

# GATI - विधि

-LAW IN ACTION



## Legal Updates

Central Electricity Regulatory Commission (“CERC”) vide notification dated 29.05.2023 has issued the CERC (Indian Electricity Grid Code) Regulations, 2023 (“**IEGC Regulations**”). The IEGC Regulations have not been notified yet and shall come into effect from such date as the CERC may notify and in the meantime, the CERC (Indian Electricity Grid Code) Regulations, 2010 shall continue to apply.

The IEGC Regulations will apply to all users, state load dispatch centres, renewable energy management centres, regional load dispatch centres, national load dispatch centre, central transmission utility, state transmission utilities, licensees, regional power committees, settlement nodal agencies, qualified coordinating agencies and power exchanges to the extent applicable. IEGC Regulations provides for the roles, functions, and responsibilities of the concerned statutory bodies, generating companies and any other persons that may relate to the operation of power systems and contains exhaustive provisions with respect to (i) reliability and adequacy of resources, (ii) technical and design criteria for connectivity to the grid including integration of new elements, trial operation and declaration of commercial operation of generation stations and inter-State transmission systems (iii) protection setting and performance monitoring of the protection systems including protection audit, (iv) operational requirements and technical capabilities for secure and reliable grid operation including load generation balance, outage planning and system operation, (v) unit commitment, scheduling and dispatch criteria for physical delivery of electricity, (vi) integration of renewables, (vii) ancillary services and reserves and (viii) cyber security, etc.

The IEGC Regulations may be accessed vide the link [here](#).

**CERC issues  
IEGC Regulations**

Ministry of Coal (“**MoC**”) vide notification dated 01.06.2023 has sought comments from the stakeholders on amendments to the Mines and Minerals (Development and Regulation) Act, 1957 (“**MMDR Act**”) and Mineral Concession Rules, 1960 (“**MCR**”). The amendments are being proposed to promote the ease of doing business by shifting from regulatory/ restrictive regime to market driven regime, making it more industry friendly and as per the current market practice.

MoC has sought to amend the MMDR Act by proposing the following changes to the second schedule, in item 10 in sub-entry (1) of entry A:

**MoC invites stakeholder comments on amendments proposed to Mines and Minerals (Development and Regulation) Act, 1957 and Mineral Concession Rules, 1960**

- “(i) for the words and symbol "shall be @ 14% ad- valorem on price of coal, as reflected in the invoice" the following words and symbols shall be substituted "shall be @14% ad valorem on the basic pithead price of Run of Mine (“**RoM**”) coal, as notified by Coal India Limited, or its subsidiaries or by Singareni Collieries Company Limited, as applicable to the mines under their respective ownership, management or control excluding taxes, levies and other charges”.
- (ii) The following proviso shall be inserted before proviso namely: — "Provided that the royalty on ROM coal sold through e- auction by Coal India Limited, or its subsidiaries or by Singareni Collieries Company Limited shall be 14% ad- valorem on price of coal, as reflected in the invoice, excluding taxes, levies, and other charges”.
- (iii) In the proviso, after the word 'provided', the word 'further' shall be inserted.”

MoC has sought to amend the MCR by inserting the following proviso before the first proviso under Rule 64B:

*"Provided that for Run of Mine (ROM) coal sold through e- auction by Coal India Limited, or its subsidiaries or by Singareni Collieries Company Limited, royalty shall be charged on price of coal as reflected in the invoice."*

Andhra Pradesh Electricity Regulatory Commission (“**APERC**”), vide its notification dated 05.06.2023 has proposed the following amendments to the APERC Renewable Power Purchase Obligation (Compliance by purchase of Renewable Energy/Renewable Energy Certificates) Regulations, 2022 (“**Principal Regulations**”):

**APERC proposes amendments to APERC Renewable Power Purchase Obligation (Compliance by purchase of Renewable Energy/Renewable Energy Certificates) Regulations, 2022**

1. Insertion of new proviso under sub-clause 3.2 of the Principal Regulations:  
*"Provided that the purchase of Renewable Energy by the Open Access Consumer from the Distribution Licensee as per the procedure stipulated in clause 3.4 of this regulation shall also be counted towards the fulfilment of RPPO by such an Open Access Consumer."*
2. Insertion of new proviso under sub-clause 3.3 of the Principal Regulations:  
*"Provided that the purchase of Renewable Energy by the captive consume from the Distribution Licensee as per the procedure stipulated in clause 3.4 of this regulation shall also be counted towards the fulfilment of RPPO by such a captive Consumer."*

The draft amendment has also inserted a new sub-clause 3.4 providing for procurement of renewable energy (“**RE**”) from distribution licensee (“**Discom**”) by obligated/non-obligated entities at green tariff without needing to opt for a separate category “green power”.

APERC vide its notification dated 02.06.2023 has proposed the following amendments to the APERC (Fees) Regulations, 2005 (“**Principal Regulations**”) providing for redetermination of fees applicable for various services:

**APERC proposes amendments to the APERC (Fees) Regulations, 2023**

1. Clause 4(i)(a) of the Principal Regulations is proposed to be amended vide which the application fees for grant of transmission/distribution/trading license has been increased to Rs. 90,000/-.
2. Clauses 4(ii)(a), 4(ii)(b) and 4(ii)(c) of the Principal Regulations are proposed to be amended vide which the annual license fee has been increased as follows:
  - a. Transmission Licensee - Rs.3,000/- per MW of the allocated capacity

- b. Discom / Deemed Licensee – 0.20 paise per each unit of energy (kWh) to be handled during the year
- c. Exemption from the license - 0.20 paise per each unit of energy (kWh) to be handled during the year
3. Clauses 4(iii)(a) of the Principal Regulations is proposed to be amended vide which the fees to be paid with application for determination of tariff of generating companies has been increased to Rs. 20,000/- per MW for conventional generators with a maximum of Rs. 200 lakhs and Rs. 15,000/- per MW for renewable generators with a maximum of Rs. 150 lakhs.
4. Clauses 4(iv)(a) and 4(iv)(c) of the Principal Regulations are proposed to be amended vide which:
  - a. the fees to be paid along with petition for adjudication of disputes under section 33(4) and section 86(1)(f) of the Electricity Act, 2003 (“**the Act**”) has been increased to Rs. 90,000/-
  - b. the fees to be paid for petitions under any other provisions of the Act for a licensee / generating company has been increased to Rs. 30,000/- and for individuals / consumer organizations has been increased to Rs. 3,000/-.
5. Clauses 4(v)(a), 4(v)(b) and 4(v)(c) of the Principal Regulations are proposed to be amended vide which the fees to be paid with petition seeking review of the Commission’s orders has been increased as follows:
  - a. For review of orders issued under section 62 and 64 of the Act / section 26 of the Andhra Pradesh Electricity Reform Act, 1998, the fees is Rs. 1 lakh
  - b. For review of orders issued under section 9, section 33(4) and section 86(1)(f), the fees is Rs. 50,000/-
  - c. For others, the fees is Rs. 3,000/-
6. Clause 4(6) of the Principal Regulations are proposed to be amended vide which the fees for filing petitions not covered in any of the other sub-clauses of the Principal Regulations has been increased for individuals to Rs. 5,000/- and for others to Rs. 10,000/-.

APERC vide its notification dated 06.06.2023 has proposed the Draft APERC (The Grid Interactive Solar Rooftop Photovoltaic Systems under Net/Gross Metering) Regulations, 2023 (“**Draft Regulations**”). The Draft Regulations shall be applicable to all the grid interactive solar rooftop photovoltaic systems (“**SRTPVS**”) with/without battery energy storage systems (“**BESS**”) installed and commissioned in the areas of Discoms in the state of Andhra Pradesh. The Draft Regulations, *inter alia*, provide for the following:

1. All registered companies, government entities, partnership companies/firms/individuals who are consumers of AP Discom(s) and Group of persons/Societies who are the consumers are eligible for setting up the grid interactive SRTPVS with or without BESS.
2. Capacity of grid-interactive SRTPVS with or without BESS under net / gross metering shall be as follows:

Particulars	Capacity that can be availed		
	Min	Max	Capped up to
Individual Net Metering	1 kWp	500 kWp	Contracted load / contracted demand of the consumer
Net Metering of Multiple Services of an Individual	5 kWp	500 kWp	
Group Net Metering	5 kWp	500 kWp	
Gross Metering	1 kWp	5000 kWp	

3. Projects of capacity up to 5000kWp at a single location shall be permitted.
4. Permissible capacity of grid interactive SRTPVS at various voltage levels shall be as follows:

S. No.	Voltage	Phase	Capacity
1.	LT, 240 V	Single Phase	Up to 3 kWp
2.	LT, 415 V	Three Phase	3 kWp to 56 kWp
3.	HT, 11kV	Three Phase	56 kWp to 1500 kWp
4.	HT, 33kV	Three Phase	1500 kWp to 5000 kWp
5.	EHT, 132kV and above	Three Phase	5000 kWp

5. No Transmission and Wheeling charges & losses shall be collected from the prosumers under the Gross/Net Metering, wherever the SRTPVSs and Consumption are at the same point of the grid. In other cases, 5% of energy injected into the grid by SRTPVSs in kind shall be collected/adjusted

**APERC proposes APERC (The Grid Interactive Solar Rooftop Photovoltaic System under Gross/Net Metering) Regulations, 2023**

towards T&D charges and losses. The Grid support charges as determined by the Commission in the tariff orders from time to time shall be applicable.

Interested stakeholders may submit their comments/suggestions/objections on the Draft Regulations on or before 04.07.2023. The Draft Regulations may be accessed via the link [here](#).

**MPERC proposes to amend MPERC (Co-Generation and Generation of Electricity from Renewable Sources of Energy), (Revision-II), Regulations, 2021**

Madhya Pradesh Electricity Regulatory Commission (“MPERC”), vide its notification dated 02.06.2023 has proposed an amendment to the definition of ‘entity’ under Regulation 2(x)(a) of the MPERC (Co-Generation and Generation of Electricity from Renewable Sources of Energy), (Revision-II), Regulations, 2021 (“MPERC RE Regulations”):

*“‘Entity’ means any consumer who has contracted demand or sanctioned load of 100 kW or more either through single connection or through multiple connections aggregating 100 kW or more located in same electricity division of a distribution licensee, except for captive consumers: Provided that in case of captive consumers there shall not be any load limitation.*

*Provided that in case of captive consumers there shall not be any load limitation.”*

Interested stakeholders may submit their comments / objections on or before 30.06.2023.

MPERC, vide its notification dated 02.06.2023, has proposed the following amendments to the MPERC (Terms and Conditions for Intra-State Open Access in Madhya Pradesh) (Revision-I) Regulations, 2021 (“OA Regulations”):

1. The second proviso of Regulation 3.3 of the OA Regulations, which currently provides that RE generators and users capacity of 100kW or above shall be provided open access, subject to no operational constraints in the system, is proposed to be substituted as follows:

*“Provided further that renewable energy generators and users who have contracted demand or sanctioned load of 100 kW or more, either through single connection or through multiple connections aggregating 100 kW or more located in same electricity division of a Distribution Licensee, shall be provided Open access, subject to no operational constraints in the Licensee’s system.”*

2. The fifth proviso to Regulation 13B(ii) of OA Regulations, which currently provides that additional surcharge shall not be applicable in case of electricity produced from offshore wind projects, which are commissioned up to December 2025 and supplied to open access consumer, is proposed to be substituted as follows

*“Provided also that additional surcharge shall not be applicable in case of electricity is produced from offshore wind projects, which are commissioned up to December 2032 and supplied to Green Energy Open Access Consumer.”*

Interested stakeholders may submit their suggestions/ objections / comments on or before 30.06.2023.

MPERC, vide its notification 02.06.2023, has proposed the following amendments to the MPERC (Methodology for Determination of Open Access Charges and Banking Charges for Green Energy Open Access Consumers), Regulations, 2023 (“Determination of OA Charges Regulations”):

1. The definition of ‘Green Energy Open Access Consumer’, provided under Regulation 3(1)(j) of the Determination of OA Charges Regulations is proposed to be substituted by the following:

*“(j) ‘Green Energy Open Access Consumer’ means any person who has contracted demand or sanctioned load of 100 kW or more, either through single connection or through multiple connections aggregating 100 kW or more located in same electricity division of a Distribution Licensee, or such other limit as may be specified by Commission from time to time with the Distribution Licensee, except for captive consumers, who are supplied with electricity from green energy sources for their own use by a Licensee or the Government or by any other person engaged in the business of supplying electricity to the public under the Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the*

**MPERC proposes to amend MPERC Commission (Terms and Conditions for Intra-State Open Access in Madhya Pradesh) (Revision-I) Regulations, 2021**

**MPERC proposes to amend MPERC (Methodology for Determination of Open Access Charges and Banking Charges for Green Energy Open Access Consumers), Regulations, 2023**

*purpose of receiving green energy with the works of a Licensee, the Government or such person, as the case may be.”*

2. The sixth proviso under Regulation 9 of the Determination of OA Charges Regulations is proposed to be substituted by the following:

*“Provided also that additional surcharge shall not be applicable in case electricity is produced from offshore wind projects, which are commissioned upto December 2032 and supplied to the Green Energy Open Access Consumers.”*

Interested stakeholders may submit their comments / suggestions / objections on or before 30.06.2023.

Gujarat Electricity Regulatory Commission (“**GERC**”), vide its public notice dated 05.06.2023 placed a Discussion Paper on Determination of Tariff for procurement of power by Discoms and others from Municipal Solid Waste to Energy projects in the State of Gujarat (“**Discussion Paper**”).

GERC vide its order No. 4 of 2016 dated 10.11.2016 had issued generic tariff order for procurement of power by Discoms from Municipal Solid Waste (“**MSW**”) to energy projects applicable for the control period up to 31.03.2019, the validity of which was extended up to 31.03.2021 vide suo-motu order dated 23.10.2017 in Petition No. 1654/2017. GERC intends to initiate the process for determination of generic tariff for the control period up to 31.03.2028, for procurement of power generated by the MSW Projects in the State of Gujarat by Discoms and accordingly has placed the Discussion Paper on its website for inviting stakeholder comments. Interested persons may submit their comments / suggestions / objections on or before 05.07.2023.

The Discussion Paper may be accessed vide the link [here](#).

Karnataka Electricity Regulatory Commission (“**KERC**”) vide its order dated 08.06.2023 has issued certain clarifications pertaining to implementation of certain provisions of the KERC (Terms and Conditions for Green Energy Open Access Regulations, 2022 (“**GEOA Regulations**”) which were notified in line with the Electricity (Promoting Renewable energy through Green Energy Open Access) Rules, 2022 (“**GEOA Rules**”) by Ministry of Power. However, during the implementation of the GEOA Regulations, stakeholders requested clarifications p the GEOA Regulations, which are discussed below:

1. **Implementation of Time of Day (“**TOD**”) settlement of energy injected / drawn:**
  - a. In order to have a common methodology for calculation of all the open access charges, Rule 12 of the GEOA Rules had mandated the Forum of Regulators (“**FOR**”) to prepare a model regulation on methodology for calculation of open access charges, as well as banking charges within a period of four months from the date of commencement of the Rules.
  - b. Accordingly, FOR in its model regulation on methodology for calculation of open access charges and banking charges for Green Energy Open Access (“**GEOA**”) consumers, has specified that the energy banked during peak TOD slots shall be permitted to draw during peak as well as off-peak TOD slot . However, the energy banked during off-peak TOD slots shall be permitted to draw during off-peak TOD slot by only paying the banking charges, and from off-peak slot to peak slot by paying additional charges as may be specified by appropriate Commission in addition to the banking charges.
  - c. Thus, KERC in line with the methodology developed by FOR as specified under the GEOA Rules, decided to implement ToD settlement of energy injected/drawn. KERC in its GEOA Regulations has already specified the banking charges in kind at 8% of the banked energy in line with the FOR methodology. However, the KERC GEOA Regulations are silent about the additional banking charges to be paid for drawal of energy during peak hours which was injected during off-peak hours. Thus, KERC, in line with the methodology developed by FOR, holds that 2% of the banked energy in kind in addition to the 8% banking charges should be charged for drawal of off-peak energy during peak hours. The TOD slots shall be as specified in the tariff orders issued from time to time and shall be applicable to low tension consumers also who seek open access under the KERC GEOA Regulations. The morning peak slot shall be from 06.00 hrs to 10.00 hrs and the evening peak slot shall be from 18.00. hrs to 22.00 hrs, unless it is modified.

**GERC issues Discussion Paper on the Determination of Tariff for procurement of power by Distribution Licensees and others from Municipal Solid Waste to Energy projects in the State of Gujarat**

**KERC provides clarification on issues regarding implementation of KERC (Terms and Conditions for Green Energy Open Access Regulations, 2022.**

2. **Settlement priority between different generation sources:**

- a. Clause 6.1.3 of existing Wheeling and Banking Agreement (“WBA”) under the KERC (Terms and Conditions for Open Access) Regulations, stipulates that while billing the monthly demand charges, the power injected by the company under wheeling shall be charged first to the consumption of exclusive, non-exclusive consumers and captive consumers and the residual demand shall be deemed to have been met by the Discom in whose jurisdiction such consumer is located and shall be billed as per the applicable tariff. Thus, the bills should be prepared after deducting the consumption by the consumer from various open access sources like Indian Energy Exchange, wheeling etc. ensuring that the power procured in any 15-minute time block from all sources will not exceed the contract demand. However, it is clarified that the following priority may be considered for adjustment of energy purchased from various sources while preparing the bills:
  - i. Power market purchase
  - ii. Short-term purchase other than power market
  - iii. Medium term purchase other than licensee;
  - iv. Long term purchase other than licensee
  - v. Distribution licensee
- b. In view of the above, priority shall be given to inter-state transactions.
- c. In case, the consumer buys power under the old regime as well as under the new regime of the GEOA, the energy should be allocated on pro-rata basis of the contracted capacity under different regime, till such time the generating units which come under GEOA provide separate meters so that they can be treated separately for energy accounting purpose. Further, while billing the energy under GEOA should be settled first followed by settlement of energy under old regime, with annual banking.

3. **Charges to be paid by new consumers to be added to an existing WBA (signed before issue of the GEOA Regulations):**

- a. According to the Clause 6.1.1 of the WBA format, any generator can add or delete consumers. With implementation of the GEOA Regulations, any generator can still add or delete consumers under the existing WBA. As far as the open access charges are concerned for these new consumers and for any capacity addition by existing addition by existing consumers under the old WBA regime, the charges in terms of GEOA have to be paid as the GEOA regulations are applicable to all consumers who seek open access after coming into effect of the GEOA Regulations. Further, the banking facility shall be extended for such consumers in accordance with the GEOA Regulations.

4. **Applicability of Transmission Charges for intra state wheeling of energy:**

- a. KERC in its tariff orders issued from time to time, has clarified that in case the wheeling of energy involves usage of transmission network or network of more than one licensee, the charges shall be as indicated below:
  - i. If only transmission network is used, transmission charges including losses determined by KERC shall be as payable to the transmission licensee;
  - ii. If the transmission network and the Discoms’ network is used, transmission charges shall be payable to the transmission licensee, in addition to transmission and Discoms’ technical losses and wheeling charges shall be payable to the Discom where the power is drawn. Wheeling Charges of the Discom where the power is drawn shall be shared equally among the Discoms whose networks are used.
  - iii. If Discoms’ network only is used, after deducting the Discoms technical loss of the wheeling charges of the Discom where the power is drawn is payable and shall be shared equally among the Discoms whose networks are used.

5. **Charges applicable under the GEOA Regulations:**

- a. Regulation 11 (i) of GEOA Regulations specify that the open access charges shall be determined by KERC considering the methodology specified by FOR. However, till the time KERC adopts and determines the charges in accordance with the methodology specified by FOR, the Karnataka Power Transmission Company Limited /State Load Despatch Centre/ Discoms are directed to collect the following:

- i. The transmission charges along with the transmission losses as determined by the KERC in its tariff order shall also be applicable for all transaction coming under GEOA Rules.
- ii. Wheeling charges, wheeling losses, additional surcharge and cross subsidy surcharge in full, as determined by the KERC in its tariff orders issued from time to time.
- iii. Standby charges as per the GEOA Rules specified by Ministry of Power.
- iv. Banking charges as specified by FOR (8% of the banked energy).
- v. Any other charges as determined by the KERC from time to time.

Maharashtra Electricity Regulatory Commission (“**MERC**”) vide its notification dated 08.06.2023 has notified the MERC (Multi Year Tariff) (Second Amendment) Regulations, 2023. The said amendments have incorporated certain sectoral developments like the first and second amendments notified by CERC to the CERC (Terms and Conditions of Tariff) Regulations, 2019. The present amendment regulations have notified, *inter alia*, the following changes:

1. Clarification as to the input price for supply of coal or lignite from integrated mine(s) prior to their date of commercial operation.
2. Provision for depreciation of Emission Control System.
3. Formula for calculation of rate of interest on loan for installation of Emission Control System.
4. Practices and safeguard clauses to prevent additional liability towards Foreign Exchange Rate Variation on import of materials.
5. Charges for intra-state transmission usage among various TSUs.

The Draft amendment Regulations may be accessed vide the link [here](#).

**MERC notifies the  
MERC (Multi  
Year Tariff)  
(Second  
Amendment)  
Regulations, 2023**

A-142, Neeti Bagh  
New Delhi – 110 049, India  
T: +91 11 4659 4466 F: +91 11 4359 4466  
E: mail@neetinyaman.co  
W: [www.neetinyaman.co](http://www.neetinyaman.co)

Office No. 501, 5th Floor,  
Rehman House Premises CHS,  
Nadirsha Sukhia Street, Fort,  
Mumbai-400001, India

Disclaimer: ‘GATI-विधि: LAW IN ACTION’ is for information purposes only and should not be construed as legal advice or legal opinion. Its contents should not be acted upon without specific professional advice from the legal counsel. All rights reserved.

