

ASSAM ELECTRICITY REGULATORY COMMISSION

NOTIFICATION

7th February, 2018

**DRAFT AERC (TERMS AND CONDITIONS FOR OPEN ACCESS)
REGULATIONS, 2018**

No. AERC 616/2017-- In exercise of powers conferred by Section 181 read with relevant provisions of Sections 39, 40, 42 and 49 of the Electricity Act, 2003 and all other powers enabling in this behalf and in supersession of the Assam Electricity Regulatory Commission (Terms & Conditions for Open Access) Regulations, 2005 & its amendments, the Assam Electricity Regulatory Commission hereby makes the following Regulations :-

CHAPTER I:

PRELIMINARY

1. SHORT TITLE, COMMENCEMENT AND EXTENT

- 1.1 These Regulations shall be called “Assam Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2018”.
- 1.2 These Regulations shall extend to the whole State of Assam.
- 1.3 These Regulations shall come into force from the date of its publication in the Assam Gazette.

2. EXTENT OF APPLICATION

- 2.1 These Regulations shall apply to Open Access for use of the intra-State transmission and/or distribution systems of licensees in the State including when such systems are used in conjunction with inter-State transmission system.

3. DEFINITION

- 3.1 In these Regulations , unless the context otherwise requires:
 - (a) “**Act**” means the Electricity Act, 2003 (36 of 2003) and subsequent amendment thereof;
 - (b) “**Allotted Distribution Capacity**” means the power contracted for transfer (in MW) between the specified point(s) of injection and point(s) of drawal allowed to a long-term / medium term open access customer on the distribution licensee’s distribution system under normal circumstances and the expression "allotment of distribution capacity" shall be construed accordingly;
 - (c) “**Allotted Transmission Capacity**” means the power contracted for transfer (in MW) between the specified point(s) of injection and point(s) of drawal allowed to a long-term/ medium term open access customer on the intra-state transmission system under normal circumstances and the expression "allotment of transmission capacity" shall be construed accordingly;

- (d) **“Applicant”** includes a consumer, trader, distribution licensee, Captive Generator or a generating Company who has applied for seeking connectivity or open access as the case may be;
- (e) **“Central Commission or CERC”** means the Central Electricity Regulatory Commission referred to in subsection (1) of section 76 of the Act;
- (f) **“Commission or AERC”** means the Assam Electricity Regulatory Commission referred to in Section 82 of the Act;
- (g) **“Connection Agreement”** means an agreement between State Transmission Utility (STU) and /or intra-State transmission licensee other than STU, if any and /or distribution licensee and an applicant, setting out the terms relating to Connectivity to the intra-State transmission system and/or distribution system;
- (f) **“Connectivity”** means the state of getting connected to the intra-State transmission and /or Distribution System;
- (g) **“Consumer”** shall carry the same meaning as in the Act, but shall be restricted to such Consumers within the State of Assam to whom these Regulations shall apply;
- (h) **“Collective Transactions”** means a set of transactions discovered in power exchange through anonymous, simultaneous competitive bidding by buyers and sellers.
- (i) **“Day”** means a day starting at 00.00 hours and ending at 24.00 hours of any calendar date of Gregorian calendar;
- (j) **“Dedicated feeder”** means a feeder from the licensee’s substation or the line to the point of supply of a consumer or a group of consumers for supplying electricity to that consumer or group of consumers on the same premises or on contiguous premises;
- (k) **“Detailed Procedure”** means the detailed procedure laid down by the Nodal Agency pursuant to these Regulations and approved by the Commission;
- (l) **“Deviation”** in a time block for a seller means its total actual injection minus its total scheduled generation and for a buyer means its total actual drawal minus its total scheduled drawal.
- (m) **“Distribution Code”** means the Distribution Code notified by the Commission.
- (n) **“Distribution licensee”** means any person who has been granted licence under Section 14 of the Act to distribute electricity.
- (o) **“IEGC”** means Indian Electricity Grid Code specified by the Central Electricity Regulatory Commission under Clause (h) of sub-section (1) of Section 79 of the Act, and as amended from time to time;
- (p) **“Electricity Supply Code”** means the Electricity Supply code specified by

the Commission under section 50 of the Act;

- (q) “**Embedded Consumer**” means a consumer who has a supply agreement with the distribution licensee and avails the option of drawing power from any other person under Open Access, during a day or more in any month or more than one month during the year, without ceasing to be a consumer of the said distribution licensee. The embedded consumer continues to pay various charges defined by the Commission as applicable to the relevant consumer category.
- (r) “**Licensee**” means a person who has been granted Licence under Section 14 of the Act.
- (s) “**Long Term Open Access or LTOA**” means the right to use the Intra-State transmission and/ or distribution system for a period exceeding 7 years
- (t) “**Medium Term Open Access or MTOA**” means the right to use the Intra - State Transmission and /or distribution system for a period equal to or exceeding 3 months but not exceeding 5 years;
- (u) “**Month**” means a calendar month as per the Gregorian calendar;
- (v) “**Nodal Agency**” means the Nodal Agencies referred to in these Regulations;
- (w) “**Open Access**” means the non-discriminatory provision for the use of transmission system and/ or distribution system or associated facilities by the Open Access Customer(s) in accordance with these Regulations
- (x) “**Open Access Customer**” includes a consumer, trader, distribution licensee, Captive Generator or a generating Company who has been granted open access under these Regulations.
- (y) “**Open Access Consumer**” means a consumer who is eligible to receive supply of electricity from a person other than the distribution licensee of his area of supply;
- (z) “**Operational Constraints**” means the non availability of adequate capacity in the intra-state transmission system or licensee’s distribution system and non existence/inadequacy of a metering and energy accounting system where the electricity to be purchased or sold by open access customers can be correctly measured and accounted for.
- (aa) “**Person**” shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;
- (bb) “**Point of Injection**” means a connection at which electricity is transferred to the electricity transmission network or the electricity distribution network (as the case may be);
- (cc) “**Point of Drawal**” means a connection at which electricity is transferred from the electricity transmission network or the electricity distribution

network (as the case may be);

- (dd) **“Remote Terminal Unit (RTU)”** means a device suitable for measuring, recording and storing the consumption of electricity or any other quantity related with electrical system and status of the equipment in real time basis and exchanging such information with the data acquisition system for display and control and shall include, wherever applicable, other equipments such as Transducers, relays with necessary wiring and accessories.
- (ee) **“Reserved Capacity”** means the capacity for power transfer in MW between the specified point(s) of injection and point(s) of drawal allowed to a short-term customer on the transmission/distribution system depending on availability of transmission/distribution capacity and the expression "reservation of capacity" shall be construed accordingly;
- (ff) **“Short Term Open Access or STOA”** means Open Access for a period up to one (1) month at a time;
- (gg) **“SLDC”** means State Load Despatch Centre established under sub-section (1) of section 31 of the Act.
- (hh) **“Special Energy Meter (SEM)”** includes a meter and its accessories compatible to record the electrical parameters in each defined time block for implementation of Availability Based Tariff (ABT).
- (ii) **“Stranded Distribution Capacity”** means the distribution capacity which is likely to remain unutilized due to relinquishment of access rights by a LTOA/MTOA Consumer in accordance with these Regulations;
- (jj) **“Stranded Transmission Capacity”** means the transmission capacity in the intra-State transmission system which is likely to remain unutilized due to relinquishment of access rights by a LTOA/MTOA Consumer in accordance with these Regulations;
- (kk) **“State” means the State of Assam;**
- (hh) **“State Grid Code”** means the State Grid Code specified by the Commission under clause (h) of sub-section (1) of section 86 of the Act, applicable on the date of commencement of these Regulations and as amended **from** time to time;
- (ii) **“State Transmission Utility (STU)”** means the utility notified by the Government of Assam as State Transmission Utility under section 39 of the Electricity Act, 2003.
- (jj) **“Transmission licensee”** means any person who has been granted licence under Section 14 of the Act to transmit electricity;
- (kk) **“Transmission Services Agreement”** means an agreement entered **into between a transmission licensee and the open access customer to avail access to the licensee’s transmission system for the transmission of electricity.**

- (ll) **“Transmission System Segment”** means a part or whole of the transmission system from the point of injection to the point of drawal;
 - (mm) **“Wheeling Agreement”** means an agreement entered **into between a distribution** licensee and the open access customer to avail access to the licensee’s distribution system.
 - (nn) **“Year”** means a financial year.
- 3.2 Words and expressions used and not defined in these Regulations but defined in the Act and Regulations made thereunder like IEGC, the State Grid Code, State Distribution Code, Electricity Supply Code shall have the meaning assigned to them under the Act or in the Regulations as the case may be.
- 3.3 The General Clauses Act, 1897(10 of 1897), as amended from time to time shall apply for the interpretation of these Regulations as it applies for interpretation of an Act of Parliament.

CHAPTER II:
GENERAL PROVISIONS FOR OPEN ACCESS

4. ELIGIBILITY FOR OPEN ACCESS AND CONDITIONS TO BE MET

- 4.1 Subject to the provisions of these Regulations, the licensees, generating companies, captive generating plants and Consumers shall be eligible for Open Access to the intra-State transmission system of the State Transmission Utility or any intra-State transmission licensee, on payment of transmission and other charges, as may be determined by the Commission pursuant to these Regulations.
- 4.2 Subject to the provisions of these Regulations, the licensees, generating stations, captive generating plants and Consumers shall be eligible for Open Access to distribution system of a distribution licensee, on payment of the wheeling and other charges, as may be determined by the Commission pursuant to these Regulations.
- 4.3 Subject to the provisions of these Regulations, Open Access shall be permissible to all Consumers having Contract Demand of 1 MW and above only.

Provided further that duties of the distribution licensee with respect of such Open Access Customers shall be of a common carrier providing non-discriminatory Open Access as per section 42(3) of the Act;

- 4.4 Subject to the provisions of these Regulations, consumers who are connected by dedicated feeders irrespective of their voltage of supply, and where there is no operational constraint shall be allowed open access. The customer shall also be subjected to rostering restrictions including power cuts imposed by the licensee on the feeders serving them.
- 4.5 A person having been declared insolvent or bankrupt or having outstanding dues against him for more than two months billing of distribution/transmission licensee at the time of application, shall not be eligible for Open Access.
- 4.6 The Open Access Customer shall have to install Special Energy Meter (SEM) at their place for energy accounting and Remote Terminal Unit (RTU) to facilitate SLDC in real time monitoring, which shall be duly certified by the licensee concerned.

5. SPECIAL PROVISIONS FOR EXISTING DISTRIBUTION LICENSEES AND GENERATING COMPANIES

The Distribution Licensees or Generating Companies, using intra-State transmission system and/or the distribution system in the State (under an existing agreement or arrangement on the date of coming into force of these Regulations), shall be entitled to continue to avail open access to such transmission and distribution system on the existing terms and conditions, on payment of transmission, wheeling, and any other charges as may be determined by the Commission from time to time.

6. CATEGORIES OF OPEN ACCESS CUSTOMERS

The application procedure, application fee and the time frame of processing request by eligible customers seeking Open Access shall be based on the following criteria:

- (1) System to which connected
 - a) Intra-State transmission system
 - b) Distribution system
- (2) Inter-se location of drawal and injection points
 - a) Both within the same distribution system
 - b) within the State but in different distribution systems
 - c) In different States
- (3) Duration of Open Access
 - a) Long term access
 - b) Medium-term open access
 - c) Short-term open access

7. CRITERIA FOR GRANTING LONG TERM OPEN ACCESS (LTOA) OR MEDIUM TERM OPEN ACCESS (MTOA) OR SHORT TERM OPEN ACCESS (STOA).

- 7.1 LTOA shall be allowed in accordance with the transmission system planning criteria and the distribution system planning criteria stipulated in the State Grid Code and Distribution Code, or as specified by the Commission from time to time;
- 7.2 MTOA shall be allowed if the resultant power flow can be accommodated in the existing transmission system and the distribution system;
- 7.3 STOA shall be allowed if surplus capacity is available on the intra-State transmission system/ distribution system after use by LTOA Customers and MTOA Customers, by virtue of:
 - (a) Inherent Design Margins;
 - (b) Margins available due to variation in power flows; and
 - (c) Margins available due to in-built spare transmission/ distribution capacity created to cater to future load growth.
- 7.4 Provided that augmentation of the transmission / distribution system may not be carried out for the sole purpose of granting medium term open access and short term open access.

Provided further that construction of a dedicated transmission /distribution system shall not be construed as augmentation of the transmission /distribution system for the purpose of these Regulations.

8. ALLOTMENT PRIORITY

The priority for allotment of Open Access in intra-State transmission system shall be decided subject to availability of capacity, on the following criteria:

- 8.1 A distribution Licensee shall have the first priority in allotment of Open Access capacity irrespective of whether the Open Access request is for LTOA, MTOA or STOA.
- 8.2 The LTOA applicants shall have the priority next to the distribution licensee.
- 8.3 The MTOA applicants shall have the priority next to the LTOA applicants.
- 8.4 The STOA applicants shall have the priority next to MTOA applicants, and where there is no MTOA applicant, then next to the LTOA applicants.
- 8.5 When the requirement projected by an applicant is more than the available capacity and the said applicant is not able to limit his requirement to the available capacity, the request of applicant having next lower priority shall be taken up for consideration.
- 8.6 All applications for long term or medium term or short term open access shall be processed on first-come-first-served basis, separately for each of the aforesaid types of open access.

Provided that applications received during a month or upto the date specified under these Regulations shall be construed to have arrived concurrently;

Provided further that while processing applications for medium term open access received during a month, the applicant seeking access for a longer period shall have higher priority.

CHAPTER III:
APPLICATION PROCEDURE AND APPROVAL

9. APPLICATION PROCEDURE FOR OPEN ACCESS

9.1 All applications for Open Access shall be made in the prescribed format and submitted to the Nodal Agency in accordance with these Regulations.

Provided that a first time open access applicant shall have to install the necessary infrastructure for real time data communication with SLDC along with installation of Special Energy Meter (SEM) in consultation with the concerned transmission licensee or the distribution licensee as the case may be.

9.2 All applicants seeking Open Access shall submit an undertaking of not having entered into Power Purchase Agreement (PPA) or any other bilateral agreement with more than one person for the capacity (quantum of power) for which Open Access is sought.

9.3 A consumer intending to avail open access shall also submit a copy of his application to the distribution licensee who is supplying electricity to him.

9.4 Subject to the provisions of these Regulations, the Nodal Agency and time frame for disposal of application shall be as specified in the following table. The application fee also specified in table below may be revised by the Commission by notification from time to time:

Sl. No.	Particulars	Short term	Medium Term	Long term
1. Nodal Agency:				
a)	<i>Intra-State:</i> In case injection and drawal points are within the State whether on transmission system or on distribution system or on systems of different distribution licensees or different transmission licensees	SLDC	SLDC	STU
b)	<i>Inter-State:</i> In case injection and drawal points are in different States	RLDC	CTU	CTU
2. Time frame for disposal of application from the date of receipt of application				

Sl. No.	Particulars	Short term	Medium Term	Long term
complete in all respects:				
a)	<i>For Intra - State OA</i>	<p>i) 7 working days , if applied for first time and 5 working days on subsequent application, if connection being sought is on system of intra State transmission licensee</p> <p>ii) 10 working days , if applied for first time and 5 working days on subsequent application, if connection being sought is on system of distribution system licensee</p>	40 days	<p>i) 40 days if the Open Access is required within the system of same distribution licensee and no augmentation work of distribution system is involved.</p> <p>ii) In all other cases, 120 days in case no augmentation work of distribution system or transmission system is involved.</p> <p>iii) 180 days or actual number of days as may be required, whichever is earlier, in case augmentation work of transmission or distribution system is involved. However, the time frame may be extended by the nodal agency for valid reasons to be recorded in writing.</p>
b)	<i>For Inter - State OA</i>	As per CERC Regulations and as amended from time to time		
3. Application Fee:				
a)	<i>For Intra - State OA</i>	Rs 5,000/-	Rs 50, 000/-	Rs. 1,00,000/-
b)	<i>For Inter - State OA</i>	As determined by CERC from time to time		

9.5 Applications for Open Access and Connectivity shall be received and processed at headquarters of the Nodal Agency in accordance with the detailed procedure prescribed in these Regulations.

9.6 Subject to provisions of these Regulations, the State Transmission Utility in consultation with SLDC and distribution licensee shall prepare the detailed procedure for grant of open access including requisite formats and submit to the Commission for approval within 90 days of publication of these Regulations in Official Gazette. The detailed procedure shall be issued by STU after approval of the Commission.

10. Procedure for Long Term Open Access (LTOA)

10.1 Involving Inter-State Transmission System:

Notwithstanding anything contained in clauses 10.2 and 10.3, procedure for inter-State LTOA shall be as per Central Electricity Regulatory Commission (Grant of Connectivity, Long Term Access and Medium Term Open Access in inter-State Transmission and related matters) Regulations, 2009 or its statutory re-enactments as amended from time to time.

Provided that in respect of a Customer connected to a distribution system seeking inter-State LTOA, the SLDC, before giving its consent to the CTU as required under the Central Commission's Regulations, shall require the Customer to submit the consent of the distribution licensee concerned.

10.2 Involving Intra-State Transmission System:

10.2.1 The application for grant of LTOA shall contain details such as name of the entity or entities from whom electricity is proposed to be procured or to whom to be supplied along with the quantum of power and such other details as may be laid down by the State Transmission Utility in the detailed procedure.

Provided that in case augmentation of transmission system is required, the applicant shall have to bear the charges for the same.

Provided that in cases where there is any material change in location of the applicant or change by more than 10 percent in the quantum of power to be interchanged using the intra-State transmission system, a fresh application shall be made, which shall be considered in accordance with these Regulations.

10.2.2 The applicant shall submit any other information sought by the Nodal Agency including the basis for assessment of power to be interchanged using the intra-State transmission system and power to be transmitted to or from various entities or regions to enable the Nodal Agency to plan the intra-State transmission system in a holistic manner.

10.2.3 A consumer intending to avail open access shall also submit a copy of his application to the distribution licensee who is supplying electricity to him.

10.2.4 The application shall be accompanied by a non-refundable fee as specified in Regulation 9.4 in the name and in the manner laid down in the detailed procedure.

- 10.2.5 The application shall be accompanied by a bank guarantee corresponding to Rs.10,000/MW (Ten Thousand per MW) of the total power to be transmitted, from a nationalized or Scheduled Bank in favor of the Nodal Agency, in addition to the specified application fee. For Renewable Energy based transaction, the bank guarantee shall be Rs 5,000 /MW (Five Thousand per MW). The amount of bank guarantee specified above may be revised by the Commission by notification from time to time.
- 10.2.6 The bank guarantee shall be kept valid and subsisting till
- i) till operationalization of long term access when augmentation of transmission system is not required.
 - ii) the execution of the LTOA agreement, in the case when augmentation of transmission system is required, or
- 10.2.7 The bank guarantee shall be returned to the applicant within 15 days
- i) of signing of the long term Open Access Agreement; or
 - ii) of rejection of such application
- 10.2.8 The bank guarantee may be encashed by the Nodal Agency,
- i) if the application is withdrawn by the applicant; or
 - ii) if the LTOA rights are relinquished prior to the operationalization of such rights when augmentation of transmission system is not required;
- 10.2.9 On receipt of the application, the Nodal Agency shall, in consultation and through coordination with other agencies involved in intra-State transmission system to be used (SLDC and Distribution licensee of the open access customer), process the application and carry out the necessary system studies as expeditiously as possible so as to ensure that the decision to grant LTOA is arrived at within the timeframe specified in these Regulations.

Provided that in case the Nodal Agency faces any difficulty in the process of consultation or coordination, it may approach the Commission for appropriate directions.

- 10.2.10 Based on the system studies, the Nodal Agency shall specify the intra- State transmission system that would be required to give long-term access. In case augmentation to the existing intra-State transmission system is required, the same will be intimated to the applicant.

Provided that if, in the opinion of the State Transmission Utility, further system strengthening of transmission is essential before providing long term open access, the State Transmission Utility shall intimate the cost estimates, likely completion schedule and estimated date from which open access shall be allowed after system strengthening within 90 days of the receipt of the application.

Provided further that if system strengthening of network of Distribution Licensee is required, the cost estimate & likely completion schedule shall be intimated by Distribution Licensee to the STU within 45 days of receipt of

application.

- 10.2.11 The applicant shall accordingly deposit the estimated amount for works to the STU and the concerned Distribution Licensee as the case may be.

Provided that in case the applicant does not agree to avail open access with system strengthening, his application shall be rejected and the Bank Guarantee shall be released.

- 10.2.12 While granting LTOA, the Nodal Agency shall communicate to the applicant, the date from which LTOA shall be granted and an estimate of the transmission charges likely to be payable based on the prevailing costs, prices and methodology of sharing of transmission charges specified by the Commission.

- 10.2.13 The applicant shall sign an agreement for LTOA with the State Transmission Utility in case LTOA is granted by the State Transmission Utility, in accordance with the provision as may be made in the detailed procedure.

While seeking LTOA to an intra-State transmission licensee, other than the State Transmission Utility, the applicant shall sign a tripartite LTOA agreement with the State Transmission Utility and the intra-State transmission licensee, if involved.

The LTOA agreement shall contain the date of commencement of LTOA, the point of injection of power into the grid and point of drawal from the grid and the details of dedicated transmission lines, if any, required. In case augmentation of transmission system is required, the LTOA agreement shall contain the time line for construction of the facilities of the applicant and the transmission licensee, the bank guarantee required to be given by the applicant and other details in accordance with the detailed procedure.

- 10.2.14 Immediately after grant of LTOA, the Nodal Agency shall inform the State Load Despatch Centre, so that it can consider the same while processing requests for grant of MTOA/STOA, received under these Regulations.

- 10.2.16 In cases where more than one long term open access customer applies for capacity allocation during the same period, and if the capacity sought to be allocated to the customers is more than the available capacity during that period of time, the nodal agency concerned may offer to allocate the capacity in the ratio of capacity sought by the customers.

Provided that the costs of system augmentation, if such augmentation becomes necessary, shall also be apportioned among the customers.

- 10.2.17** On the expiry of the period of LTOA, the same may be extended on a written request by the Customer, to the State Transmission Utility, submitted at least six months prior to such expiry, mentioning the period for which extension is required and accompanied by a fee as prescribed at sub regulation 10.2.4 above.

- 10.2.18** Provided that in case no written request is received from the Customer within the timeline specified above, the said LTOA shall stand terminated on the date

upto which it was initially granted.

10.3 Within the same distribution system:

The procedure specified in clause (10.2) above shall, mutatis mutandis, apply to cases of long-term access when the point of injection and the point of drawal are located in the same distribution system.

11. Procedure for Medium Term Open Access (MTOA)

11.1 Involving Inter-State Transmission System:

Notwithstanding anything contained in clauses 11.2 and 11.3 herein below, procedure for inter-State MTOA shall be as per Central Electricity Regulatory Commission (Grant of Connectivity, Long Term Access and Medium Term Open Access in inter-State Transmission and related matters) Regulations, 2009 or its statutory re-enactments as amended from time to time.

Provided that in respect of a Customer connected to a distribution system seeking inter-State MTOA, the SLDC, before giving its consent to the CTU as required under the Central Commission's Regulations, shall require the Customer to submit the consent of the distribution licensee concerned.

11.2 Involving Intra-State Transmission System:

11.2.1 The application for grant of MTOA shall contain such details as may be laid down under the detailed procedure and shall, in particular, include the point of injection into the grid, point of drawal from the grid and the quantum of power for which MTOA has been applied for. The application shall be accompanied by a certificate from STU/ Distribution Licensee as the case may be, to the effect that Special Energy Meters are installed as per relevant Regulations.

Provided that in cases where there is any material change in location of the applicant or change by more than 10 percent in the quantum of power to be interchanged using the intra-State transmission system, a fresh application shall be made, which shall be considered in accordance with these Regulations.

11.2.2 A consumer intending to avail open access shall also submit a copy of his application to the Distribution Licensee of his area of supply.

11.2.3 The application shall be accompanied by a non-refundable fee as specified in Regulation 9.4 in the name and in the manner laid down in the detailed procedure.

11.2.4 On receipt of the application, the Nodal Agency shall, in consultation and through coordination with other agencies involved in intra-State transmission, process the application and carry out the necessary system studies as expeditiously as possible so as to ensure that the decision to grant or refuse MTOA is made within the timeframe specified in these Regulations.

Provided that in case the Nodal Agency faces any difficulty in the process of consultation or coordination, it may approach the Commission for appropriate

directions.

- 11.2.5** On being satisfied that the requirements of eligibility for MTOA is met by the Applicant, the Nodal Agency shall grant MTOA for the period stated in the application:

Provided that for reasons to be recorded in writing, the Nodal Agency may grant MTOA for a period less than that sought for by the applicant;

Provided further that the applicant shall sign an agreement for MTOA with the State Transmission Utility, in accordance with the provision as may be made in the detailed procedure.

While seeking MTOA to an intra-State transmission licensee, other than the State Transmission Utility, the applicant shall sign a tripartite MTOA agreement with the State Transmission Utility and the intra-State transmission licensee.

The MTOA agreement shall contain the date of commencement and end of MTOA, the point of injection of power into the grid and point of drawal from the grid, the details of dedicated transmission lines required, if any, the bank guarantee required to be given by the applicant and other details in accordance with the detailed procedure.

- 11.2.6** Immediately after grant of MTOA, the Nodal Agency shall inform the State Load Despatch Centre so that it can consider the same while processing requests for STOA received under these Regulations.
- 11.2.7** On expiry of the period of the MTOA, the medium term Consumer shall not be entitled to any overriding preference for renewal of the term
- 11.2.8** A medium term open access customer may relinquish rights, fully or partly, by giving at least 30 days prior notice to the Nodal Agency by making payment of compensation as specified in the detailed procedure.
- 11.2.9** A customer seeking medium term open access on inter-State network in conjunction with intra-State network shall submit application as detailed in sub regulation (11.1) above to the Nodal Agency for issue of no objection certificate/ concurrence/ prior standing clearance accompanied with fee as prescribed in sub regulation (11.2.3) above and a no objection certificate from the concerned Distribution Licensee in case the applicant is a consumer of Distribution Licensee.

11.3 Within the same distribution system:

The procedure specified in clause (11.2) above shall, mutatis mutandis, apply to cases of medium-term access when the point of injection and the point of drawal are located in the same distribution system.

12. Procedure for short-term Open Access

12.1 Involving inter-State transmission system:

Notwithstanding anything contained in these Regulations, procedure for inter-

State STOA shall be as per Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008, or its statutory re-enactments, as amended from time to time:

Provided that in respect of a Consumer connected to a distribution system seeking inter-State short-term Open Access, the SLDC, before giving its consent to the RLDC as required under the Central Commission's Regulations, shall require the Consumer to submit the consent of the distribution licensee concerned.

12.2 Involving intra-State transmission system:

12.2.1 Open Access in advance

- (a) The application to the Nodal agency shall be on the prescribed format containing such details as capacity needed, generation planned or power purchase contracted, point of injection, point of drawal, duration of availing Open Access, peak load, average load and such other additional information as may be required by the Nodal agency.
- (b) The application shall be accompanied by a non-refundable application fee as specified in Regulation 9.4 in cash or by demand draft in favour of the Nodal agency.

Provided that if, the open access is sought for the first time or quantum of open access is changed from the previously approved quantum, the application shall also be accompanied by a No Objection Certificate from the concerned Distribution Licensee in a proforma prescribed in the detailed procedure.

- (c) An application for grant of Open Access commencing in any month may be submitted in a cover marked —Application for Short-Term Open Access – up to four months prior to the month of short term open access but not later than the 15th (fifteenth) day of the preceding month. For example, application for grant of Open Access commencing in the month of August shall be received between 1st April and 15th July.
- (d) Separate application shall be made for each month and for each transaction in a month.
- (e) Nodal agency shall acknowledge receipt of the application by indicating time and date on —Acknowledgement to the applicant.
- (f) A Consumer of distribution licensee intending to avail Open Access shall also furnish a copy of his application to the distribution licensee of his area of supply.
- (g) Based on the type of transactions Nodal agency shall take a decision on the applications for STOA in the manner provided herein below.
 - i. All applications received up to 15th day of the month shall be taken up for consideration together and processed as per allotment priority criteria specified under these Regulations.

- ii. The Nodal agency before granting intra state open access shall take into consideration resultant congestion of any element (line and transformer) of transmission and distribution system involved in the proposed transaction.

Provided that no system augmentation shall be done in order to allow STOA to a consumer. However, the customer may at his own cost augment the distribution/ transmission system in order to avail open access.

- iii. Nodal agency shall convey grant of Open Access or otherwise in prescribed format along with schedule of payments to the customer latest by 21st day of such preceding month.
 - iv. Nodal agency shall record the reasons in writing, if Open Access is denied.
- (h) In case the nodal agency anticipates congestion, it may invite electronic bids as per the Bidding Procedure for advance scheduling after the last date for submission of applications.

12.2.2 Day-Ahead Open Access

- (a) An application for grant of day-ahead Open Access may be made to the Nodal Agency within three days prior to the date of scheduling but not later than 1300 Hours of the day immediately preceding the day of scheduling for day-ahead transaction.

For example: Application for day-ahead transaction on 25th day of July shall be received on 22nd day or 23rd day or upto 1300 hours on 24th day of that month.

- (b) The Nodal Agency shall check for resultant congestion due to the proposed STOA and convey grant of approval or otherwise in prescribed format at the earliest. All other provisions of application for STOA shall apply.

12.2.3 Procedure for scheduling transaction in a contingency

In the event of a contingency, the Open Access customer may locate a source of power to meet short-term contingency requirement even after the cut-off time of 13:00 hrs of the preceding day and apply to the Nodal Agency for Open Access and scheduling and in that event, the Nodal Agency shall endeavour to accommodate such request as soon as and to the extent practically feasible, in accordance with the detailed procedure.

12.2.4 Bidding Procedure

Bidding procedure shall be as defined below:

- (a) If the capacity sought by the customers for “Open Access in Advance” for the following month is more than the available capacity or the Nodal Agency perceives congestion of any element of transmission and distribution system involved in the transaction, the allocation shall be

made through electronic bidding procedure.

- (b) The decision of the Nodal Agency in respect of an expected congestion shall be final and binding.
- (c) The Nodal Agency shall convey information of congestion and decision for invitation of bidding indicating floor price in prescribed format to the applicants.
- (d) The Nodal Agency shall also display the bidding information on its website.
- (e) The floor price of transmission and wheeling charges determined on the basis of relevant order of the Commission shall be indicated in prescribed format.
- (f) The bids shall be accepted in prescribed format up to the “bid closing time” as indicated in bidding invitation notice. Request for modification / amendment to a bid, once submitted shall not be entertained.
- (g) If any customer does not participate in bidding process, his application shall be deemed to have been withdrawn and shall not be processed.
- (h) The Nodal Agency shall not entertain any request for extension of time/date for submission of bids.
- (i) The bidders shall quote price (rounded-off to whole number) in denomination in which floor price has been determined.
- (j) The quoted price shall be arranged in descending order and allocation of available capacities shall be accorded in such descending order until the available capacity is exhausted.
- (k) In case of equal price quoted by two or more customers, the allocation from the residual available capacity at any stage shall be made in proportion to capacity being sought by such Consumers.
- (l) All customers, in favour of whom full capacities have been allotted, shall pay the highest price obtained from bids.
- (m) The customers, who are allotted less capacity than sought for, shall pay the price as quoted by them.
- (n) The Nodal Agency shall reject bids which are incomplete, vague in any manner or not found in conformity with the bidding procedure.
- (o) The successful bidders, in favour of whom the capacities have been allocated, shall pay transmission charges, wheeling charges, as the case may be, determined by bidding process.

12.2.5 The reserved capacity for a short-term Open Access Customer is not transferable.

12.2.6 The capacity available as a result of surrender or reduction or cancellation of the reserved capacity by the State Load Despatch Centre, may be reserved for any other STOA Customer in accordance with these Regulations.

12.2.7 On expiry of the period of the STOA, the short term customer shall not be entitled to any overriding preference for renewal of the term.

13. CONSENT BY STU, SLDC OR DISTRIBUTION LICENSEE

13.1 Inter-State Open Access:

13.1.1 STU in the case of application for grant of LTOA and SLDC in case of Medium Term Open Access and in the case of grant of STOA shall convey its consent or otherwise as per the provisions respectively of Central Electricity Regulatory Commission (Grant of Connectivity, LTOA and Medium Term Open Access in inter-State Transmission and related matters) Regulations, 2009 and Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008, or their statutory re-enactments, as amended from time to time.

13.1.2 In case applicant is connected to the distribution licensee, he has to obtain consent from the distribution licensee.

13.2 Intra-State Open Access:

13.2.1 In respect of a Consumer connected to a distribution system seeking Open Access, such Consumer shall be required to submit the consent of the distribution licensee concerned. The distribution licensee shall convey its consent to the applicant by e-mail or fax or by any other usually recognised mode of written communication, within three (3) working days of receipt of the application.

13.2.2 While processing the application from a generating station seeking consent for Open Access, the distribution licensee shall verify the following, namely:-

- (a) Existence of infrastructure necessary for time-block-wise energy metering and accounting in accordance with the provisions of the State Grid Code in force,
- (b) Availability of capacity in the distribution network, and.
- (c) Availability of RTU and communication facility to transmit real-time data to SLDC.

13.2.3 Where existence of necessary infrastructure and availability of capacity in the distribution network has been established, the distribution licensee shall convey its consent to the applicant by e-mail or fax or by any other usually recognised mode of written communication, within three (3) working days of receipt of the application.

13.2.4 In case the Nodal Agency finds that the application for consent is incomplete or defective in any respect, it shall communicate the deficiency or defect to the applicant by e-mail or fax or by any other usually recognised mode of communication, within two (2) working days of receipt of the application:

13.2.5 In case the application has been found to be in order but the distribution licensee refuses to give consent on the grounds of non-existence of necessary infrastructure or inavailability of surplus capacity in the distribution network, such refusal shall be communicated to the applicant by e-mail or fax or by any

other usually recognized mode of written communication, within the period of three (3) working days by the licensee from the date of receipt of the application, along with reasons for such refusal.

- 13.2.6 Where the distribution has not communicated any deficiency or defect in the application within two (2) working days from the date of receipt of application, or refusal or consent within the specified period of three (3) working days from the date of receipt of the application consent shall be deemed to have been granted.

14. CONSIDERATION OF APPLICATIONS FROM DEFAULTERS

Notwithstanding anything contained in these Regulations, the Nodal Agency shall be at liberty to summarily reject an application for Open Access on the ground of non-compliance of the provisions of these Regulations, more specifically the provisions relating to timely payment of the charges leviable hereunder.

15. Open Access Agreement/Undertaking

- 15.1 An open access customer shall enter into an agreement with the SLDC for availing open access.
- 15.2 A long/medium term open access customer shall enter into a transmission service agreement with the STU for use of state transmission system, in accordance with, the provisions as may be made in the detailed procedure. In case the connection is made with the network of an intra-State Transmission Licensee other than the STU, the applicant shall sign a tripartite agreement with STU and the intra-State Transmission Licensee.
- 15.3 A long/medium term open access customer shall enter into a wheeling agreement with the Distribution Licensee for use of the distribution system.
- 15.4 The standard formats for open access agreements referred at sub Regulations (1), (2) & (3) shall be issued in the detailed procedure. The agreement executed may have terms and conditions different from such standard agreement formats subject to AERC approval.
- 15.5 Copies of the agreements executed shall be submitted to the State Load Dispatch Center (SLDC). SLDC shall intimate the open access customer the date from which open access shall be available, which shall not be later than 3 days, from the date of furnishing of agreements.
- 15.6 The prevalent HT/EHT power supply agreement with the Distribution/ Transmission Licensee shall continue to exist with the agreements/ undertakings, signed as above, so far as, it is not in-consistent with these Regulations.

CHAPTER IV:
OPEN ACCESS CHARGES

16. TRANSMISSION/ DISTRIBUTION CHARGES

16.1 The open access customer shall pay the transmission charges and wheeling charges as determined by the Commission from time to time.

Provided that the transmission and wheeling charges shall be payable on the basis of open access capacity contracted or open access capacity utilized, whichever is higher.

16.2 In case intra-State transmission system or distribution system is used by an open access customer in addition to inter-State transmission system, transmission charges and wheeling charges shall be payable for use of intra-State system in addition to payment of transmission charges for inter-State transmission.

16.3 The open access charges for Grid Interactive Solar PV Systems under Net Metering shall be governed by the relevant provision of the AERC (Grid Interactive Solar PV Systems) Regulations, 2015 as amended from time to time.

17. SCHEDULING AND SYSTEM OPERATION CHARGES

17.1 Scheduling and system operation charges shall be payable by the Open Access customers for the following:

In respect of Inter-State Open Access

(a) Charges for LTOA and MTOA

- i. Regional Load Despatch Centre fees and charges including charges for the Unified Load Despatch and Communication Scheme as determined by the Central Electricity Regulatory Commission from time to time.
- ii. State Load Despatch Centre fees and charges as specified by the State Commission.

(b) Charges for STOA

- i. Regional Load Despatch Centre and SLDC fees and charges as specified by the Central Commission/ State Commission.

In respect of Intra-State Open Access

(a) Charges for LTOA and MTOA

- i. LTOA and MTOA customers shall be liable to pay SLDC fees and charges determined by the Commission.
- ii. This charge includes fee for scheduling and system operation, energy accounting, fee for affecting revisions in schedule on bonafide grounds and collection and disbursement of charges

(b) Charges for STOA

- i. A composite operating charge @ Rs.2,000/- per day or part of the

day shall be payable by a STOA customer for each transaction to the SLDC or as determined by the Commission from time to time.

- ii. This charge includes fee for scheduling and system operation, energy accounting, fee for affecting revisions in schedule on bonafide grounds and collection and disbursement of charges

Provided that where charges are not specified by the State Commission, the charges as determined by the Central Commission shall apply.

18. CROSS-SUBSIDY SURCHARGE

- 18.1 In addition to payment of transmission and / or wheeling charges, an open access consumer shall pay cross subsidy surcharge to the distribution licensee of the area of supply in which such consumer is located.
- 18.2 Cross subsidy surcharge shall also be payable by such consumer, who receives supply of electricity from a person other than the distribution licensee, in whose area of supply he is located, irrespective of whether he uses the transmission and /or distribution system of the licensee or not.
- 18.3 The consumers located in the area of supply of a distribution licensee, but availing Open Access exclusively on inter-State transmission system shall also pay the cross subsidy surcharge.
- 18.4 Cross subsidy surcharge shall also be payable by open access consumers who procures power from renewable energy sources. However, cross subsidy surcharge for Grid Interactive Rooftop PV System under Net Metering shall be governed by the relevant provision of the AERC (Grid Interactive Solar PV Systems) Regulations, 2015 as amended from time to time.
- 18.5 The cross subsidy surcharge shall be determined by the Commission in the tariff Order in respect of the Distribution Licensee or any other applicable Order.

Provided that such surcharge shall not be levied on a person who has established a captive generation plant, in respect of his own captive generation for carrying the electricity to the destination of his own use.

19. ADDITIONAL SURCHARGE

- 19.1 An Open Access Consumer, receiving supply of electricity from a person other than the distribution licensee of his area of supply, shall pay to the distribution licensee an additional surcharge in addition to Transmission/ distribution charges and cross-subsidy surcharge, to meet out the fixed cost of such distribution licensee arising out of his obligation to supply as provided under sub-section (4) of Section 42 of the Act:
- 19.2 This additional surcharge shall become applicable only when, due to the open access being granted, the obligation of the licensee in terms of power purchase commitments has been and continues to be stranded or there is an unavoidable obligation and incidence to bear fixed costs consequent to such a contract. However, the fixed costs related to network assets would be recovered through wheeling charges.

- 19.3 The distribution licensee shall submit to the Commission, with its petitions under the Commission's Regulations governing Multi Year Tariff, detailed computations of the stranded fixed cost, which it is incurring towards its obligations to supply.
- 19.4 The Commission shall scrutinize the statement of calculation of such stranded fixed costs, submitted by the distribution licensee and determine the amount of additional surcharge based on the following principles:
- i. The cost must have been incurred by or be expected, with reasonable certainty, to be incurred by the distribution licensee on account of such consumer; and
 - ii. The cost has not been or cannot be recovered from such consumer or from other consumers who have been given supply from the same assets or facilities, through wheeling charges, stand-by or other charges approved by the Commission.
- 19.5 Provided that any additional surcharge, so determined, shall be applicable to all consumers availing open access from the date of determination of the same by the Commission.
- 19.6 The open access consumers located in the area of supply of a distribution licensee but availing open access exclusively on inter-State transmission system shall also pay the additional surcharge.
- 19.7 Additional surcharge determined on per unit basis shall be payable, on monthly basis, by the open access consumers based on the actual energy drawn, during the month, through Open Access.

20. STANDBY POWER AND STANDBY CHARGES

- 20.1 If an Open Access Customer requires power from the distribution licensee in case of outage of the generator or the source supplying power to such Open Access Customer, or a generator connected to distribution system injecting power through Open Access, requires start up power from the distribution licensee, then such Open Access Customer or generator may make an application to the distribution licensee seeking standby power. The application shall be made in format and in the manner as may be prescribed in the detailed procedure.
- 20.2 The distribution licensee shall provide standby power to such Open Access Customer, subject to availability of requisite quantum of power and subject to the load shedding as is applicable to the embedded consumer of the licensee.
- 20.3 The licensee shall be entitled to collect tariff under temporary rate of charge for that category of consumer or 125 percent of the normal tariff for that category, in the prevailing rate schedule, whichever is lower.

In cases where temporary rate of charge is not available for that consumer category, the standby arrangement shall be provided by the distribution licensee on payment of 125 percent of the normal tariff for that category in the prevailing rate schedule.

- 20.4 Provided further that the Open Access Customers would have the option to arrange standby power from any other source subject to the conditions that such power shall be drawn through the same system for which Open Access has been granted.

21. DEVIATION CHARGE

- 21.1 Scheduling of all transactions pursuant to grant of long-term access or medium term open access or short-term open access shall be carried out on day-ahead basis in accordance with the relevant provisions of IEGC for inter-State transactions and in accordance with State Grid Code/ Commission's Orders for intra-State transactions.
- 21.2 In case of deviation by open access customers, the difference between the applicable sanctioned Open Access load and the actual drawal shall be accounted through the Special Energy Meters, on defined time block basis, and settled at 150% of the retail tariff applicable for the respective category and as determined by the Commission time to time. In case of underdrawal, as a result of non availability of the transmission/distribution system, or unscheduled load shedding, the open access customer shall be compensated by the distribution licensee at the average power purchase cost of the distribution licensee.

22. REACTIVE ENERGY

- 22.1 Open access customer shall be liable for payment of the reactive energy charges in accordance with the provisions stipulated in the IEGC.
- 22.2 The reactive energy charge in respect of Renewable Energy Generating Stations, shall be in accordance with the charges approved by the Commission in its relevant Tariff Orders.

23. PARALLEL OPERATION CHARGES

- 23.1 Parallel operation charges shall be applicable on open access customers having a captive power plant running in parallel to the grid of distribution and transmission licensees.
- 23.2 Parallel operation charges shall be charged at the rate of Rs per KVA per month and shall be determined by the Commission from time to time.
- 23.3 Parallel operation charges shall be levied on the installed capacity or the aggregate name plate capacity of the captive generating plants connected with the grid. If installed capacity of captive power plant is recorded in MW then the designed power factor recorded in name plate generator shall be used for the purpose of arriving MVA capacity.

24. OTHER CHARGES

- 24.1 The Regulatory charges, congestion charges and any other charges imposed by Central Commission and/or State Commission shall be payable by all the open access customers.

CHAPTER V:
SCHEDULING, METERING, AND LOSSES

25. SCHEDULING

- 25.1 Notwithstanding anything contained in the succeeding clauses of this Regulation, scheduling of inter-State Open Access transactions shall be as specified by the Central Commission.
- 25.2 Subject to the foregoing clause, intra-State Open Access transactions in respect of all Open Access Customers, irrespective of the capacity, shall be scheduled by SLDC in accordance with the provisions of the State Grid Code and these Regulations.
- 25.3 The embedded consumer shall have to declare their schedule two days ahead, showing the drawal from the DISCOM and through open access, separately, to the SLDC and DISCOM.

26. METERING

- 26.1 In case of all open access customers irrespective of capacity, ABT compatible Special Energy Meters along with the associated communication system to facilitate real time data transfer to SLDC (SCADA system) shall be installed by the transmission/ distribution licensee as the case may be at the point(s) of injection and point(s) of drawal, at the cost of the customer.
- 26.2 Special Energy Meters installed shall be capable of time-differentiated measurements for time-block-wise active energy and voltage differentiated measurement of reactive energy in accordance with the State Grid Code and IEGC.
- 26.3 Special Energy Meters shall always be maintained in good condition.
- 26.4 Special Energy Meters shall be open for inspection by any person authorized by the State Transmission Utility, State Load Despatch Centre or the distribution licensee.
- 26.5 The Meters shall be periodically tested and calibrated by State Transmission Utility / distribution licensee as per State Grid Code and norms of Central Electricity Authority.
- 26.6 Readings of Meters shall be taken periodically at appointed day and hour by the officer of distribution licensee authorized in this regard as per procedure specified in State Grid Code, IEGC and AERC (Supply Code) Regulations, 2017 as amended from time to time.
- 26.7 The procedure for joint sealing, replacement of defective meter, billing in the event of meter(s) becoming defective shall be followed as laid down in the State Grid Code.
- 26.8 All the Open Access Customers shall abide by the metering standards notified by the Central Electricity Authority (CEA) vide its notification dated 17 March, 2006, as amended from time to time.

27. ENERGY LOSSES

Inter-State Open Access

- 27.1 *LTOA and MTOA*: The buyers/ seller of electricity shall bear apportioned energy losses in the transmission system in accordance with the provisions specified by the Central Commission.
- 27.2 *STOA*: The buyers and sellers of electricity shall absorb apportioned energy losses in the transmission system in accordance with the provisions specified by the Central Commission.

Intra-State Open Access

- 27.3 The transmission and distribution losses for the Intra-State System shall be determined by the Commission in its Tariff Order for the applicable year and shall be apportioned in proportion to the actual energy drawal by the Open Access Consumer and shall be accounted for accordingly.
- 27.4 The system losses for the transmission and distribution system, shall be determined by the Commission for various voltage levels in their tariff orders for the applicable year, and shall be apportioned to the actual energy drawal by the open access customers which shall be accounted for accordingly at relevant voltage level.

28. Energy Accounting

- 28.1 SLDC shall be responsible for energy accounting for all open access customers.
- 28.2 SLDC shall maintain the time block wise consumption record of the special energy meters installed against each open access customer on daily basis and upload the same in their website. Energy accounting statement on monthly basis should also be sent to the open access customers and transmission and distribution licensees via e-mail.

CHAPTER VI:
COMMERCIAL MATTERS

29. BILLING, COLLECTION AND DISBURSEMENT

29.1 Billing in respect of the charges payable under these Regulations, shall be made as per the following procedure:

29.2 Inter-State transactions

I. Short Term Open Access:

- (a) Collection and disbursement of transmission charges for use of CTU and STU systems and operating charges payable to RLDCs and SLDCs towards short term Open Access shall be made by the NERLDC in accordance with the procedure specified by the Central Commission.
- (b) The STOA Customer connected to distribution system of a distribution licensee shall pay to such distribution licensee the wheeling charges payable to the distribution licensee within 3 working days from the grant of the STOA by the Nodal Agency.
- (c) In case of collective transactions, the transmission for the State network and operating charges for the State Load Despatch Centre shall be settled directly by the Power Exchange with the respective State Load Despatch Centre.
- (d) The deviation charge shall be collected by the distribution licensee based on the energy accounting finalized by SLDC.
- (e) Reactive energy charges shall be billed and collected by the SLDC.

II. Long Term Open Access and Medium Term Open Access:

- (a) Billing, collection and disbursement of charges payable to RLDC including Unified Load Despatch and Communication Scheme shall be in accordance with the procedure specified by the Central Commission
- (b) Bills towards the charges payable to SLDC and STU shall be raised by the STU directly to the Open Access Customer connected to STU, and to the distribution licensee in respect of the Customers connected to the distribution system, before 3 working days of the succeeding calendar month.
- (c) Distribution licensee shall raise the bill with the Open Access Customer connected to it within 3 working days of receipt of bill from STU.
- (d) Open Access Customer connected to the distribution licensee shall pay the charges within five working days of receipt of bill from distribution licensee. The distribution licensee shall disburse the amount payable to STU/SLDC within 3 working days.
- (e) Open Access Customer connected to the STU shall pay the bills within 5 working days of receipt of the bill.

29.3 Intra-State transactions

- (a) The transmission charges and wheeling charges in respect of STOA

Customers shall be payable to SLDC, who shall pass on these charges to STU and distribution licensee respectively within a period of 3 working days. These charges in respect of MTOA and LTOA Customers shall be payable directly to respective licensees.

- (b) The cross subsidy surcharge and additional surcharge shall be payable directly to the distribution licensee in whose area of supply the Customer availing Open Access is located.
- (c) The Operation Charges in respect of Open Access Customers shall be paid to the State Load Despatch Centre.
- (d) The Reactive Energy Charges and Unscheduled Interchange charges as determined by SLDC shall be paid to the distribution licensee in whose area of supply the Customer availing Open Access is located.

30. LATE PAYMENT SURCHARGE

In case the payment of any bill for charges payable under these Regulations is delayed by an Open Access Customer beyond the due date, without prejudice to any action under the Act or any other regulation there under, a late payment surcharge at the rate of 1.25% per month or part thereof shall be levied.

31. DEFAULT IN PAYMENT

- 31.1 Non-payment of any charge or sum of money payable by the Open Access Customer under these Regulations (including deviation charges) shall be considered non-compliance of these Regulations and shall be liable for action under section 142 of the Act in addition to action under section 56 of the Act. The STU or any other transmission licensee or a distribution licensee may discontinue Open Access after giving Customer an advance notice of seven days or less, as appropriate, without prejudice to its right to recover such charges by suit.
- 31.2 In case of default in payment of charges due to the Load Despatch Centre, the Load Despatch Centre concerned may refuse to schedule power to the defaulting Open Access Customer and direct the licensee concerned to disconnect such Consumer from the grid.

32. PAYMENT SECURITY MECHANISM

For Long Term & Medium Term Open Access Customer

- 32.1 As a payment security towards transmission charges, open access customer shall deposit an amount equal to 3 months of the transmission charges for allotted open access capacity with the State Transmission Utility.
- 32.2 As a payment security towards SLDC charges, open access customer shall deposit an amount equal to 3 months of the SLDC fee and charges including scheduling and operating charges for allotted open access capacity with the State Load Despatch Centre;
- 32.3 As a payment security towards wheeling charges, cross subsidy surcharge and additional surcharge, a deposit equal to 3 months of billing for these charges for allotted open access capacity shall be maintained with the Distribution Licensee of the area of supply;

Provided that power factor (0.85) shall be considered for the purpose of unit

conversion from MVA/kVA to MW/kW or vice versa.

Provided further that, in case of an existing open access consumer availing open access for more than a financial year, security shall be revised on the basis of average monthly open access charges of the previous financial year.

- 32.4 Such security shall be in the form of cash deposit/ demand draft / digital mode of payment.

For Short Term Open Access Customer

- 32.5 An open access customer shall pay the transmission charges, SLDC charges, wheeling charges, cross subsidy surcharge, additional surcharge, and such other charges as applicable, in advance for the period for which the open access has been granted.
- 32.6 The other commercial conditions for transmission charges, wheeling charges and scheduling & system operation charges such as terms of payment, creditworthiness, indemnification and force majeure conditions shall be as provided in the detailed procedure.

33. ADJUSTMENT OF ENERGY

- 33.1 The priority of adjustment of energy drawal by an open access customer from different sources shall be as per the following sequence of reducing priority and shall be implemented for each time block:

- (i) Renewable power generation;
- (ii) CPP;
- (iii) Banked Energy to be settled in defined time block
- (iv) Long Term Bilateral purchase;
- (v) Medium Term Open Access;
- (vi) Short term inter-State open access including Power Exchange Transaction;
- (vii) Short term intra-State open access;
- (viii) Distribution Licensee.

- 33.2 In case of generators selling power to multiple persons/ consumers, the priority for adjustment of energy sale shall be as follows:

- (i) Distribution Licensee;
- (ii) Captive use;
- (iii) Long term bilateral sale followed by medium term bilateral sale and further by short term bilateral sale;
- (iv) Sale through power exchange.

Provided, the generator selling power to Distribution Licensee may make an application to the Distribution Licensee for change in priority of sale which shall be governed as per the existing agreement between the generator and the Distribution Licensee.

CHAPTER VII:
INFORMATION SYSTEM

34. INFORMATION SYSTEM

34.1 The State Load Despatch Centre shall provide the following information on its website in a separate web page titled “Open Access Information”(in downloadable format) within 3 months of the notification of these Regulations and update it regularly:

- (a) The form of application, the procedure and manner of making the application, and the fee required;
- (b) The form of the Open Access Agreement
- (c) The applicable charges for open access.
- (d) A status report on the current LTOA, MTOA and STOA customers indicating:
 - i) Name of customer;
 - ii) Period of Open Access granted (date of commencement and date of termination);
 - iii) Point(s) of injection; Point(s) of drawal; Supply voltage at injection and drawal points; and
 - iv) Extent of Open Access approved;
- (e) List of Open Access Applications, with date of receipt, date of application admitted, action taken and status;
- (f) Details of rejected open access applications with reasons.

34.2 The information shall be updated upon every change in status. All previous reports shall be available in the web - archive.

CHAPTER VIII:

SUBMISSION OF DETAILED PROCEDURE

35. DETAILED PROCEDURE

- 35.1 Subject to the provisions of these Regulations, the State Transmission Utility shall submit the detailed procedure to the Commission for approval within 90 days of notification of these Regulations in the Official Gazette:

Provided that prior to submitting the detailed procedure to the Commission for approval, the State Transmission Utility shall make the same available to the public and invite comments by putting the draft detailed procedure on its website and giving a period of 30 days to submit comments;

Provided further that while submitting the detailed procedure to the Commission, the State Transmission Utility shall submit a statement indicating as to which of the comments of stakeholders have not been accepted by it along with reasons thereof.

- 35.2 The detailed procedure submitted by the State Transmission Utility shall, in particular, include—
- a. The proforma for application of long-term access and medium-term open access and LTOA/MTOA standard agreements.
 - b. Any other issues, including Bank Guarantee for construction, payment mechanisms for application fee, etc. necessary for implementation of these Regulations.

CHAPTER IX:
MISCELLANEOUS

36. UNDER-UTILISATION OR NON-UTILISATION OF OPEN ACCESS CAPACITY IN INTRA-STATE TRANSMISSION SYSTEM

36.1 A long-term Customer may relinquish the LTA rights fully or partly before the expiry of the full term of LTOA, by making payment of compensation for stranded capacity as follows:

A. Long-term Customer who has availed access rights for at least 7 years

36.2 Notice of one (1) year – If such a Customer submits an application to the State Transmission Utility at least 1 (one) year prior to the date from which such Customer desires to relinquish the access rights, there shall be no charges.

36.3 Notice of less than one (1) year – If such a Customer submits an application to the State Transmission Utility at any time lesser than a period of 1 (one) year prior to the date from which such Customer desires to relinquish the access rights, such Customer shall pay an amount equal to 66% of the estimated transmission charges (in terms of net present value) for the stranded transmission capacity for the period falling short of a notice period of one (1) year.

B. Long-term Customer who has not availed access rights for at least 7 (seven) years

36.4 Such Customer shall pay an amount equal to 66% of the estimated transmission charges (in terms of net present value) for the stranded transmission capacity for the period falling short of 7 (seven) years of access rights:

Provided that such a Customer shall submit an application to the State Transmission Utility at least 1 (one) year prior to the date from which such Customer desires to relinquish the access rights:

Provided further that in case a Customer submits an application for relinquishment of LTOA rights at any time at a notice period of less than one year, then such Customer shall pay an amount equal to 60% of the estimated transmission charges (net present value) for the period falling short of a notice period of one(1) year, in addition to 66% of the estimated transmission charges (in terms of net present value) for the stranded transmission capacity for the period falling short of 7 (seven) years of access rights.

36.5 The discount rate that shall be applicable for computing the net present value as referred in Regulations 36.3 and 36.4 above, shall be the discount rate to be used for bid evaluation in the Central Commission's notification, issued from time to time in accordance with the guidelines for determination of tariff by bidding process for procurement of power by distribution licensees issued by the Ministry of Power.

36.6 The compensation paid by the long-term Customer for the stranded transmission capacity shall be used for reducing transmission charges payable by other LTOA Customers and MTOA Customers in the year in which such compensation

payment is due in the ratio of transmission charges payable for that year by such LTOA Customers and MTOA Customers.

C. Medium-term Open Access Customers

36.7 A MTOA Customer may relinquish rights, fully or partly, by giving at least 30 days prior notice to the Nodal Agency:

36.8 Provided that the MTOA Customer relinquishing its rights shall pay applicable transmission charges for the period of relinquishment or 30 days whichever is lesser.

D. Short-term Open Access Customer

36.9 The STOA schedules accepted by the Nodal Agency in Advance basis may be cancelled or revised downwards on an application to that effect made to the Nodal Agency by the STOA Customer:

Provided that such cancellation or downward revision of the short-term Open Access schedules shall not be effective before expiry of a minimum period of two (2) days from the date of application:

Provided further that the day on which notice for cancellation or downward revision of schedule is served on the Nodal Agency and the day from which such cancellation or downward revision is to be implemented, shall be excluded for computing the period of two (2) days.

36.10 The STOA customer seeking cancellation or downward revision of schedule shall pay the transmission charges for the first two (2) days of the period for which the cancellation or downward revision of schedule, as the case may be, has been sought, in accordance with the schedule originally approved by the Nodal Agency, and thereafter in accordance with the revised schedule prepared by the Nodal Agency during the period of such cancellation or downward revision.

36.11 In case of cancellation, operating charges specified in these Regulations shall be payable for two (2) days or the period of cancellation, whichever is less.

37. COMPUTATION OF CAPACITY AVAILABILITY FOR OPEN ACCESS

37.1 The capacity available for the Open Access shall be computed for each transmission segment and for every sub-station by the STU following the methodology given below:

a) Available Open Access capacity of a transmission system segment: = $(DC - SD - AC) + (NC - ND)$ where, DC=Designed capacity of the transmission segment in MW, SD = Sustained demand (peak load experienced) in MW recorded in the segment, AC = Already allotted capacity, but not availed in MW, NC = New capacity in MW expected to be added and ND = New Demand expected to be added.

b) Available Open Access capacity of a sub-station: = $(TC - SP - AC) + (NC - ND)$ where, TC = Transformer capacity of the sub-station in MVA, SP = Sub-station peak in MVA, AC = Already allotted capacity but not availed

in MVA , NC = New transformer capacity in MVA expected to be added and ND = New Demand expected to be added.

- c) The STU shall update these values on monthly basis on the first calendar day of the month and publish it in its website.

37.2 The appropriate distribution licensee shall determine the available capacity for allotment for the portion of the distribution system over which Open Access has been requested for.

38. CURTAILMENT PRIORITY

38.1 The State Load Despatch Centre may curtail power flow on any transmission corridor by cancelling or rescheduling any transaction, if the situation demands in case of exigency for maintaining the stability of the grid and grid security. However, in all such cases of cancellation or curtailment, the SLDC shall, as soon as practicable, intimate in writing to the customer the reasons for the same.

38.2 Subject to provisions of the State Grid Code/ IEGC, cancellation/curtailment will be effected as under:

- a) Short term transaction(s) will be cancelled or curtailed first, followed by medium term transactions, which shall be followed by long term transaction(s).
- b) Among short term transactions, bilateral transaction will be cancelled or curtailed first, followed by collective transactions.
- c) Open Access to a distribution licensee will be the last to be curtailed within a category.
- d) Curtailment will be effected on a pro-rata basis amongst the Customers of a particular category.

38.3 In case of curtailment of the approved schedule by the State Load Despatch Centre, transmission and wheeling charges shall be payable pro-rata in accordance with the curtailed schedule.

38.4 Full operating charges like SLDC fee and transaction charges specified in these Regulations will be payable irrespective of curtailment, if any.

39. QUANTUM OF RENEWABLE ENERGY PURCHASE OBLIGATION (RPO)

Each Open Access Customer shall fulfill its RPO as per Assam Electricity Regulatory Commission (Renewable Energy Purchase Obligation and its Compliance) Regulations, 2010 and as amended from time to time. The RPO shall be met by Open Access Customers either by purchase of electricity (in kWh) from renewable sources or by purchase of Renewable Energy Certificate(s) (RECs) from the Power Exchange(s).

40. REDRESSAL MECHANISM

All disputes and complaints regarding open access shall be first referred to the

Grid Code Management Committee constituted under the State Grid Code. The Committee shall investigate and shall resolve the grievance within 30 days; and if the Committee is unable to redress the grievance, it shall be referred to the Commission by the Committee. If the Open Access Customer is aggrieved or not satisfied with the decision of the Grid Code Management Committee, he may appeal before the Commission for adjudication of the matter.

Provided that such appeal shall be accompanied by a fee as specified in the Assam Electricity Regulatory Commission (Payment of Fees) Regulations, 2015, as amended from time to time.

41. POWERS TO REMOVE DIFFICULTIES

If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may by general or special order, direct the State Transmission Utility, State Load Despatch Centre, licensees and the Open Access Consumers, to take such action, as may appear to the Commission to be necessary or expedient for the purpose of removing difficulties.

42. POWER TO AMEND

The Commission may, at any time add, vary, alter, modify or amend any provision of these Regulations.

43. REPEAL AND SAVINGS

43.1 Save as otherwise provided in these Regulations, the Assam Electricity Regulatory Commission (Open Access) Regulations, 2005, shall stand repealed from the date of commencement of these Regulations.

43.2 Notwithstanding such repeal, anything done or purported to have been done under the repealed Regulations shall be deemed to have been done or purported to have been done under these Regulations.

43.3 Open access customers under an existing agreement/contract shall be entitled to continue to avail such open access on the same terms and conditions, till, expiry of the term of such agreement /contract. On expiry of the terms of the existing agreement/ contract, open access shall be governed by the provisions of these Regulations.

(By order of the Commission)

S.K. Roy,
Secretary,
Assam Electricity Regulatory Commission