of the things hereby authorized either alone or in conjunction with any other organization/institution and generally to do all such other lawful things as may appear incidental or conducive to the attainment of the above objects.

Provided that the Company shall not support with its funds, or endeavor to impose an or to procure to be observed by its members, or others regulation or restriction which if an absent of the Company would make it a Trade Union.

OTHER OBJECTS:

04. The objects of the Association extend to the State of Andhra Pradesh.

05. a) The income and property of the Association whenever derived, shall be applied Solely for the promotion of its objects as set forth in this Memorandum

For AP SPINNING MILLS ASSOCIATION

[Signature]

DIRECTOR
DIN: 01216888

c) Except with the previous approval of the Competent Authority, no remuneration or other benefit in money or money's worth shall be given by the Association to any of its members, whether officers or servants of the Association, except out of pocket expenses, reasonable and proper interest on money lent, or reasonable and proper rent on premises let to the Association.

d) Except with the previous approval of the Competent Authority, no member shall be appointed to any Office under the Association which is remunerated by salary, fees or in any other manner not accepted by sub clause (c)

e) Nothing in this clause shall prevent the payment by the Association in good faith of reasonable remuneration to any of its Officers or Servants (not being members) or to any other person (not being a member) in return for any services actually rendered to the Association.

06. No alteration shall be made to this Memorandum of Association or to the Articles of Association of the 'Association' that are for the time being in force, unless the alteration has been previously Submitted to and approved by the Regional Director.

07. The liability of the members is limited.

08. Each member undertakes to contribute to the assets of the Association in the event of its being wound up while he is a member or within one year afterwards, for payment of the debts or liabilities of the Association contracted before he ceases to be a member and of the costs, charges and expenses of winding up and for adjustment of the contributors among themselves such amount as may be required not exceeding a sum of Rs. 1000/- (Rupees one thousand only)

09. True accounts shall be kept of all sums of money received and expended by the Association and the matters in respect of which such receipts and expenditure take place, and of the property, credits and liabilities of the Association; and subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed in accordance with the regulations of the Association for the time being in force. The accounts shall be open to the inspection of the correctness of the balance-sheet and the income and expenditure account ascertained by one or more properly qualified auditor or auditors.

10. If upon winding up or dissolution of the Association, there remains after the satisfaction of all the debts and liabilities, any property whatsoever the same shall not be distributed amongst the members of the Association but shall be given or transferred to such other Association having objects similar to the objects of this Association, to be determined by the members of the Association at or before the time of dissolution or in default thereof, by the High Court of judicature that has or may acquire jurisdiction in the matter.

A. Leece Fred Nealey

DIRECTOR

CIA-M242538

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11. We the several persons whose names, addresses, descriptions, and occupations are hereunto subscribed are desirous of being formed into a Association not for profit in pursuance of this Memorandum of Association.

Sl. No.	Names, Addresses, description and occupation of the subscriber	Signature of the subscriber	Signature of witness with address and occupation
1.	C.K. Rao Plot No. 176, Road No. 13, Jubilee Hills, Hyderabad. Managing Director Priyadarshini Spinning Mills Ltd.	Sd/-	Sd/- C. LAKSHMIPATHI Chartered Accountant A-64, Matrusri Apartments, Hyderguda, Hyderabad-500-029.
2.	S.H. Sancheti 3-6-168f4, Hyderguda, Hyderabad-500 029. Managing Director Sri Ram Spinning Mills Ltd.	Sd/-	
3.	R. K. Agarwal Plot No. 341-A, Road No. 23A, Jubilee Hills, Hyderabad. Managing Director Suryajyothi Spinning Mills Ltd.	Sd/-	
4.	G. Sunil Kumar Plot No. 160, Road No. 1, Dhanalakshmi, Society, Mahendra Hills, Secunderabad. Director Vijayalakshmi Spintex Ltd.	Sd/-	
5.	R. K. Agarwal 105, S.P. Road, Secunderabad Joint Managing Director Suryavamsi Spinning Mills Ltd.	Sd/-	
6.	M. K. Agarwal, 105, S.P. Road, Secunderabad Joint Managing Director Suryalata Spinning Mills Ltd.	Sd/-	
7.	R. Shiva Kumar Flat No. 402, 7-1-28/4, United Enclave, Ameerpet, Hyderabad. Managing Director Aditya Spinners Mills Ltd.	Sd/-	

Place: Hyderabad

Date: 19-06-2002

For AP SPINNING MILLS ASSOCIATION

[Signature]

DIRECTOR
DIN: 01216822

INCORPORATED UNDER THE COMPANIES ACT, 1956 (SEC-25)

ARTICLES OF ASSOCIATION
OF
ANDHRA PRADESH TEXTILE MILLS ASSOCIATION

INTERPRETATIONS:

01. These are the Articles of Association of the Andhra Pradesh Textile Mills Association.
02. Its registered office will be situated at, Andhra Pradesh and one or more branch offices may be opened whenever considered necessary.

03. DEFINATIONS:

In these articles, unless there is anything in the subject or context inconsistent there with:

- a) "The Act" means The Companies Act, 2013 including any statutory modifications thereof for time being in force.
- b) "Association" means the Andhra Pradesh Textiles Mills Association.
- c) "The Managing Committee" means the Committee of members elected by the members of the Association in General Meeting as per these articles to manage the Association.
- d) "Chairman" means the Chairman of the Association.
- e) "MANAGING COMMITTEE" means the Board of Directors of the company.
- f) "MANAGING COMMITTEE MEMBER" means the Director of the company.
- g) "Member" means a member of the Association.
- h) "Person" includes a firm, Association or corporation as well as an individual.
- i) "Seal" means the common seal for the time being of the Association.
- j) "Secretary" means the Secretary of the Association and includes any officer of the Association performing secretarial functions.
- k) "Month" means the calendar month.
- l) "Year" means "Financial Year" and shall have the meaning assigned thereto by section 2 (17) of the Act.
- m) "General Meeting" means an annual meeting of the members of the Association.
- n) "Extraordinary General Meeting" means an annual meeting of the members of the Association held in addition to its Annual General Meeting. The various sections quoted in these regulations will mean and to refer to the relevant Sections in the Companies Act, 2013.

For AP SPINNING MILLS ASSOCIATION

[Signature]
DIRECTOR

Save as aforesaid any words or expressions defined the Act shall, if not inconsistent with the subject or context, bear the same meaning in these articles.

04. MEMBERS:

- a) The number of members with which the Association propose to be registered is 7 (seven) but the Managing Committee may from time to time whenever the Association requires register an increase of the members.
- b) The subscribers to the memorandum and such other persons as the Managing Committee shall admit to membership shall be members of the Association.

05. MEMBERSHIP:

- a) Any person, whether an individual or a firm, Association, corporation or Textile Park represented by a single nominee to be appointed by such firm, Association or corporation.
- b) either owning or having on lease Textile unit situated in Andhra Pradesh and carrying on the Textile Activities or,
- c) Who has been granted an industrial license under the provisions of the relevant Act/Rules for setting up in Andhra Pradesh a Textile Mill/unit and who has already taken effective steps to construct such Textile mill/ unit, would be eligible for membership of the Association.
- d) An application for membership of the Association signed by the applicant expressing his desire to be a member shall be sent to the secretary.
- e) The Managing Committee in its meeting shall consider each application to determine whether the applicant is eligible in terms of requirements of Articles of Association and the decision by majority of the votes of Managing Committee members present shall be final.
- f) On the applicant being found eligible, the Managing Committee shall vote on his application and the applicant shall be deemed to be elected as member if the number of votes cast in favour of election is at least two-thirds of the total votes of members present at the Managing Committee Meeting.
- g) On such candidate being elected as member and on his paying to the Association the entrance fee, signing the form of adherence and paying the appropriate annual membership fees/contribution/ subscription, his name shall be entered on the register and from the date of such entry he shall be the member.
- h) Every person on his being elected as a member of the Association shall pay on election an entrance fee of Rs. 10000/- for Spinning mills and Value added units like Weaving units, Knitting units, Preparatory units, Processing units, Technical Textiles and Garments/Apparels or any other amount as decided by the Managing Committee from time to time.
- i) The membership fee and Annual subscription of a member for every Financial Year shall be determined by the Board.

For AP SPINNING MILLS ASSOCIATION

R. Jeebhari Reddy

DIRECTOR
DIN: 01216888

- j) For non-payment of the annual subscription within three months from the date of commencement of the financial year, the Managing Committee may delete the membership of such member and delete such name from the Register. However, the Managing Committee by a resolution may admit such person (s) on having paid the dues of membership are re-enter the name in the register.
- k) A member shall have power to terminate his membership by giving not less than three calendar months notice in writing to the Chairman or the Secretary and upon the expiration of the period and in the absence of any effective withdrawal in the meantime he shall cease to be a member and his name shall forthwith be removed from the Register.
- l) Any member of the Association, who in the opinion of the Managing Committee is working against the interest of the Association, shall be expelled from the association by a special resolution of the members in an extraordinary general meeting.
- m) Every member, if it be an Association or institution or Association shall nominate its representative for the General Meeting.

06. GENERAL MEETINGS:

- a) Any General meeting other than Annual General Meeting shall be called extraordinary general meeting.
- b) The Managing Committee may, whenever it thinks fit, call an extraordinary general meeting.
- c) The Association shall hold in each year in addition to any other meeting a Annual General Meeting in accordance with section 96 of the Act.
- d) The Association shall comply with the provisions of the Act, in calling and conduct of the Meeting.

07. PROCEEDINGS OF GENERAL MEETINGS :

- a) No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.
- b) Save as otherwise provided herein, the quorum for the general meetings shall be as provided in section 103.
- c) If within half an hour from the time appointed for holding a meeting, a quorum is not present, the meeting shall stand adjourned to the same day in the next week, at the same time and place, or to such other day and at such other time and the place or Managing Committee may determine.
- d) If at the any adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present shall be a quorum.
- e) The Chairman, if any, of the Managing Committee shall preside as chairman at every general meeting of the Association.

FOR AP SPINNING MILLS ASSOCIATION

[Signature]

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- f) In the absence of the chairman to preside over the meeting, the chairman or in the absence of all the two, the vice chairman of the Managing Committee who attends the meeting shall preside.
- g) The Chairman may, with the consent of any meeting at which a quorum is present and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place.
- h) No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- i) When a meeting adjourned for Thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- j) Save as aforesaid, it shall not be necessary to give notice of any adjournment or of the business to be transacted at any adjourned meeting.
- k) In the case of any equality of vote whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands take place or at which the poll is demanded, shall be entitled to a second or casting vote.
- l) Any business other than that upon which a poll has been demanded may be proceeded with, pending the taking of the poll.

08. VOTING RIGHTS OF MEMBERS:

- a) Every member shall have one vote.
- b) A member of unsound mind or in respect of whom an order has been passed by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his legal guardian and any such legal guardian may, on a poll, vote by proxy.
- c) No member shall be entitled to vote at any general meeting unless all sums presently payable by him to the Association have been paid.
- d) No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, an every vote not disallowed at such meeting shall be valid for all purposes.
- e) Any such objection made in due time shall be referred to the chairman of the meeting whose decision shall be final and conclusive.
- f) A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or the revocation of the proxy or of the authority under which the proxy was executed, provided that no intimation in writing of such death, revocation or transfer shall have been received by the Association at its office before the commencement of the meeting or adjourned meeting at which the proxy is used.

For AP SPINNING MILLS ASSOCIATION

[Signature]

DIRECTOR
DIN: 01216383

09. MINUTES OF MEETINGS:

The association shall cause minutes of all proceedings of every meeting in accordance with section 118 of the Act.

10. BOARD OF DIRECTORS (HERE IN AFTER CALLED "MANAGING COMMITTEE"):

Until otherwise determined by a General Meeting, Managing Committee shall have not more than 18 and not less than 9 Directors herein after called Members of Managing Committee. The first members of the Managing committee shall be.

1. Sri Cherukuri Kowsalendra Rao (C.K.Rao)
2. Sri Subashchand Hukmchand Sancheti (S.H.Sancheti)
3. Sri R.K. Agarwal

10.A. ELECTIONS TO THE MANAGING COMMITTEE:

- a) The Managing Committee shall be elected by the members of the Association at its Annual General meeting. The term of the Managing Committee shall be two years.
- b) If all the existing Managing Committee members or more than fifty percent of the Managing Committee members have submitted their resignations from their office, the New Managing Committee shall be elected by the members of the Association at its General meeting thorough fresh election as per article No.10, the term of the new Managing Committee shall be two years.
- c) if the office of any Member of Managing Committee appointed by the company in general meeting is vacated before his term of office expires in the normal course, the resulting casual vacancy may, be filled by the Board of Directors at a meeting of the Board and any person so appointed shall hold office only up to the date up to which the director in whose place he is appointed would have held office if it had not been vacated.
- d) No corporate body, association or a firm shall be appointed Managing Committee Member Only their representative one in number shall be eligible to be appointed and act as an Managing Committee Member.
- e) The Chairman of the Association shall invite nominations from the members for the post of Managing Committee Member, one month in advance of the date fixed for the Proposed Annual General Meeting. Every nomination shall be signed by the candidate, with a proposer and a seconded, all of whom shall have valid membership and paid all sums payable up to date to Association. The Managing Committee shall appoint two Members of Association as Election Officers to convene the election of the Managing Committee Members. Such appointed election officers shall release the election notification & schedule for conduct of the election for the post of managing committee member as mentioned below:
 - i. Date of release of election notification:
 - ii. Last date for receipt of nominations. (15 days from the date of the notification):

FOR AP SPINNING MILLS ASSOCIATION

A. Jeevan Reddy
DIRECTOR
DIN: 01216888

- iii. Date of scrutiny of nominations. (16th day of the notification date);
- iv. Date of withdraw of nomination. (Before 20th day of the notification date);
- v. Date of election, if arise (day of conduct of AGM);

The requisite number of candidates that have secured the highest number of votes shall be declared by the Election Officers, to have been elected as members of the Managing Committee in descending order of votes polled.

- f) No remuneration or sitting fee is payable to the Managing Committee Member except reimbursement of reasonable out of pocket expenses.

11. POWERS OF THE MANAGING COMMITTEE:

The supreme authority in all matters concerning the Association shall be the General Body. The affairs and funds of the Association shall be managed by the Managing Committee in accordance with general directions given by the General Body.

12. PROCEEDINGS OF THE MANAGING COMMITTEE :

- a. The Managing Committee may meet for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit.
- b. The secretary or the Manager on the requisition of a Managing Committee Member shall at any time summon a meeting of the Managing Committee.
- c. The quorum for a meeting of the Managing Committee shall be Six Managing Committee Members.
- d. Save as otherwise expressly provided in the Act, questions arising at any meeting of the Managing Committee shall be decided by a majority of votes. In case of an equality of votes, the Chairperson, whoever presides the meeting, shall have a second or casting Vote.
- e. No vacancy in the Managing Committee shall invalidate the proceedings of the Managing Committee as long as the number of continuing members satisfies the condition of quorum.
- f. "Every" elected Managing committee in Annual General Meeting, shall elect one chairman, one honorary chairman, one treasurer and six vice chairmen in its first meeting to be held on the day of election or any other convenient day.
- g. In the absence of the Chairman at any meeting of the Committee, for any reason, any Vice-Chairman who attends shall preside over the meeting.
- h. The Managing Committee subject to the provisions of the Act, delegate any of its powers to a committee consisting of such members of its body as it thinks fit. Any such committee so formed shall conform to the regulations as may be imposed.

For AP SPINNING MILLS ASSOCIATION

[Signature]

DIRECTOR
DIN: 01216822

- i. A committee may elect a Chairman of its meetings. If no such chairman is present at any of its meeting, the members present may elect a member as the chairman of the meeting. The committee may meet and adjourn as it thinks proper. All questions arising at any meeting of a committee shall be determined by a majority of vote of the members present, and in case of an equality of votes the Chairman shall have a second or casting vote.
- j. All acts done by any meeting of the Managing Committee or its other Committee thereof or by any person acting as a member shall be valid notwithstanding of any defect in the election of the Managing committee Member or their qualifications noticed later.
- k. Save as otherwise expressly provided in the Act, a resolution in writing signed by all the members of the Managing Committee or any other committee thereof for the time being entitled to receive notice of a meeting of the Managing Committee shall be as valid and effectual as if it had been passed at a meeting of the Managing Committee or other committee duly convened and held.
- l. The Managing Committee may elect one of its Managing Committee Members as Chief Executive Officer whose term shall terminate with the term of Managing committee, to look after day to day affairs of the Association and shall enjoy such powers and discharge such duties as the Managing Committee or the Chairman as the case may delegate.
- m. The Chairman or any other Managing Committee Member shall not be entitled for any remuneration as such but may receive such amount to meet out of pocket expenses concerning the discharge of their duties.
- n. The Managing Committee may appoint a Secretary or a Manager for such term at such remuneration and upon such conditions as it may think fit and any Secretary or Manager so appointed may be removed by the Managing Committee.
- o. A member of committee may be appointed as a Secretary or Manager. In case a member is appointed as a secretary he shall discharge his functions and responsibilities under the provisions of the Act or the Articles of Association or regulations of the Managing Committee as member separately and as Secretary and/or Manager separately both or exclusive.
- p. No remuneration or sitting fee is payable to the Managing Committee Members except reimbursement of reasonable out of pocket expenses.

13. SEAL :

- a) The Managing Committee shall adopt a common seal for the Association and shall have the power from time to time destroy the same and substitute a new seal in lieu thereof and the Managing Committee shall provide for the safe custody of the seal for the time being and the seal shall never be used except by the authority of Managing Committee or a committee of the Managing Committee previously given.
- b) Every deed or other instrument to which the seal of the Association is required to be affixed shall be signed by any two Managing Committee Members and the Secretary/Manager or any other person authorized by the committee.

For AP SPINNING MILLS ASSOCIATION

[Signature]

DIRECTOR
DIN: 01216888

14. WINDING UP:

The Association may at any time be dissolved by a resolution passed at the General Meeting with a three fourth majority. A notice of 21 days be given to all members for such general meeting specifying the intention to propose such a resolution. The quorum for such a meeting shall be 75 percent of the members of General Body.

15. ALTERATION OF ARTICLES :

Subject to the provisions of the Act and to the conditions contained in the memorandum, the Association may be special resolution alter these articles and such alterations shall have effect on their being registered by the Registrar.

We, the several persons whose names, addresses, descriptions and occupations are hereinto subscribed are desirous of being formed into an association not for profit, in pursuance of these Articles of Association.

Sl. No.	Names, Addresses, description and occupation of the subscriber	Signature of the subscriber	Signature of witness with address and occupation
1.	C.K. Rao Plot No. 176, Road No. 13, Jubilee Hills, Hyderabad. Managing Director Priyadarshini Spinning Mills Ltd.	Sd/-	Sd/- C. LAKSHMIPATHI Chartered Accountant A-64, Matrusri Apartments, Hyderguda, Hyderabad-500 029.
2.	S.H. Sancheti 3-6-168/4, Hyderguda, Hyderabad-500 029. Managing Director Sri Ram Spinning Mills Ltd.	Sd/-	
3.	R. K. Agarwal Plot No. 341-A, Road No. 23A, Jubilee Hills, Hyderabad. Managing Director Suryajyothi Spinning Mills Ltd.	Sd/-	
4.	G. Sunil Kumar Plot No. 160, Road No. 1, Dhanalaxmi Society, Mahendra Hills, Secunderabad. Director Vijayalakshmi Spintex Ltd.	Sd/-	
5.	R. K. Agarwal 105, S.P. Road, Secunderabad Joint Managing Director Suryavamsi Spinning Mills Ltd.	Sd/-	
6.	M. K. Agarwal, 105, S.P. Road, Secunderabad Joint Managing Director Suryalata Spinning Mills Ltd.	Sd/-	

For AP SPINNING MILLS ASSOCIATION.

[Signature]
DIRECTOR
DIN: 01216222

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7.	R. Shiva Kumar Flat No. 402, 7-1-28/4, United Enclave, Ameerpet, Hyderabad. Managing Director Aditya Spinners Mills Ltd.	Sd/-	
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Place: Hyderabad
Date: 19-06-2002

For AP SPINNING MILLS ASSOCIATION
R. Lankaraghuram Reddy
LANKA RAGHURAM REDDY
CHAIRMAN
DIRECTOR
DIN: 01216528

Place: da
Date: 19-06-2002

For AP SPINNING MILLS ASSOCIATION
CHAIRMAN

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सत्यमेव जयते

GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS

Office of the Registrar of Companies

29-7-33, Vishnuvardhana Rao Street, Suryaraopet, Vijayawada, Andhra Pradesh, India, 500002

Certificate of Incorporation pursuant to change of name*[Pursuant to rule 29 of the Companies (Incorporation) Rules, 2014]*

Corporate Identification Number (CIN): U91990AP2002NPL097858

I hereby certify that the name of the company has been changed from ANDHRA PRADESH SPINNING MILLS ASSOCIATION to ANDHRA PRADESH TEXTILE MILLS ASSOCIATION with effect from the date of this certificate and that the company is limited by guarantee.

Company was originally incorporated with the name ANDHRA PRADESH SPINNING MILLS ASSOCIATION.

Given under my hand at Vijayawada this Twenty third day of October two thousand nineteen.



DENNING K. BABU

Registrar of Companies

RoC - Vijayawada

mailing Address as per record available in Registrar of Companies office:

ANDHRA PRADESH TEXTILE MILLS ASSOCIATION

No. 5-87-70/7/A, SAI PLAZA, 1ST FLOOR, 1ST LINE, CHANDRAMOULI NAGAR, GUNTUR,
Hyderabad, Telangana, India, 522007



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Annexure II



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION
#11-4-660, 4th Floor, Singareni Bhavan,
Red Hills, Hyderabad – 500 004. Phone :040-23397381 / 23397399 / 23397556 / 23397656

OP.No. 3 of 2020

PUBLIC NOTICE

**Amendment to APERC (Terms and Conditions of Open Access) Regulation, 2005
Regulation No. 2 of 2005**

1. The Commission prepared a Draft Regulation to amend the "APERC (Terms and Conditions of Open Access) Regulation, 2005". The same will be made available to interested persons /stakeholders on written request addressed to the Secretary, APERC at the above address. The said document is also hosted in the website of the Commission – www.aperc.gov.in, for seeking comments / suggestions from interested persons / stakeholders.
2. The Comments/ suggestions on the above draft Amendment Regulation, if any, may be sent to the Commission Secretary either by post at the above mentioned address or through e-mail to commn-secy@aperc.gov.in by 5:00 PM on 09-03-2020.
3. Further, it is to inform that public hearing will be conducted on the above Draft Regulation by the Commission in its court hall on 10-03-2020 and any interested persons/stakeholders/organizations desirous of being heard in person, may appear before it on the said date of public hearing.

Sd/-
SECRETARY(I/c)

Date : 17-02-2020
Place : Hyderabad.

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Draft



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

Regulation No. of 2020

**Second Amendment to
APERC (Terms and Conditions of Open Access) Regulation No.2 of 2005**

Introduction

The Andhra Pradesh Electricity Regulatory Commission (hereinafter referred to as "the Commission") notified the Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions of Open Access) Regulation, 2005 (No.2 of 2005), published in A.P. Extraordinary Gazette dated 01st July, 2005 (Principal Regulation).

The Commission notified "Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions of Open Access) First Amendment Regulation, 2016", published in the Gazette of Andhra Pradesh on January 08th, 2016.

Whereas the Government of Andhra Pradesh has issued the new Solar Power Policy, 2018 and new Wind Power Policy, 2018 vide G.O.Ms.No.1, dated 03-01-2019 and G.O. Ms. No. 2, dated 03-01-2019 superseding the earlier Solar Power Policy, 2015 and Wind Power Policy, 2015.

Whereas the Government of Andhra Pradesh has issued another policy vide GO.Ms.No. 35 dated 18-11-2019 making certain amendments to the Solar / Wind Power Policies dated 03-01-2019.

And whereas M/s. APEPDCL and M/s. APSPDCL submitted representations to make appropriate amendment to the regulation mentioning that the RPP Obligation for 2020-21 is 15% and the present renewable energy availability is around 30% of system energy requirement. The DISCOMs also mentioned that smooth integration of this much RE (Solar and Wind power) power of 8515 MW which is variable in nature, with the Grid having system demand of 9000 to 10000 MW is difficult task. Further, the DISCOMs stated that in this scenario, presently promotion of RE power is not envisaged and not warranted.

In exercise of the powers vested with it u/s 181 of the Electricity Act, 2003 read with section 86(1)(e) and all other enabling powers, the Commission makes the following Regulation, namely:

1. Short title, commencement and interpretation:

- (i) This Regulation may be called the Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions of Open Access) Second Amendment Regulation, 2020.
 - (ii) This Regulation shall come into force with effect from the date of its publication in the Andhra Pradesh Gazette.
- 2. Amendments to para 17.1 of Principal Regulation, amended vide APERC (Terms and Conditions of Open Access) First Amendment Regulation, 2016 (Regulation No. 1 of 2016).**
- (a) The second proviso to para 17.1 (i) shall stand deleted.
 - (b) The third proviso to para 17.1 (i) shall stand deleted.
 - (c) The Second proviso to para 17.1 (iii) shall stand deleted.

Joint Director (Engg.)



A.P. TEXTILE MILLS ASSOCIATION

(FORMERLY KNOWN AS A.P. SPINNING MILLS ASSOCIATION)

2nd Floor, Manoharam Skin Clinic, 4/2, Lakshmipuram, GUNTUR - 522 007, A.P., INDIA

Tel : 91-863-2244146, e-mail : contact@aptma.org

Date:03.03.2020

To,
The Secretary,
Andhra Pradesh Electricity Regulatory Commission,
#11-4-660, 4th Floor, Singareni Bhavan,
Red Hills, Hyderabad-500004.

Sir,

Sub:- Draft Regulation issued by APERC to amend "APERC (Terms and Conditions of Open Access) Regulation, 2005" – Public Notice issued by APERC calling for objections/comments/suggestions – Request to furnish relevant clarifications/documents/records – Reg.

APERC issued Public Notice dated 17.02.2020 calling for objections/comments/ suggestions to the Draft Regulation issued by APERC to amend "APERC (Terms and Conditions of Open Access) Regulation, 2005". By the said Draft Regulation, APERC proposes to amend Para 17.1 of the APERC (Terms and Conditions of Open Access) Regulation, 2005.

It is seen from the 'Introduction' of the said Draft Regulation that APERC proposes to amend Para 17.1 in pursuance of GO Ms.No.35 dated 18.11.2019 issued by the Government of Andhra Pradesh and the representations submitted by APEPDCL and APSPDCL. Apart from stating that GO Ms.No.35 dated 18.11.2019 has been issued by the Government of Andhra Pradesh and that representations have been submitted by APEPDCL and APSPDCL regarding the unviability of promoting renewable energy in the present scenario, no reasons for the said unviability have been set forth in the Draft Regulation for proposing amendments to Para 17.1.

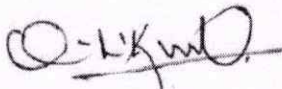
The proposed amendments have adverse impact on the business operations as well as the finances of some of the members of our Association, who have set up unitson basis of the un-amended Regulation.

Under the circumstances, we request APERC to kindly furnish the following clarifications/documents in order to enable us to submit our detailed objections/comments/ suggestions to the Draft Regulation:

- 1) GO Ms.No.35, Energy (Power.II) Department, dated 18.11.2019 states that statutory audit has reported abnormal spurt in power purchase cost and deteriorated the financial position of APDISCOMs, which compelled the Government to amend Solar and Wind Policies. Please furnish a copy of the said statutory audit report and copies of all the documents/records/statistics relied on therein.
- 2) 'Introduction' of the Draft Regulation refers to representations submitted by APEPDCL and APSPDCL. Please furnish copies of the said representations along with copies of all the documents/records/statistics relied on therein.
- 3) Please clarify if APERC has relied on any other documents/records/ statistics, apart from GO Ms.No.35 dated 18.11.2019 and the representations submitted by APEPDCL and APSPDCL, for the purpose of carrying out amendments to Para 17.1? If yes, please furnish copies of the all the said documents/records/ statistics.

We will be in a position to submit our detailed objections/ comments/ suggestions to the Draft Regulation on receipt of the above crucial information.

Yours Sincerely,
For A.P.Textile Mills Association


O.L.Kantha Rao
Secretary

CC: Mr. _____, Standing Counsel of APERC.



A.P. TEXTILE MILLS ASSOCIATION

(FORMERLY KNOWN AS A.P. SPINNING MILLS ASSOCIATION)

2nd Floor, Manoharam Skin Clinic, 4/2, Lakshmipuram, GUNTUR - 522 007, A.P., INDIA

Tel : 91-863-2244146, e-mail : contact@aptma.org

Date: 03.03.2020

To,
The Managing Director,
Andhra Pradesh Southern Power Distribution Company Limited,
#19-13-65A, Srinivasapuram, Tiruchanoor Road,
Tirupati-517503, Chittoor District.

Sir,

Sub:- Draft Regulation issued by APERC to amend "APERC (Terms and Conditions of Open Access) Regulation, 2005" – Public Notice issued by APERC calling for objections/comments/suggestions – Request to furnish relevant clarifications/documents/records – Reg.

APERC issued Public Notice dated 17.02.2020 calling for objections/comments/ suggestions to the Draft Regulation issued by APERC to amend "APERC (Terms and Conditions of Open Access) Regulation, 2005". By the said Draft Regulation, APERC proposes to amend Para 17.1 of the APERC (Terms and Conditions of Open Access) Regulation, 2005.

It is seen from the 'Introduction' of the said Draft Regulation that APERC proposes to amend Para 17.1 in pursuance of GO Ms.No.35 dated 18.11.2019 issued by the Government of Andhra Pradesh and the representations submitted by APEPDCL and APSPDCL. Apart from stating that GO Ms.No.35 dated 18.11.2019 has been issued by the Government of Andhra Pradesh and that representations have been submitted by APEPDCL and APSPDCL regarding the unviability of promoting renewable energy in the present scenario, no reasons for the said unviability have been set forth in the Draft Regulation for proposing amendments to Para 17.1.


The proposed amendments have adverse impact on the business operations as well as the finances of some of the members of our Association, who have set up units on basis of the un-amended Regulation.

Under the circumstances, we request APSPDCL to kindly furnish the following clarifications/documents in order to enable us to submit our detailed objections/comments/ suggestions to the Draft Regulation:

- 1) GO Ms.No.35, Energy (Power.II) Department, dated 18.11.2019 states that statutory audit has reported abnormal spurt in power purchase cost and deteriorated the financial position of APDISCOMs, which compelled the Government to amend Solar and Wind Policies. Please furnish a copy of the said statutory audit report and copies of all the documents/records/statistics relied on therein.
- 2) 'Introduction' of the Draft Regulation refers to representations submitted by APEPDCL and APSPDCL. Please furnish copies of the said representations along with copies of all the documents/records/statistics relied on therein.
- 3) Please clarify if the Board of APSPDCL took any decision or passed any resolutions regarding the incentives provided under Para 17.1 to open access users or the alleged financial loss suffered by APSPDCL as a result of providing the said incentives? If yes, please furnish copies of all the said decisions/resolutions.
- 4) Please clarify if APSPDCL corresponded with the Government including the Department of Finance or any other Agency/Organization regarding the financial loss suffered by APSPDCL as a result of providing incentives under Para 17.1 to open access users? If yes, please furnish copies of all the said correspondences/documents.

We will be in a position to submit our detailed objections/ comments/ suggestions to the Draft Regulation on receipt of the above crucial information.

Yours Sincerely,
For A.P.Textile Mills Association



O.L.Kantha Rao
Secretary

CC: Mr. _____, Standing Counsel of APSPDCL.



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A.P. TEXTILE MILLS ASSOCIATION

(FORMERLY KNOWN AS A.P. SPINNING MILLS ASSOCIATION)

2nd Floor, Manoharam Skin Clinic, 4/2, Lakshmipuram, GUNTUR - 522 007, A.P., INDIA

Tel : 91-863-2244146, e-mail : contact@aptma.org

Date: 03.03.2020

To,
The Managing Director,
Andhra Pradesh Eastern Power Distribution Company Limited,
P&T Colony, Seethammadhara, Visakhapatnam.

Sir,

Sub:- Draft Regulation issued by APERC to amend "APERC (Terms and Conditions of Open Access) Regulation, 2005" – Public Notice issued by APERC calling for objections/comments/suggestions – Request to furnish relevant clarifications/documents/records – Reg.

APERC issued Public Notice dated 17.02.2020 calling for objections/comments/ suggestions to the Draft Regulation issued by APERC to amend "APERC (Terms and Conditions of Open Access) Regulation, 2005". By the said Draft Regulation, APERC proposes to amend Para 17.1 of the APERC (Terms and Conditions of Open Access) Regulation, 2005.

It is seen from the 'Introduction' of the said Draft Regulation that APERC proposes to amend Para 17.1 in pursuance of GO Ms.No.35 dated 18.11.2019 issued by the Government of Andhra Pradesh and the representations submitted by APEPDCL and APSPDCL. Apart from stating that GO Ms.No.35 dated 18.11.2019 has been issued by the Government of Andhra Pradesh and that representations have been submitted by APEPDCL and APSPDCL regarding the unviability of promoting renewable energy in the present scenario, no reasons for the said unviability have been set forth in the Draft Regulation for proposing amendments to Para 17.1.

The proposed amendments have adverse impact on the business operations as well as the finances of some of the members of our Association, who have set up units on basis of the un-amended Regulation.

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Under the circumstances, we request APEPDCL to kindly furnish the following clarifications/documents in order to enable us to submit our detailed objections/comments/ suggestions to the Draft Regulation:

- 1) GO Ms.No.35, Energy (Power.II) Department, dated 18.11.2019 states that statutory audit has reported abnormal spurt in power purchase cost and deteriorated the financial position of APDISCOMs, which compelled the Government to amend Solar and Wind Policies. Please furnish a copy of the said statutory audit report and copies of all the documents/records/statistics relied on therein.
- 2) 'Introduction' of the Draft Regulation refers to representations submitted by APEPDCL and APSPDCL. Please furnish copies of the said representations along with copies of all the documents/records/statistics relied on therein.
- 3) Please clarify if the Board of APEPDCL took any decision or passed any resolutions regarding the incentives provided under Para 17.1 to open access users or the alleged financial loss suffered by APEPDCL as a result of providing the said incentives? If yes, please furnish copies of all the said decisions/resolutions.
- 4) Please clarify if APEPDCL corresponded with the Government including the Department of Finance or any other Agency/Organization regarding the financial loss suffered by APEPDCL as a result of providing incentives under Para 17.1 to open access users? If yes, please furnish copies of all the said correspondences/documents.

We will be in a position to submit our detailed objections/ comments/ suggestions to the Draft Regulation on receipt of the above crucial information.

Yours Sincerely,

For A.P.Textile Mills Association



O.L.Kantha Rao
Secretary

CC: Mr. _____, Standing Counsel of APEPDCL.

48 Annexure IV



A.P. TEXTILE MILLS ASSOCIATION

(FORMERLY KNOWN AS A.P. SPINNING MILLS ASSOCIATION)

2nd Floor, Manoharam Skin Clinic, 4/2, Lakshmipuram, GUNTUR - 522 007, A.P., INDIA

Tel : 91-863-2244146, e-mail : contact@aptma.org

Date:03.03.2020

To,
The Secretary,
Andhra Pradesh Electricity Regulatory Commission,
#11-4-660, 4th Floor, Singareni Bhavan,
Red Hills, Hyderabad-500004.

Sir,

Sub:- Application under the Right to Information Act, 2005 - Reg.

APERC issued Public Notice dated 17.02.2020 calling for objections/comments/ suggestions to the Draft Regulation issued by APERC to amend "APERC (Terms and Conditions of Open Access) Regulation, 2005". By the said Draft Regulation, APERC proposes to amend Para 17.1 of the APERC (Terms and Conditions of Open Access) Regulation, 2005.

It is seen from the 'Introduction' of the said Draft Regulation that APERC proposes to amend Para 17.1 in pursuance of GO Ms.No.35 dated 18.11.2019 issued by the Government of Andhra Pradesh and the representations submitted by APEPDCL and APSPDCL. Apart from stating that GO Ms.No.35 dated 18.11.2019 has been issued by the Government of Andhra Pradesh and that representations have been submitted by APEPDCL and APSPDCL regarding the unviability of promoting renewable energy in the present scenario, no reasons for the said unviability have been set forth in the Draft Regulation for proposing amendments to Para 17.1.

The proposed amendments have adverse impact on the business operations as well as the finances of some of the members of our Association, who have set up units on basis of the un-amended Regulation.

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Under the circumstances, we are constrained to submit the present application under the Right to Information Act, 2005, requesting APERC to kindly furnish the following clarifications/documents:

- 1) GO Ms.No.35, Energy (Power.II) Department, dated 18.11.2019 states that statutory audit has reported abnormal spurt in power purchase cost and deteriorated the financial position of APDISCOMs, which compelled the Government to amend Solar and Wind Policies. Please furnish a copy of the said statutory audit report and copies of all the documents/records/statistics relied on therein.
- 2) 'Introduction' of the Draft Regulation refers to representations submitted by APEPDCL and APSPDCL. Please furnish copies of the said representations along with copies of all the documents/records/statistics relied on therein.
- 3) Please clarify if APERC has relied on any other documents/records/statistics, apart from GO Ms.No.35 dated 18.11.2019 and the representations submitted by APEPDCL and APSPDCL, for the purpose of carrying out amendments to Para 17.1? If yes, please furnish copies of the all the said documents/records/ statistics.

The necessary charges/fees relating to this RTI Application are herewith paid.

Yours Sincerely,

For A.P.Textile Mills Association


O.L.Kantha Rao
Secretary



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A.P. TEXTILE MILLS ASSOCIATION

(FORMERLY KNOWN AS A.P. SPINNING MILLS ASSOCIATION)

2nd Floor, Manoharam Skin Clinic, 4/2, Lakshmipuram, GUNTUR - 522 007, A.P., INDIA

Tel : 91-863-2244146, e-mail : contact@aptma.org

Date: 03.03.2020

To,

The Public Information Officer

Andhra Pradesh Eastern Power Distribution Company Limited,

Corporate office, P&T Colony,

Seethammadhara, Visakhapatnam, 530016

Sir,

Sub:-Application under the Right to Information Act, 2005 - Reg.

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The proposed amendments have adverse impact on the business operations as well as the finances of some of the members of our Association, who have set up units on basis of the un-amended Regulation.

Under the circumstances, we are constrained to submit the present application under the Right to Information Act, 2005, requesting APEPDCL to kindly furnish the following clarifications/documents:

- 1) GO Ms.No.35, Energy (Power.II) Department, dated 18.11.2019 states that statutory audit has reported abnormal spurt in power purchase cost

and deteriorated the financial position of APDISCOMs, which compelled the Government to amend Solar and Wind Policies. Please furnish a copy of the said statutory audit report and copies of all the documents/records/statistics relied on therein.

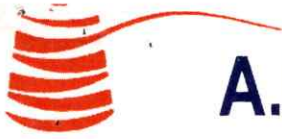
- 2) 'Introduction' of the Draft Regulation refers to representations submitted by APEPDCL and APSPDCL. Please furnish copies of the said representations along with copies of all the documents/records/statistics relied on therein.
- 3) Please clarify if the Board of APEPDCL took any decision or passed any resolutions regarding the incentives provided under Para 17.1 to open access users or the alleged financial loss suffered by APEPDCL as a result of providing the said incentives? If yes, please furnish copies of all the said decisions/resolutions.
- 4) Please clarify if APEPDCL corresponded with the Government including the Department of Finance or any other Agency/Organization regarding the financial loss suffered by APEPDCL as a result of providing incentives under Para 17.1 to open access users? If yes, please furnish copies of all the said correspondences/documents.

The necessary charges/fees relating to this RTI Application are herewith paid.

Yours Sincerely,

For A.P.Textile Mills Association


O.L.Kantha Rao
Secretary



52

A.P. TEXTILE MILLS ASSOCIATION

(FORMERLY KNOWN AS A.P. SPINNING MILLS ASSOCIATION)

2nd Floor, Manoharam Skin Clinic, 4/2, Lakshmipuram, GUNTUR - 522 007, A.P., INDIA

Tel : 91-863-2244146, e-mail : contact@aptma.org

Date: 03.03.2020

To,
The Public Information Officer
Andhra Pradesh Southern Power Distribution Company Limited
#191-13-65/A, Kesavayana Gunta
Tirupati-517501, Chittoor District.

Sir,

Sub:-Application under the Right to Information Act, 2005 - Reg.

APERC issued Public Notice dated 17.02.2020 calling for objections/comments/ suggestions to the Draft Regulation issued by APERC to amend "APERC (Terms and Conditions of Open Access) Regulation, 2005". By the said Draft Regulation, APERC proposes to amend Para 17.1 of the APERC (Terms and Conditions of Open Access) Regulation, 2005.

It is seen from the 'Introduction' of the said Draft Regulation that APERC proposes to amend Para 17.1 in pursuance of GO Ms.No.35 dated 18.11.2019 issued by the Government of Andhra Pradesh and the representations submitted by APEPDCL and APSPDCL. Apart from stating that GO Ms.No.35 dated 18.11.2019 has been issued by the Government of Andhra Pradesh and that representations have been submitted by APEPDCL and APSPDCL regarding the unviability of promoting renewable energy in the present scenario, no reasons for the said unviability have been set forth in the Draft Regulation for proposing amendments to Para 17.1.

The proposed amendments have adverse impact on the business operations as well as the finances of some of the members of our Association, who have set up units on basis of the un-amended Regulation.

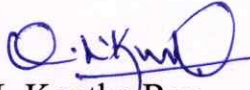
Under the circumstances, we are constrained to submit the present application under the Right to Information Act, 2005, requesting APSPDCL to kindly furnish the following clarifications/documents:

- 1) GO Ms.No.35, Energy (Power.II) Department, dated 18.11.2019 states that statutory audit has reported abnormal spurt in power purchase cost and deteriorated the financial position of APDISCOMs, which compelled the Government to amend Solar and Wind Policies. Please furnish a copy of the said statutory audit report and copies of all the documents/records/statistics relied on therein.
- 2) 'Introduction' of the Draft Regulation refers to representations submitted by APEPDCL and APSPDCL. Please furnish copies of the said representations along with copies of all the documents/records/statistics relied on therein.
- 3) Please clarify if the Board of APSPDCL took any decision or passed any resolutions regarding the incentives provided under Para 17.1 to open access users or the alleged financial loss suffered by APSPDCL as a result of providing the said incentives? If yes, please furnish copies of all the said decisions/resolutions.
- 4) Please clarify if APSPDCL corresponded with the Government including the Department of Finance or any other Agency/Organization regarding the financial loss suffered by APSPDCL as a result of providing incentives under Para 17.1 to open access users? If yes, please furnish copies of all the said correspondences/documents.

The necessary charges/fees relating to this RTI Application are herewith paid.

Yours Sincerely,

For A.P.Textile Mills Association


O.L.Kantha Rao
Secretary

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Annexure V



RIGHT TO
INFORMATION



REGD POST WITH ACK DUE

SOUTHERN POWER DISTRIBUTION COMPANY OF A.P. LTD
H.No 19-13-65/A, Tiruchanur Road, Behind SrinivasaKalyanaMandapam
Kesavayanigunta: TIRUPATI::Andhra Pradesh, INDIA
Corporate Identity Number: U40109AP2000SGC034118
Telephone No; 0877-2284109 Ex 376 FAX: - 0877-2284111
Email: - pio_rti@southernpowerap.co.in Website: - www.apspdcl.in

From

The Public Information Officer &
Personnel Officer
Corporate Office, Tirupati
Tirupati

To

Sri. O.L.Kantha Rao,
A.P.Spining Mills Association,
5-87-70/7/A,Sai Plaza,
Above Bank of India, 1st Lane,
Chandramouli Nagar, Guntur.

Lr. No.APSPDCL/TPT/P.O/RTI/F.No. 36/D.No.110/20 Dt: 06/03/2020.

Sir,

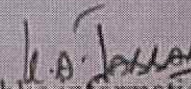
Sub:- APSPDCL - Right to Information Act/2005 – Sri. O.L.Kantha Rao, Guntur
- Information transmitted – Reg.

Ref:- Applicant's 6(1) application dated. 03.03.2020 received on 06.03.2020.

It is to inform that, your application under RTI Act/2005 is received vide reference cited.

Further, the application is being transmitted to the concerned authorities. Hence, the information /Report/ Reply will be furnished soon on receipt of the same from the concerned authorities.

Yours faithfully,


Public Information Officer &
Personnel Officer
APSPDCL:: Tirupati

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ఆంధ్ర ప్రదేశ్ రాజ పత్రము

THE ANDHRA PRADESH GAZETTE

PART – II EXTRAORDINARY

PUBLISHED BY AUTHORITY

No.205]

HYDERABAD, FRIDAY, JULY 1, 2005

NOTIFICATIONS BY HEADS OF DEPARTMENTS, ETC.,

XXXXXX

ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

TERMS AND CONDITIONS OF OPEN ACCESS TO INTRA-STATE TRANSMISSION AND DISTRIBUTION NETWORKS

Regulation No. 2 of 2005

Introduction:

Subsection (2) of Section 42 of the Electricity Act, 2003, mandates the introduction of open access in such phases and subject to such conditions as may be specified by the State Commission considering the relevant factors including operational constraints. The Commission formulated a draft Regulation on the terms and conditions for allowing open access for supply of electricity to consumers and sought comments / suggestions from interested persons by publishing the same in the Andhra Pradesh Gazette on 4-8-2004 and also putting it on the website of the Commission. Twenty-three (23) persons / organisations including one licensee and some generating companies have offered comments / suggestions on the draft Regulation. The Commission considered these comments / suggestions and finalised the Regulation.

In exercise of the powers conferred by sections 181(1) read with sections 42(2), 42(4), 39(2)(d)(ii) and 40(c)(ii) of the Electricity Act 2003 (36 of 2003) and all others powers enabling it in that behalf, the Andhra Pradesh Electricity Regulatory Commission hereby makes the following Regulation, namely:-

1. Short title, commencement and interpretation

(a) This Regulation may be called the Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions of Open Access) Regulation, 2005.

1 of 4

(b) This Regulation shall extend to the whole of Andhra Pradesh.

- (c) This Regulation shall come into force on the date of its publication in the Andhra Pradesh Gazette.
- (d) This Regulation shall be read with the Electricity (Removal of difficulties) Second Order, 2005, notified by Ministry of Power, Government of India, in the Gazette of India, Extraordinary, Part II, Section 3(ii), dated 8th June 2005.

2 Definitions

- (i) In this Regulation, unless the context otherwise requires:-
 - (a) "Act" means the Electricity Act, 2003 (36 of 2003);
 - (b) "applicant" means a person who makes an application to the Nodal Agency for open access and includes any person engaged in generation, a licensee or any consumer eligible for open access under this Regulation;
 - (c) "available capacity" means the capability in megawatts (MW) or kilowatts (kW) of a transmission or distribution network to transfer power from one point to the other, after deducting the power requirements of already committed users;
 - (d) "Commission" means the Andhra Pradesh Electricity Regulatory Commission;
 - (e) "contracted capacity" in the context of open access for supply to consumers means the capacity contracted in megawatts (MW) or kilowatts (kW) for transmission and /or wheeling to a consumer under open access ;
 - (f) "open access agreement" means an agreement entered into between a licensee and the applicant to avail open access to the licensee's network for transmission and / or wheeling of electricity;
 - (g) "entry point" means a point at which electricity is injected into the electricity transmission network or the electricity distribution network ;
 - (h) "exit point" means a point at which electricity is drawn from the electricity transmission network or the electricity distribution network ;
 - (i) "Nodal Agency" means the entities referred to in clause 5 of this Regulation;
 - (j) "user" or " open access user" means a person using or intending to use the transmission system and / or the distribution system of the licensees in the state for receiving supply of electricity from a person other than the distribution licensee of his area of supply, and the expression includes a generating company and licensee.
 - (k) Words and expressions used and not defined in this Regulation but defined in the Act shall have the meanings as assigned to them in the Act, or in absence thereof, shall have the same meaning as commonly understood in the electricity supply industry.

3. Extent of application

This Regulation shall apply to open access to intra-state transmission and distribution systems of licensees in the State, including when such systems are used in conjunction with inter-state transmission system(s).

4. **Categorization of open access users**

The open access users of the transmission and/or distribution system(s) shall be classified as follows:

- (a) **Long-Term Open Access User:** Any user of the transmission and/or distribution system(s) entering into an open access agreement with the concerned licensee(s) for a period of two years or more shall be categorised as a Long-Term Open Access User.
- (b) **Short-Term Open Access User:** Any user other than a long term user of the transmission and/or distribution system(s) entering into an open access agreement with the concerned licensee(s) shall be treated as Short-term open access user, but open access shall not be allowed at a time for a period of more than one year.

5. **Nodal Agency**

- 5.1 For all long-term open access transactions, the Nodal Agency for receiving and processing applications shall be the State Transmission Utility (STU).
- 5.2 For short-term open access transactions, the Nodal Agency for receiving and processing applications shall be the State Load Dispatch Centre (SLDC). The SLDC shall, however, allow short-term open access transactions only after consulting the concerned transmission and/or distribution licensee(s) whose network(s) would be used for such transactions:

Provided that for short-term transactions with duration of less than one week, the SLDC may not consult the concerned licensees for permitting such transactions. The SLDC and Licensees shall devise procedures for coordination among themselves for allowing such short-term transactions.

6. **Criteria for allowing open access to transmission and/or distribution systems**

- 6.1 The long-term open access shall be allowed in accordance with the transmission planning criterion and distribution planning criterion stipulated in the State Grid Code and/or the Distribution Code and / or Indian Electricity Rules as the case may be.
- 6.2 The short-term open access shall be allowed, if the request can be accommodated by utilizing:
 - (a) Inherent design margins;

- (a) Margins available due to variations in power flows and unutilised capacity, if any; and
- (b) Margins available due to in-built spare capacity in transmission and/or distribution system(s) created to cater to future load growth

7. Provision for existing users:

7.1 Existing distribution licensees:

The existing distribution licensee (s) shall be deemed to be the long-term open access user (s) of the Intra-State transmission system (s) and / or the distribution system (s) for the term specified in / under the existing agreement (s) or arrangement (s) and shall make payment of transmission charges, wheeling charges and other charges, as applicable, and as may be determined by the Commission from time to time.

The existing distribution licensee (s) shall, within 60 days of coming into force of this Regulation, furnish details of their use of intra-state transmission system (s) and/or distribution system (s) to the STU, SLDC and the Commission.

7.2 Existing users other than the distribution licensees:

The existing user (s) other than the existing distribution licensees may continue to avail themselves of the wheeling facility as per the existing agreements for the period(s) specified in those agreement(s), to the extent they are not inconsistent with the Act and this Regulation:

Provided that such existing user (s) shall pay the transmission charges, wheeling charges and other charges as may be determined by the Commission from time to time:

Provided also that any additional capacity sought by such existing user (s) in addition to the capacity already contracted, shall be treated as new application for open access to the extent of additional capacity sought.

8. Phasing of Open Access

8.1 Where open access to the Transmission and/or Distribution systems is sought by any user, the Nodal Agency shall permit such open access strictly in accordance with the following phases:

Phase	Eligibility criteria	Commencement date
1.	Consumers availing of power from NCE developers irrespective of the quantum of contracted capacity	September, 2005
2.	Contracted capacity being greater than 5 MW	September, 2005
3.	Contracted capacity being greater than 2 MW	September, 2006
4.	Contracted capacity being greater than 1 MW	April, 2008

Provided that the Commission shall allow open access to consumers with contracted capacity of 1 MW or less in due course at such time and in such phases as it may consider feasible having due regard to operational constraints and other factors:

Provided further that the Commission may revise the above schedule for the subsequent phases of open access, as considered necessary, not being inconsistent with the provisions of the Act:

Provided also that the Commission may exempt any consumer or a class of consumers from this phasing scheme if it considers necessary or expedient in the public interest:

Provided also that only the consumers availing of supply from the existing users covered under clause 7.2 from a date prior to coming into force of this Regulation shall not be affected by the above phasing.

8.2 The licensees shall make all reasonable attempts to ensure that operational constraints in the Transmission and / or Distribution systems as the case may be, including metering, communication systems, capacity determination, etc. are removed as per the phasing plan indicated above so that, as far as possible, no eligible consumer is denied open access on the grounds of operational constraints in the system.

9. Criteria for allotment/reservation of capacity

9.1 A distribution licensee, due to its obligation to supply on request under section 43 of the Act, shall have the highest priority in allotment of capacity, long-term as well as short-term.

9.2 As regards the other applicants for allotment of capacity of transmission and/or distribution systems, the persons applying for Long-Term open access shall have priority over the persons applying for Short-Term open access. However, within a category, an applicant requesting transmission and/or distribution access for longer duration shall have priority over the person(s) seeking access for shorter duration.

9.3 Allotment of capacity in case of insufficient spare capacity/ congestion

9.3.1 For Long-Term applicants: In the event of insufficient spare capacity in distribution system/congestion in the transmission system hindering accommodation of all long-term open access applications, the Nodal Agency shall inform the applicants of the same and shall advise the concerned Licensee(s) to carry out an assessment of works required to create additional capacity by strengthening of the system to accommodate such applicant(s). After completion of such works, the Nodal Agency shall allot the capacity to such applicant(s). As regards capital expenditure incurred by the licensee(s) for system-strengthening, the licensee(s) can require a capital contribution from the applicant(s) subject to the provisions of clause 17.1 (v) of this Regulation.

9.3.2 For Short-Term applicants: In case of applicants for short-term open access with transactions required to be accommodated through congested corridors of the network, the Nodal Agency shall invite bids by Fax/e-mail with floor price equal to the un-congested price for the short-term users. The bidders shall quote percentage points above the floor price. The allotment of capacity shall be done in decreasing order of the price quoted. In case of quotes involving equal prices, the allotment of capacity shall be done, if required, *pro rata* to the capacity sought. The user getting allotment of capacity less than the capacity sought by him shall pay charges as per the price quoted by him. All other applicants getting capacity allotment equal to the capacity sought by them shall pay charges as per the price quoted by the last applicant getting full allotment of the capacity sought.

Explanation 1: For the purpose of clauses 9.3.1, and 9.3.2, "congestion" in the context of allotment of capacity for transmission of electricity shall be construed to have occurred when a transmission system cannot accommodate all transactions that would normally occur among users due to physical or engineering limitation.

Explanation 2: For the purpose of clause 9.3.2, the term "un-congested price" means the transmission and / or wheeling charges required to be paid by the short-term users as per the rates approved by the Commission and published by the Nodal Agency from time to time.

10. Procedure of application for Long Term open access

10.1 The Nodal Agency (STU) shall make available the format of application for open access requiring broadly the details as set out in Annexure-1 to this Regulation, to the general public in physical form at its offices and in electronic printable form at its website.

10.2 An application for long-term open access shall be filed with the STU by the applicant, with a copy to the concerned transmission / distribution licensee(s). The application shall be accompanied by a non-refundable processing fee as prescribed by the Commission in the Tariff Orders, or otherwise, from time to time:

Provided that till such time the processing fee is so prescribed by the Commission, it shall be Rs.10,000.

10.3 The Nodal Agency shall acknowledge the receipt of an application made under clause 10.2 above within 24 hours of the receipt of the application.

10.4 If after submission of the open access application, the applicant becomes aware of any material alteration in the information contained in the application, the applicant shall promptly notify the Nodal Agency of the same:

Provided that in case the Nodal Agency is made aware of the material alteration in the information contained in the application already submitted under clause 10.2 above, the Nodal Agency shall treat the application as if the same was received on the date the applicant notifies it of the said alteration.

10.5 All applications received within a calendar month e.g. during 1st April to 30th April, shall be considered to have been filed simultaneously. This window of a calendar month shall keep rolling over i.e. after the expiry of a monthly window, another window of the duration of the next calendar month shall commence.

10.6 Based on system studies conducted in consultation with other agencies involved including other Licensees, if it is determined that Long-Term open access sought can be allowed without further system-strengthening, the Nodal Agency shall, within 30 days of closure of a window, intimate the applicant(s) of the same.

10.7 If, on the basis of the results of system studies, the Nodal Agency is of the opinion that the Long-Term open access sought cannot be allowed without further system-strengthening, the Nodal Agency shall notify the applicant of the same within 30 days of closure of a window. Thereafter, at the request of the applicant, which shall be made within 15 days of such notification by the Nodal Agency, the Nodal Agency shall carry out further studies, if required, to identify the scope of works involved and intimate the same to applicant within 30 days of receipt of such request from the applicant. The Nodal Agency shall also inform the applicant of the probable time frame for execution of the works involved after consultation with the concerned licensee(s).

Provided that in such cases, the applicant shall fully reimburse the Nodal Agency for actual expenditure incurred to carry out such system studies to identify the scope of works involved in system-strengthening. The fee, as prescribed in clause 10.2, paid by the applicant shall be adjusted against the actual expenditure to be reimbursed by the applicant:

Provided further that while identifying the scope of works for such system-strengthening, the Nodal Agency shall follow the standards required under the Grid Code and / or Distribution Code and / or Indian Electricity Rules, as the case may be.

11. Procedure of application for Short-Term open access

11.1 The SLDC shall make available the format of application similar to the one referred to the clause 10.1 above, to the general public in physical form at its office and in electronic printable form at its website.

11.2 The application for short-term open access to Transmission and / or Distribution system(s) shall be filed with, the SLDC with copies to concerned licensees. The application shall be accompanied by a non-refundable processing fee as prescribed by the Commission in the Tariff Orders, or otherwise, from time to time:

Provided that till such time the processing fee is so prescribed by the Commission, it shall be Rs.1,000.

11.3 The SLDC shall process the applications for Short-Term open access within the following time limits:

/ or Distribution Code and / or Indian Electricity Rules , as the case may be) or there is a need to carry out system-strengthening works to ensure availability of sufficient capacity. The Nodal Agency may have to carry out this exercise on a case-to-case basis as and when an open access application is received.

14.4 The licensees shall carry out information exchange among themselves and keep one another and the Nodal Agency informed of the transactions on their respective networks.

14.5 The Nodal Agencies and Transmission / Distribution Licensees shall post details of available capacity on their respective websites, including the details of open access transactions permitted on different Licensees' networks with their respective entry and exit points, etc. on a daily basis

15. Underutilization

15.1 In the event a user expects to underutilize the capacity contracted under open access, the user may surrender a part of the capacity subject, however, to an advance notice as set out in the terms of the open access agreement, along with an explanation for such underutilization.

15.2 In the event of underutilization of the capacity contracted by the open access user, which, if made available, could be used to meet requirements of other applicant(s), the concerned licensee may file an application with the Nodal Agency to reduce or cancel the capacity allocated to the open access user:

Provided that the Licensee shall not so approach the Nodal Agency without first issuing a notice to the concerned user as set out in the open access agreement:

Provided further that the Nodal Agency shall not reduce or cancel the capacity allotted without giving a notice of at least 15 days, in advance, to enable the concerned open access user to file his objections if any in writing.

15.3 In the event of user's surrender of whole or part of contracted capacity as per clause 15.1, or reduction/cancellation of the capacity allotted to the user as per clause 15.2, the user shall pay compensatory charges to the licensees concerned as follows:

- a) An amount equivalent to 50% of current application fee for Long-Term or Short-Term users, as the case may be, if all the capacity surrendered or reduced/cancelled is fully re-allotted to other applicants within the notice period so given by the user or the licensee, as the case may be.
- b) If the capacity surrendered or reduced/cancelled could not be fully re-allotted to other applicants within the notice period, then –
 - i. In case of Long-Term users, the user shall, as a one-time exit fee, pay 25% of the transmission charges and / or wheeling charges as the case may be, and the scheduling and system operation charges in force at that point in time, applied

Duration for which open access is required	Maximum processing time
Up to one day	12 hours
Up to one week	Two days
Up to one month	Seven days
Up to one year	Thirty days

12. Open Access Agreement

12.1 Based on the intimation by the Nodal Agency to the open access applicant, the applicant shall execute an open access agreement with the concerned Licensee(s), which shall broadly set out the information as given in Annexure-2 to this Regulation. The Licensees shall draft a standard open access agreement format and get the same approved by the Commission within 30 days of coming into effect of this Regulation.

12.2. The open access agreement referred to in clause 12.1 shall be bipartite, tripartite or multi-partite involving the applicant, the concerned Distribution Licensee in whose area of supply the applicant's exit point is located and the concerned Transmission Licensee or Licensees. The Open Access Agreement shall clearly bring out the rights and obligations of all parties which are broadly set out in Annexure – 3 with respect to exit points on transmission and distribution systems separately:

Provided that in cases where the open access applicant's point(s) of entry as well as the point(s) of exit are located within the distribution system of the same Distribution Licensee (at voltages 33KV and below), the applicant shall be required to execute an open access agreement only with such Distribution Licensee.

12.3 Subject to the capacity being available, the Licensee(s) shall, after the applicant for long-term open access has completed all the pre-requisite formalities, including the execution of open access agreement, make arrangements to provide access to the applicant within the time period specified in the Andhra Pradesh Electricity Regulatory Commission (Licensees' Duty for Supply of Electricity on Request) Regulation, 2004 (No. 3 of 2004):

Provided that in the case of short-term users, the open access shall be allowed as early as possible notwithstanding the time frame specified in the aforementioned Regulation.

12.4 Minimum term and renewal of the Open Access Agreement: The minimum term of an open access agreement is such term as the parties may agree and set out in the agreement subject to the provisions of clause 4 above. A long-term open access agreement between a long-term user and the licensee may be renewed for a further term of two years or more without the requirement of a fresh open access application, on receipt of at least three (3) months' notice from the concerned long-term user to the concerned licensee(s) and the Nodal Agency, before the expiry of the Agreement. . In case, no notice is provided by the Long-Term user, the Long-Term user shall forgo his right over the allotted capacity.



In case of short-term users, however, no extension of the original open access agreement shall be allowed, and a user wanting extension shall have to apply afresh to the Nodal Agency for open access.

13. Metering

13.1 All Long-Term and Short-Term open access users shall provide special energy meters capable of measuring active energy, reactive energy, average frequency and Demand integration in each 15-minute time block, with a built-in calendar and clock and conforming to BIS/CBIP Technical Report / IEC standards at all entry and exit points. This shall however be subject to the regulations to be made by the Central Electricity Authority under section 55 of the Act.

13.2 The users covered under clause 7 of this regulation shall have to provide the required metering at their premises within a period of 3 months from the date of coming into force of the Regulation failing which the Licensees shall no longer be obliged to wheel the energy to them. In such an event, all energy recorded at the premises of the user shall be deemed to have been supplied by the Distribution Licensee of that area of supply and shall be billed for by such Licensee accordingly at the appropriate tariff:

Provided that in the case of distribution licensees, the Commission may, considering the large number of meters required to be installed by them extend this 3-month time limit, as considered appropriate, on receipt of requests to this effect duly supported by valid reasons.

14. Procedure for determining the available capacity of transmission and distribution (T&D) networks

14.1 The licensees shall carry out load flow studies, system impact studies, etc. taking into account the existing capacity commitments and future projections of capacity requirements for open access users, load growth as projected by distribution licensees, growth of generation, network topology and consumption pattern, network investments, Repairs and Maintenance programs, etc. to determine the capacity available to accommodate open access transactions. While so determining the capacity available for open access transactions, capacity commitments to all existing users of the network and the system reliability margin shall be deducted.

14.2 The Licensees shall keep updating the data on available capacity, taking into account the contracts with open access users, the impact of such transactions on the capacity of system elements, the increase/decrease in native load, changes in consumption pattern, network strengthening programs actually carried out and those projected, etc.

14.3 In order to decide the availability of sufficient spare capacity in the T&D networks so as to permit an open access transaction applied for, the Nodal Agency may also carry out load flow studies to simulate the impact of power flows associated with such open access transaction on the network and thus determine whether capacity is available to permit such open access transaction (in conformity with technical standards according to Grid Code and

/ or Distribution Code and / or Indian Electricity Rules , as the case may be) or there is a need to carry out system-strengthening works to ensure availability of sufficient capacity. The Nodal Agency may have to carry out this exercise on a case-to-case basis as and when an open access application is received.

14.4 The licensees shall carry out information exchange among themselves and keep one another and the Nodal Agency informed of the transactions on their respective networks.

14.5 The Nodal Agencies and Transmission / Distribution Licensees shall post details of available capacity on their respective websites, including the details of open access transactions permitted on different Licensees' networks with their respective entry and exit points, etc. on a daily basis

15. Underutilization

15.1 In the event a user expects to underutilize the capacity contracted under open access, the user may surrender a part of the capacity subject, however, to an advance notice as set out in the terms of the open access agreement, along with an explanation for such underutilization.

15.2 In the event of underutilization of the capacity contracted by the open access user, which, if made available, could be used to meet requirements of other applicant(s), the concerned licensee may file an application with the Nodal Agency to reduce or cancel the capacity allocated to the open access user:

Provided that the Licensee shall not so approach the Nodal Agency without first issuing a notice to the concerned user as set out in the open access agreement:

Provided further that the Nodal Agency shall not reduce or cancel the capacity allotted without giving a notice of at least 15 days, in advance, to enable the concerned open access user to file his objections if any in writing.

15.3 In the event of user's surrender of whole or part of contracted capacity as per clause 15.1, or reduction/cancellation of the capacity allotted to the user as per clause 15.2, the user shall pay compensatory charges to the licensees concerned as follows:

- a) An amount equivalent to 50% of current application fee for Long-Term or Short-Term users, as the case may be, if all the capacity surrendered or reduced/cancelled is fully re-allotted to other applicants within the notice period so given by the user or the licensee, as the case may be.
- b) If the capacity surrendered or reduced/cancelled could not be fully re-allotted to other applicants within the notice period, then –
 - i. In case of Long-Term users, the user shall, as a one-time exit fee, pay 25% of the transmission charges and / or wheeling charges as the case may be, and the scheduling and system operation charges in force at that point in time, applied

on the capacity that could not be re-allotted for the remaining term of the agreement; and

- ii. In case of Short-Term users, the user shall bear the full transmission charges and / or wheeling charges, as the case may be, and the scheduling and system operation charges in force at that point in time, applied on the capacity that could not be re-allotted for the remaining term of the agreement.

16. Flexibility to change entry and exit points

16.1 The Long-Term users shall have the flexibility to change entry and/or exit points twice a year subject to the results of system impact studies to be carried out by the concerned Licensees at the behest of such users. All expenses incurred by the Licensees to carry out such studies shall be reimbursed in full by such users.

16.2 A Short-Term user availing of open access for one full year may also change entry and/or exit points twice, subject to feasibility.

17. Open Access charges

17.1 The charges for the use of the transmission and / or distribution system by an open access user shall be regulated as under:

- (i) Open Access users connected to the transmission/distribution system shall pay the transmission charges and / or wheeling charges and any other applicable charges as determined by the Commission from time to time, and notified in the relevant Tariff Order or otherwise, and as per the conditions stipulated therein:

Provided that the wheeling charges so payable shall be subject to a minimum level, as fixed by the Commission in the relevant Tariff Order or otherwise.

- (ii) In case of utilization of inter-state transmission system in addition to the intra-state transmission system and/or distribution system by an open access user, the transmission charges and / or wheeling charges shall be payable for the use of intra-state system in addition to the charges for utilization of the inter-state transmission system
 - (iii) The Open access users of the Transmission and / or Distribution System where such open access is for delivery of electricity to the consumer's premises in the area of supply of a distribution licensee, shall pay to the distribution licensee the (cross-subsidy) surcharge as determined by the Commission from time to time under Section 42 (2) of the Act :
- ✕ Provided that no (cross-subsidy) surcharge shall be payable if the open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.

- (iv) The Open Access user shall also be liable to pay additional surcharge on charges of wheeling as may be specified by the Commission from time to time under section 42(4) of the Act, in case open access is sought for receiving supply from a person other than the distribution licensee of such consumer's area of supply, to meet the fixed cost of the distribution licensee arising out of his obligation to supply.
- (v) Where an electrical plant or electrical line is to be constructed by the Licensee in order to extend power supply to an open access user, the Licensee may recover such expenditure as per the Andhra Pradesh Electricity Regulatory Commission (Licensee's Duty for Supply of Electricity on Request) Regulation, 2004 (Regulation No.3 of 2004)
- (vi) If network augmentation is required for providing access to an applicant, the Licensee shall carry out such augmentation only if (a) the Licensee can recover within a reasonable time the costs, the capital investment and a reasonable rate of return on the capital investment in respect of the augmentation, and (b) the Licensee has the ability to raise funds to finance such capital expenditure:

Provided that the Licensee may require the open access user to make a capital contribution towards such network augmentation.
- (vii) Scheduling and system operation charges shall be payable by all open access users under scheduling by SLDC. Such charges shall be governed by the relevant Regulations issued by the Commission.

18 Payment terms and conditions

18.1 In case of Long-Term users, the concerned Distribution Licensee may invoice a user in respect of the open access charges as set out in clause 17 of this Regulation and the open access user must pay those charges, in accordance with the procedures set out in the open access agreement between the Licensees and the user:

Provided that the Distribution Licensee shall have appropriate back-to-back arrangements in place with the Transmission Licensee(s) in order to pass on the transmission charges so collected from the user to the concerned Transmission Licensee.

18.2 In case of short-term users, the Distribution Licensee(s) may invoice the user and the user shall pay the charges to the concerned Licensee(s) directly. The SLDC shall assist / advise the Distribution Licensee in the matter of energy accounting and allocation. .

18.3 All open access users shall pay the charges payable under the open access agreement from the date of commencement of open access specified in the open access agreement, regardless of whether or not such open access is used on and from that date, except if the failure to use such open access is due to the default of the concerned licensee(s) whose networks are being used.

18.4 In case of underutilization leading to surrender or cancellation of contracted capacity, the user shall pay such charges and in such manner as set out in clause 15 above.

18.5 Meter readings and Billing in respect of open access for supply to consumers:

The Distribution Licensee in whose area the consumer is located shall take the meter readings at the exit point. The billing shall be done by the respective Licensees as per the open access agreement under clause 12 read with the provisions of clauses 17 and 20 of this Regulation.

18.6 For the purpose of clause 18.5 above, a consumer using the Transmission and /or Distribution systems for his total power requirements without any contracted maximum demand (CMD) from the Distribution licensee shall be deemed to be a consumer of the distribution licensee in whose area the consumer is located.

19. Other matters

19.1 Coordination among licensees and SLDC: For the success of open access implementation, the licensees and the State Load Dispatch Centre shall carry out information exchange among themselves on a daily basis to determine the level of open access transactions in their respective areas of supply, energy flows, loading of transmission and distribution lines and equipment to determine system stability, available capacity, congestions in the networks, etc.

19.2 Information requirements: The licensees and the State Load Dispatch Centre shall maintain the following information on their websites in order to ensure transparency and carry out information exchange among themselves required to process open access applications:

- (i) Transmission and / or wheeling charges, as the case may be, for open access users located within the State; and
- (ii) A status report on the current long-term users indicating name of user, period of the access granted (start date and end date), point(s) of injection and point(s) of drawal, capacity contracted and applicable charges. This report shall be updated as and when the status changes ; and
- (iii) Information regarding usage of the inter-regional links as well as interface between the Central Transmission Utility and State systems and inter-state links indicating time of updating, name of the link, total transmission capacity of the link, scheduled capacity use and current capacity of the link in use. This information shall be updated at least on hourly basis and wherever feasible on 15-minute basis.

19.3 Quality of supply: The licensee(s) shall ensure compliance with Grid Code wherever applicable. The Distribution Licensees shall also comply with the quality of supply standards as prescribed under the Andhra Pradesh Electricity Regulatory Commission (Licensees' Standards of Performance) Regulation, 2004 (Regulation No.7 of 2004) in respect of all open access users of its network.

19.4 Energy and Demand Balancing: All open access users, and the users covered under clause 7.2, shall make reasonable endeavor to ensure that their actual demand or actual sent-out capacity, as the case may be, at an inter-connection does not exceed the Contracted Maximum Demand or allocated sent-out capacity for that inter-connection:

Provided that for carrying out balancing and settlement of energy and demand at all entry and exit points relating to open access agreements, the licensee shall strictly adhere to the Balancing and Settlement Code to be approved by the Commission, from time to time.

19.5 Curtailment due to constraints: The licensee, based on directions from SLDC, may curtail power to any open access user or users, whether long-term or short-term, in an event of emergency threatening grid security and stability. As far as practicable, the priority in curtailment shall be as prescribed hereunder:

- (a) Short-term open access users of the network shall be curtailed in the first step, followed by
- (b) All other consumers including long-term access users, but excluding distribution licensees, in ascending order of contract period, followed by
- (c) Distribution licensees.

20. General Terms and Conditions of Supply

With regard to matters not contained herein, including but not limited to the following, and wherever the context so requires, the conditions set forth in the General Terms and Conditions of Supply shall generally be applicable:

- (a) Voltage of supply vis-à-vis total Contracted Demand;
- (b) Security Deposit;
- (c) Disconnection for non-payment of charges;
- (d) Title Transfer to successor entity; and
- (e) Levy and collection of Customer Charges

21. Dispute resolution

All disputes and complaint shall be referred to the Nodal Agency for resolution :

Provided that when the Nodal Agency is itself a party to the dispute, the dispute shall be referred for resolution to the Forum for Redressal of Consumer grievances set up under Regulation No.1 of 2004 :

Provided further that in case of wheeling of power from the captive generating plants, any disputes regarding the availability of transmission facility shall be adjudicated upon by the Commission.

22. Force Majeure

22.1 Events such as war, mutiny, civil commotion, riot, flood, cyclone, lighting, earthquake or other force and strike, lockout, fire affecting the premises, installations and activities of any of the parties having an open access agreement shall constitute force majeure events for the purpose of this Regulation.

on the capacity that could not be re-allotted for the remaining term of the agreement; and

- ii. In case of Short-Term users, the user shall bear the full transmission charges and / or wheeling charges, as the case may be, and the scheduling and system operation charges in force at that point in time, applied on the capacity that could not be re-allotted for the remaining term of the agreement.

16. Flexibility to change entry and exit points

16.1 The Long-Term users shall have the flexibility to change entry and/or exit points twice a year subject to the results of system impact studies to be carried out by the concerned Licensees at the behest of such users. All expenses incurred by the Licensees to carry out such studies shall be reimbursed in full by such users.

16.2 A Short-Term user availing of open access for one full year may also change entry and/or exit points twice, subject to feasibility.

17. Open Access charges

17.1 The charges for the use of the transmission and / or distribution system by an open access user shall be regulated as under:

- (i) Open Access users connected to the transmission/distribution system shall pay the transmission charges and / or wheeling charges and any other applicable charges as determined by the Commission from time to time, and notified in the relevant Tariff Order or otherwise, and as per the conditions stipulated therein:

Provided that the wheeling charges so payable shall be subject to a minimum level, as fixed by the Commission in the relevant Tariff Order or otherwise.

- (ii) In case of utilization of inter-state transmission system in addition to the intra-state transmission system and/or distribution system by an open access user, the transmission charges and / or wheeling charges shall be payable for the use of intra-state system in addition to the charges for utilization of the inter-state transmission system
- (iii) The Open access users of the Transmission and / or Distribution System where such open access is for delivery of electricity to the consumer's premises in the area of supply of a distribution licensee, shall pay to the distribution licensee the (cross-subsidy) surcharge as determined by the Commission from time to time under Section 42(2) of the Act :

Provided that no (cross-subsidy) surcharge shall be payable if the open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.

22.2 If any person being party to an open access agreement is unable to, wholly or in part, perform on time and as required, any obligation under such open access agreement or this Regulation because of the occurrence of a force majeure event, then, subject to this Regulation, that obligation shall be treated as suspended to the extent and for so long as the affected person's ability to perform such obligation remains affected by that force majeure event.

23. Issue of orders and practice directions

Subject to the provisions of the Electricity Act, 2003, the A.P. Electricity Reform Act, 1998, and this Regulation, the Commission may, from time to time, issue orders and practice directions in regard to the implementation of this Regulation, the procedure to be followed and other matters, which the Commission has been empowered by this Regulation to specify or direct.

24. Power to remove difficulties

24.1 In case of any difficulty in giving effect to any of the provisions of this Regulation, the Commission may by general or special order, direct the Open Access users, generators and the licensees to take suitable action, not being inconsistent with the provisions of the Act, , which appears to the Commission to be necessary or expedient for the purpose of removing the difficulty.

24.2 The Open Access users, generators and the licensees may make an application to the Commission and seek suitable orders to remove any difficulties that may arise in implementation of this Regulation.

25. Saving: Nothing contained in this Regulation shall affect the rights and privileges of the users under any other law for the time being in force, including the Consumer Protection Act, 1986 (68 of 1986).

26. Power to amend: The Commission may from time to time add, vary, alter, modify or amend any provisions of this Regulation.

(BY ORDER OF THE COMMISSION)

S.SURYAPRAKASA RAO
SECRETARY

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Exit Points location on 33 KV and below (Distribution System):

- (a) Concerned Transmission Licensee's obligation to provide Transmission capacity – User's right on Transmission capacity contracted;
- (b) Concerned Distribution Licensee's obligation to provide Distribution system capacity –User's right on Distribution capacity contracted;
- (c) Distribution Licensee's duties for meter reading and billing (for Transmission charges, Wheeling charges, applicable surcharges, out-of-balance payments, etc.) ;
- (d) User's duty to pay for charges as billed for ; and
- (e) Distribution Licensee's obligation to pass on the transmission charges collected from the user to the concerned Transmission Licensee

(BY ORDER OF THE COMMISSION)

Hyderabad,
30-06-2005

**S. SURYA PRAKASA RAO
SECRETARY**

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Annexure-1:

Suggested contents of Open Access Application

- (a)
 - (i) Name and address of the applicant
 - (ii) Details of applicant's installation
 - (iii) Nature of wheeling i.e., whether it is for captive use or third party sale.
 - (iv) Name and address of consumers to whom the power is to be wheeled.
- (b) Type of open access required, whether long-term, or short-term
- (c) Capacity in KW or MW required for open access in respect of each consumer
- (d) Point(s) of Entry
- (e) Point(s) of Exit
- (f) Period for which open access is required
- (g) Details of metering arrangements at the entry points and exit points as required under the Metering Code (part of the Grid Code or the Distribution Code, as the case may be) as amended from time to time
- (h) Information whether the recipients of power are already consumers of Distribution licensee of their area. If so, furnish the Contracted Maximum Demand (CMD) of each of them with the Distribution Licensee concerned

Any other information reasonably required by the licensee / Nodal Agency.

Annexure-2:

Suggested essential features of Open Access Agreement

- (a) The Entry and Exit points
- (b) Allotted capacity (in kW or MW) for open access in the Transmission and / or Distribution system
- (c) The rates and charges for providing various access services, such as:
 - (i) Transmission and/or Wheeling charges as the case may be;
 - (ii) Transmission losses and/or wheeling losses to be deducted;

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18.5 Meter readings and Billing in respect of open access for supply to consumers:

The Distribution Licensee in whose area the consumer is located shall take the meter readings at the exit point. The billing shall be done by the respective Licensees as per the open access agreement under clause 12 read with the provisions of clauses 17 and 20 of this Regulation.

18.6 For the purpose of clause 18.5 above, a consumer using the Transmission and /or Distribution systems for his total power requirements without any contracted maximum demand (CMD) from the Distribution licensee shall be deemed to be a consumer of the distribution licensee in whose area the consumer is located.

19. Other matters

19.1 Coordination among licensees and SLDC: For the success of open access implementation, the licensees and the State Load Dispatch Centre shall carry out information exchange among themselves on a daily basis to determine the level of open access transactions in their respective areas of supply, energy flows, loading of transmission and distribution lines and equipment to determine system stability, available capacity, congestions in the networks, etc.

19.2 Information requirements: The licensees and the State Load Dispatch Centre shall maintain the following information on their websites in order to ensure transparency and carry out information exchange among themselves required to process open access applications:

- (i) Transmission and / or wheeling charges, as the case may be, for open access users located within the State; and
- (ii) A status report on the current long-term users indicating name of user, period of the access granted (start date and end date), point(s) of injection and point(s) of drawal, capacity contracted and applicable charges. This report shall be updated as and when the status changes ; and
- (iii) Information regarding usage of the inter-regional links as well as interface between the Central Transmission Utility and State systems and inter-state links indicating time of updating, name of the link, total transmission capacity of the link, scheduled capacity use and current capacity of the link in use. This information shall be updated at least on hourly basis and wherever feasible on 15-minute basis.

19.3 Quality of supply: The licensee(s) shall ensure compliance with Grid Code wherever applicable. The Distribution Licensees shall also comply with the quality of supply standards as prescribed under the Andhra Pradesh Electricity Regulatory Commission (Licensees' Standards of Performance) Regulation, 2004 (Regulation No.7 of 2004) in respect of all open access users of its network.

19.4 Energy and Demand Balancing: All open access users, and the users covered under clause 7.2, shall make reasonable endeavor to ensure that their actual demand or actual sent-out capacity, as the case may be, at an inter-connection does not exceed the Contracted Maximum Demand or allocated sent-out capacity for that inter-connection:

- (iii) Cross-subsidy Surcharge ;
 - (iv) Additional surcharge ;
 - (v) SLDC charges;
 - (vi) Reactive energy charges, if applicable; and
 - (vii) Any other charges
 - (d) A requirement that the applicant's equipment / installations at all times for the entire duration of the contract complies with the provisions of the Grid Code and/or the Distribution Code, as the case may be
 - (e) The date of commencement of Open Access
 - (f) The manner of accounting of energy and demand balancing procedures, as per the Balancing and Settlement Code to be approved by the Commission, from time to time
 - (g) The billing cycle and the payment terms and conditions;
 - (h) The Agreement period and its termination / deration conditions
 - (i) Other terms and conditions including powers of the Nodal Agency on surrender of capacity, premature termination of open access agreement, penalty for under-utilisation of allotted capacity, etc.
 - (j) Provision for renewal of open access Agreement in applicable cases
- Any other information as considered reasonable by the Licensee.

Annexure – 3:

Duties, rights and obligations of parties, inter-alia, in case of Tripartite Open Access Agreements referred to in clause 12.2 of the Regulation

Exit Points location on 132 KV and above (Transmission System):

- (a) Concerned Transmission Licensee's obligation to provide transmission capacity – User's right on transmission capacity contracted :
- (b) Duties of Distribution Licensee of that area of supply where such exit point is located for meter reading and billing (for transmission charges, surcharges, out-of-balance payments, etc.);
- (c) User's duty to pay the charges, as billed for ; and
- (d) Distribution Licensee's obligation to pass on the transmission charges so collected from the user to the concerned Transmission Licensee.