

**APP Comments on Draft Electricity (Promoting Renewable Energy through Green Energy Open Access) Rules, 2021**

Sl. No.	Rule No. & Description	Proposed modification	Comments and Suggestions
1.	<p><b>Clause 2(b)</b></p> <p>“Entity” means any consumer who have contracted demand/ sanctioned load of 100 kW or more <b>except for captive consumers.</b></p>	<p>“Entity” means any consumer who have contracted demand/ sanctioned load of 100 kW or more, <b>and also includes captive consumers.</b></p>	<p>The present wording of definition of ‘Entity’ gives the impression that captive consumers are excluded from the definition of ‘entity’. This may be appropriately reworded as suggested.</p>
2.	<p><b>Clause 2(c)</b></p> <p>“Green energy” means electrical energy generated from renewable sources of energy;</p>		<p>At various places in the draft rules, the reference to Renewable Energy Sources is given. The definition of Renewable Energy Source should be clearly provided as this rule has impact on both CTU and STU connected projects and customers.</p> <p>Therefore, ‘Renewable energy source’ may be defined as sources which include hydro, wind, sunlight, biomass, bagasse, municipal solid waste and other such sources as approved by the MNRE.</p>

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3.	<p><b>Clause 4(1)</b></p> <p>There shall be uniform Renewable Purchase Obligation, on all <b>obligated entities</b> that is - the distribution licensees, open access consumers and captive power consumers, from the date of notification of these Rules.</p>	-	<p>The definition of “<b>Obligated Entity</b>” is defined under respective state RPO regulations as “distribution licensee(s), Captive user(s), Open Access Consumer(s) and entities mandated under 86(1)(e) of the Electricity Act to fulfill Renewable Purchase Obligation”. It is submitted that this reference may be provided under the Rules for the sake of abundant clarity.</p>
4.	<p><b>Clause 4(2)(A)</b></p> <p>“Behind the Meter” means the electricity generated for their own use and not for injection of such power into the electricity grid.</p>	<p>“Behind the Meter” means the electricity generated for their own use and not for injection of such power into the electricity grid <b><u>for commercial benefit; whether installed inside / outside the premises of the consumer but connected at low voltage (internal bus) of the consumer through dedicated transmission line.</u></b></p>	<p>The project installed outside the premises but connected through a dedicated transmission line at the internal bus of the consumer should also qualify as ‘Behind the Meter’.</p> <p>Further, removing the capacity limit for installation of power plants from Renewable Energy Sources behind the meter would encourage usage from RE sources. However, such a measure would not be viable if the surplus energy is not allowed to be injected into the grid for a specified price. Non-injection of surplus energy into the grid and usage for the consumer alone</p>

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			<p>may be viable once the storage technologies are commercially attractive. Hence for now, MoP may consider the possibility of injection of surplus energy into the grid at a specified price.</p>
5.	<p><b>Clause 4(2)(B)</b></p> <p>By procuring Renewable Energy through Open Access from any Developer with which the entity enters into an agreement.</p>	<p>By procuring Renewable Energy through Open Access from any Developer with which the entity enters into an agreement. <b>Such procurement shall be for a minimum period of 1 year.</b></p>	<p>In line with condition proposed for RE procurement done directly from Discom {Clause 4(2)(C)(e)}, a minimum period of 1 year should be applicable also for STOA procurement from 3rd party developer.</p> <p>This would encourage proper due diligence by procurers and would also provide some level of certainty to the developer and financier.</p>
6.	<p><b>Clause 4(2)(C)(a)</b></p> <p>Any entity may elect to purchase green energy only upto a certain percentage of the consumption or its entire consumption and they may place a requisition for this with <b>their</b> Distribution</p>	<p>Any entity may elect to purchase green energy only upto a certain percentage of the consumption or its entire consumption and they may place a requisition for this with <b>the</b> Distribution Licensee, which shall procure such</p>	<p>The present formulation of this provision assumes that the entity is already a consumer of Discom. However, Green Energy requisitioned from the Discom should be allowed in both cases, whether</p>

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	Licensee, which shall procure such quantity of green energy and supply it.	quantity of green energy and supply it.	<p>1) Entity is already a consumer of Discom</p> <p>2) Entity is not already a consumer of Discom</p> <p>Option (2) will provide the consumers with an additional avenue to meet its Renewable Purchase Obligation.</p>
7.	<p><b>Clause 4(2)(C)(b)</b></p> <p>Green energy can be purchased against Renewable Purchase Obligation on consumption from captive power plant or energy availed through open access from sources other than Renewable Energy sources.</p>	<p>The clause may be reworded as follows:</p> <p><b>‘Obligated Entities and consumers need to fulfil Renewable Purchase Obligation based on their consumption from captive power plant (Non-RE sources) or Non-RE/conventional energy availed through open access by purchasing green energy through open access.’</b></p>	<p>The proposed reworded clause may be considered for the sake of abundant clarity.</p>
8.	<p><b>Clause 4(2)(C)(c)</b></p> <p>Consumer may purchase, on a voluntary basis - a larger quantity / share of renewable energy than he is obligated to do. For ease of implementation this may be a minimum 50% of consumption from</p>		<p>The minimum limit of 50% may be reduced to 25% in order to encourage the consumer to purchase more green energy.</p>

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	green energy, which can go upto 100% in step of 25% (i.e. 50%, 75%, 100%).		
9.	<p><b>Clause 4(2)(C)(d)</b></p> <p>The Tariff for the Green Energy shall be determined by the Appropriate Commission, which may comprise of the average pooled power purchase cost of the renewable energy, cross-subsidy charges (if any) and service charges covering all prudent cost of the distribution licensee for providing the green energy.</p>	<p>Clause may be modified as below:</p> <p>The Tariff for the Green Energy shall be determined by the Appropriate Commission, which may comprise of the average pooled power purchase cost of the renewable energy <b>and</b> cross-subsidy charges (if any). <del>and service charges covering all prudent cost of the distribution licensee for providing the green energy.</del></p>	<p>Loading of not only the APPC and CSS but also service charges to the consumer opting for 100% green energy will making their cost of power purchase costlier than their existing cost, thus discouraging them from opting for the same.</p> <p>Therefore, services charges should not be considered under calculation of green energy tariff as the services to be provided by Distribution Licensee such as billing to consumer is normal activity of any Distribution Licensee which it has to undertake irrespective of consumer opting for 100% of RE power. Further, amount of energy consumed by consumer would remain the same and only source of such energy is being changed to 100% RE sources.</p> <p><b>Further, the methodology for determination of Green Energy Tariff in a time bound manner needs to be</b></p>

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			<b>provided by Forum of Regulators to ensure uniformity across all states.</b>
10.	<p><b>Clause 4(2)(C)(f)</b></p> <p>Green energy purchased from distribution licensee shall be counted towards Renewable Purchase Obligation compliance of the distribution licensee.</p>	This clause may be dropped.	Since requisitioned RE purchase from Discom is voluntary but paid entirely by the consumer, the Discom should not be entitled to claim credit for the same, towards its RPO. If this provision is kept, then the Discom would most likely not procure any additional RE quantum.
11.	<p><b>Clause 4 (2) (D)</b></p> <p>To meet the Renewable Purchase Obligation, Renewable Energy Certificates can be purchased in accordance with the applicable regulations</p>	To meet the Renewable Purchase Obligation, Renewable Energy Certificates can be purchased <b>through power exchange or on bilateral terms</b> in accordance with the applicable regulations.	<ul style="list-style-type: none"> <li>• REC regulation may be modified to allow the Sale of RECs on bilateral terms.</li> <li>• REC trade on a bilateral basis will boost the financial viability of RE power plants and the REC market. In the case of the bilateral REC market, the commercial settlement can be on mutually agreed terms between Buyer and Seller and this will lead to the addition of new RE capacity in the country.</li> </ul>

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			<ul style="list-style-type: none"> <li>Further, in line with the MoP Discussion Paper on redesigning of REC mechanism dated 04.06.2021, provisions of Renewable energy certificates for new and high-cost technologies should also be allowed and concept of Multiplier shall be considered depending upon their maturity level. As the adoption of the technology progresses along the maturity path, the same can gradually be reduced.</li> </ul>
12.	<p><b>Clause 4(2)(E)</b></p> <p>“Green hydrogen” is the hydrogen produced using electricity from the renewable sources..... <b>The norms shall be notified by the Central Commission.</b></p>	-	It is requested to provide the indicative timelines with respect to the issuance of norms/ policy/ methodology to be issued by Central Commission for the quantum of green hydrogen computed by considering the equivalence to the Green hydrogen produced from one MWh of electricity from the renewable sources or its multiple.
13.	<p><b>Clause 5</b></p> <p>The Appropriate Commission shall put in place regulations in accordance with this Rule to provide Green Energy Open</p>	<p>The Appropriate Commission shall put in place regulations in accordance with this Rule <b><u>and within six (6) months from the date of</u></b></p>	The suggested additions would define clear timelines for closing the open access applications in case of any query in application and avoid unnecessary delays.

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	<p>Access to consumers who are willing to consume the Green energy. All applications for open access of Green Energy shall be granted within a maximum of 15 days.</p>	<p><u>notification of this Rules</u>, to provide Green Energy Open Access to consumers who are willing to consume the Green energy. All applications for open access of Green Energy shall be granted within a maximum of 15 days.</p> <p><u>Central Nodal Agency may ask for clarification if any, within 7 days from the date of receipt of the Application and the applicant shall respond within seven days of receipt of queries.</u></p>	
14.	<p><b>Clause 5</b></p> <p>Provided that only Consumers who have contracted demand/sanctioned load of hundred kW and above shall be eligible to take power through green energy open access. There shall be no limit of supply of power for the captive consumers taking power under green energy open access.</p>	<p>The following addition may be made to this clause:</p> <p>Provided that only Consumers who have contracted demand/sanctioned load of hundred kW and above shall be eligible to take power through green energy open access. There shall be no limit of supply of power for the captive consumers taking power under green energy open access. <u>There shall not be any capacity limit, with respect to sanctioned load or contracted demand, for installation of renewable energy power plants to be set up</u></p>	<p>The Electricity Act 2003, Electricity Rules 2005 and National Tariff Policy, 2016 have provided various measures in order to promote captive power plants and generation from renewable energy sources. Further, various States Govts have issued Re policy with an objective to promote RE power projects for sale of power to parties other than Discoms and for Captive consumption.</p> <p>Various states have capped/ restricted the capacity for</p>



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		<p><u>for supplying the power under green energy open access.</u></p>	<p>renewable energy projects by limiting the installed capacity up to the sanctioned/ contract demand or part of it. Such clause are restricting penetration of RE power which is not correct.</p> <p>In view of the above, it is requested to provide suitable rules allowing no restriction in capacity of individual renewable energy-based generating plant to be set up for supplying the power under green energy open access. The proposed rule is also in line with the Rule 4 wherein there is no capacity limit for renewable energy based power plants behind the meter.</p>
15.	<p><b>Clause 5</b></p> <p>Provided further that reasonable conditions such as the minimum number of time blocks for which the consumer shall not change the quantum of power consumed through open access may be imposed so as to avoid high variation in demand to be met by the distribution</p>	<p>.....Provided further that <u>guidelines for</u> reasonable conditions such as the minimum number of time blocks for which the consumer shall not change the quantum of power consumed through open access <del>may be</del> <u>shall be set forth by Forum Of Regulators and be followed by State Regulatory Commissions or Distribution Licensee/State Load Dispatch Centre to avoid</u></p>	<p>The guidelines of reasonableness of certain conditions to avoid high variation in demand in green energy open access business should be determined through wider consultation by Forum of Regulators (“FOR”). There is noteworthy risk of the states using this clause to scuttle green open access on technical grounds. Two examples we inform below, wherein unreasonable conditions for open access (green power and conventional power) were</p>

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	licensee.	<del>imposed so as to avoid</del> high variation in demand to be met by the distribution licensee.	<p>inserted by states of Punjab and Haryana that scuttled the development of solar market in these states.</p> <p><b>PUNJAB</b></p> <p>In order to manage high variation in grid demand due to open access by Punjab State Power Corporation Ltd (“PSPCL”), it filed Petition No. 16 of 2013 before Punjab State Electricity Regulatory Commission (“PSERC”) praying for allowing admissible drawl by open access consumers as difference between sanctioned contract demand and maximum quantum of open access. PSERC in its order dated 1st June 2015 decided to allow the prayer of PSPCL. As a consequence, the general open access market collapsed in Punjab as none of the open access consumers wanted to risk over drawl penalty (twice demand and energy charge) due to reduction in admissible drawal from Discom.</p> <p>Renewable energy developers like Hero Future Energies requested the PSERC to allow relaxation for solar plant under petition no 75 of 2016 as reduction of admissible drawl by an open access customer to the extent of its</p>

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			<p>contract/sanctioned demand less maximum/peak generation of solar plant would make it pay over drawl charges to PSPCL in off peak hours. Despite this genuine concern stemming from parabolic curve of solar power generation, the commission did not allow relaxation in its open access regulation. As a consequence and despite waiver of transmission/wheeling charges for 10 years for solar plants, the open access based solar market has not developed in Punjab till date.</p> <p><b>HARYANA</b></p> <p>In order to address the challenge faced by Haryana Discoms in planning / managing their drawl of power from the grid considering day ahead exchange based bidding of power by open access consumers, the Haryana Electricity Regulatory Commission amended the connectivity and open access regulation on 3rd Dec 2013. They inserted an additional condition that for day ahead transactions, the open access consumers shall submit a confirmed slot wise schedule of power through open access and from the licensee for the next day at 10:00 hours of the previous day to the distribution licensee and SLDC. The drawl of power</p>

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			<p>from the discom would be limited to the difference of contract demand less schedule for day ahead drawal declared by open access consumer to discom by 10 AM the day before, irrespective of actual power cleared on exchange. Discom is also applying this principle on solar projects connected to Haryana STU till date. As a result, the solar projects are facing challenges and resistance from consumers in offtake. Solar open access market has consequently not picked up in Haryana.</p> <p><b>Therefore, it is suggested that this clause be suitably amended to allow for Forum Of Regulators to set the principles or guidelines to be followed by regulators in avoiding high variation in demand to be met by the distribution licensee.</b></p>
16.	<p><b>Clause 6</b></p> <p>(1) A Central nodal agency shall be notified by the Central Government which will operate a single window green energy open access system for renewable energy. The Central nodal agency shall</p>	<p>(1) A Central nodal agency shall be notified <b><u>within three (3) months from the date of notification of this Rule by the Central Government</u></b> which will operate a single window green energy open access system for renewable</p>	<p>Timelines for notifying nodal agency should be specified to have a visibility of the duration within which the needful shall be done by the Central Government.</p>

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	<p>set up a Centralised Registry for all green energy open access consumers. All the applications related to green energy open access shall be submitted on the portal set up by Central Nodal Agency. The application will then get routed to the concerned nodal agency notified by the Appropriate Commission for grant of green energy open access.</p>	<p>energy. The Central nodal agency shall set up a Centralised Registry for all green energy open access consumers. All the applications related to green energy open access shall be submitted on the portal set up by Central Nodal Agency. The application will then get routed to the concerned nodal agency notified by the Appropriate Commission for grant of green energy open access.</p>	
17.	<p><b>Clause 7 (2)</b></p> <p>(2) Applications complete in all respects, as specified by the State Commission, for green open access shall be submitted on the portal set up by Central Nodal Agency. The application shall be approved within fifteen days failing which it will be deemed approved subject to the fulfilment of the technical requirement specified by Appropriate Commission.</p>	-	<ul style="list-style-type: none"> <li>• Green Energy Open Access Deemed approval within 15 days will require appropriate amendment of prevailing open access regulations across the State and at the Centre.</li> <li>• It may be suggested to include a system generated deemed approval to be granted automatically after a lapse of 15 days in case there is no query or no input required further.</li> <li>• In order to provide level playing field to all and to systematically process multiple applications, it may be stated that for multiple application for Green</li> </ul>

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			Energy Open Access, rule of First In First Out (FIFO) shall apply on the order of processing of applications.
18.	<p><b>Clause 7(4)</b></p> <p>Appeals against an order of the Nodal Agency, as referred to in subrule (4) shall lie with the Appropriate Commission.</p>	<p>Appeals against an order of the Nodal Agency, as referred to in subrule (4) shall lie with the Appropriate Commission, <b><u>which shall decide the same within three months.</u></b></p>	<p>Appropriate Commission should clear the Appeals made against an order of the nodal agency within three months so that case disposals are done in timely fashion and consumers / generators are not unduly denied benefit of open access energy.</p> <p>Also, as Nodal Agency is a central agency, Central Commission should be considered as appropriate Commission for appeals against order of the Nodal Agency.</p>
19.	<p><b>Clause 8(1)</b></p> <p>Banking may be permitted on <b><u>monthly basis</u></b> on payment of charges to compensate additional costs, if any, to the distribution licensee by the Banking. The</p>	<p>Banking may be permitted on <b><u>annual</u></b> basis on <b><u>payment of banking charges, limited to 2% of banked energy, to compensate additional costs,</u></b> if any, to the distribution licensee by the Banking.</p>	<ul style="list-style-type: none"> <li>The Hon'ble APTEL on the issue of RE Banking vide judgment dated 28.01.2021 in Appeal No. 191 of 2018 and batch appeals has requested CEA to specify the framework for appropriate banking</li> </ul>

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	appropriate Commission shall fix the applicable charges.	<p><b><u>Provided that the Forum of Regulators shall come up with discussion paper and frame rules on inter-state banking for RE power. Such regulations framed by Forum of Regulators shall be adopted by central and state commissions within three (3) months from the date of its publication.</u></b></p>	<p>charges. The same may be considered for the banking framework under these draft rules.</p> <ul style="list-style-type: none"> <li>• States such as Maharashtra and Chhattisgarh have specified banking charges as 2% of banked energy to incentivize the open access consumers and for encouraging installation of RE capacity in the state.</li> <li>• Wind/ solar power is intermittent generation sources by its very nature. The quantum of generation from such sources specially wind sources where quantum of wind velocity varies seasonally during periods known as high wind season, low wind season and sub-marginal wind season. The generation during high wind season cannot be consumed fully in the same month of generation. It is necessarily required to be banked and consumed in later seasons. The same has been observed by APTEL also in the judgement dated 28.01.2021 (Tamil Nadu Spinning Mills Association vs TNERC). Accordingly, annual</li> </ul>

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			banking ought to be allowed instead of monthly.
20.	<p><b>Clause 8</b></p> <p>(2) The quantum of banked energy by the green open access consumers shall not be more than ten percentage of the total annual consumption of electricity from the Distribution licensee by the consumers</p>	This provision may be deleted.	<p>The quantum of banked energy limited in the draft at 10% of annual energy consumption is too less for intermittent sources of power of RE.</p> <p>There should be no restriction on banked energy with respect to total annual consumption; as the banking charges will act as a major source of revenue for distribution licensee. Thus, this provision may be removed in order to encourage green energy generation and consumption through open access.</p>
21.	<p><b>Clause 9 (a)</b></p> <p>Cross Subsidy Surcharge shall be levied on consumers who are permitted open access as per the provisions of Tariff policy notified by the Central Government under the Electricity Act 2003:</p>	-	<p>a. Consumers of captive power plants are fully exempted from paying cross subsidy surcharge as per provisions of Electricity Act and Rules. Therefore, it is requested to clarify that CSS shall not be applicable for Captive user/ power plant.</p>



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	<p>Provided that the surcharge for green open access consumer purchasing green energy, from a generating plant using renewable energy sources, shall not be increased, during twelve years from the date of commissioning of the generating plant using renewable energy sources, by more than fifty percent of the surcharge fixed for the year in which open access is granted.</p>		<p>b. It is also suggested that consumer procuring the RE power for its RPO compliance should not be burdened by CSS and same may be waived for RPO compliance.</p> <p>c. Provision for not increasing the cross-subsidy surcharge should be linked to the grant of open access and not the commissioning of the RE project. Open Access may have been taken from an existing plant rather than a new plant.</p> <p>d. Cap of 50% increase in CSS in 12 years may be misused, yearly capping may also be provided for capping the CSS.</p>
22.	<p><b>Clause 9(C)</b></p> <p>Standby charges, if required, <b>shall be specified by the State Commission</b></p>	<p>Standby charges, <del>if required, shall not be applicable be specified by the State Commission on the RE power plants supplying power under Open Access.</del></p>	<p>To promote Renewable Energy sources and new capacity addition of RE power plants, standby charges need to be exempted for RE projects supplying power under open access.</p>

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23.	<p><b>Clause 12</b></p> <p>In order to have common methodology for calculation of all the open access charges, Forum of Regulators shall prepare a model regulation on methodology for calculation of open access charges for open access consumer in four months from the date of notification of this Rule.</p>	<p>In order to have common methodology for calculation of all the open access charges <b>as well as banking charges</b>, Forum of Regulators shall prepare a model regulation on methodology for calculation of open access charges and banking charges for open access consumer in four months from the date of notification of this Rule.</p>	<p>To bring uniformity and rationality across all the states; a common methodology by the forum of regulators is required for calculation of open access and banking charges. This will help the respective SERCs and will result in the promotion of green energy open access.</p>
24.	-	<p>Following new Rule may be added after Rule 9:</p> <p><b>10. Intra-State/STU transmission charges and losses for transmission of renewable energy power plants shall be charged on Per Unit basis.</b></p>	<p>Due to variability and low capacity factors (CUF) of solar and wind power projects, imposing transmission charges on per MW basis would make the RE projects unviable. Therefore, it is suggested that intra-state transmission charges shall be charged on per Unit basis rather than Per MW or MVA basis.</p>

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25.	<p><b>New Clause</b></p> <p>Settlement of un-utilized banked energy</p>	<p>Un-utilized banked energy remaining at the end of settlement period may be adjusted against the banking charges.</p>	<p>As per RE regulations of some States, the un-utilized banked energy left after the settlement is lapsed is adjusted in kind against banking charges. Similar provision may be incorporated in these Rules.</p>
26.	-	-	<p>Government of India has set an ambitious national target of 450 GW of renewable capacity by 2030 to reduce the country's carbon foot print and to avoid global warming. However, huge challenges for integrating large RE capacities into the grid have been faced due to infirm nature of renewable energy specially for renewable energy-rich states.</p> <p>With the above background, we are submitting the following:</p> <p>a. Standalone Hydro based Pumped Storage Plants (PSP) and Battery Energy Storage System (BESS) are prosumers as these sources import energy from the grid during low demand/ off time slot for charging purpose &amp; thereafter export the power to the</p>

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			<p>grid in peak slots/ high demand. Therefore, these grid elements are very critical in future for grid stability. However, present open access, connectivity regulations/ rules does not support export &amp; import of power at the same grid connection point. Same may be addressed and suitable provisions in this regard shall be issued.</p> <p>b. RE power plants with storage system have started becoming viable option for certain consumers so there should not be any restrictions on installed capacity of RE power plant with Storage system for supplying power under open access. In case there is need of any restriction, then scheduled power at injection point can be restricted up to contracted/ sanctioned load of consumer under open access permission.</p>
27.		<p>Following new Rule may be added:</p> <p>Waiver of total intra-state (STU) charges shall also be allowed for Hydro pumped storage plant (PSP) and Battery Energy Storage System (BESS)</p>	<p>It is suggested that concession of 100% on Intra- State Transmission charges levied by STU to wheel energy from Solar and Wind capacities to be developed in other resource rich locations to provide input power to</p>

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		projects for pumping/ charging of PSP/ battery from energy generated from solar/wind/hybrid power plants.	storage energy system such as Pumped storage or battery energy storage for the entire project life may be granted. Similar exemptions are already available for inter-state transmission system (ISTS) vide MoP notification dated 21.06.2021.
28.	-	-	Currently utilization of banked RE power is subject to various SERC's regulations and applicable charges as each states have their own rules/ regulations pertaining to this. It is suggested that common policy/ rules for wheeling & banking of renewable energy based power projects may be provided.