

**WEST BENGAL ELECTRICITY REGULATORY COMMISSION
(DRAFT OPEN ACCESS REGULATIONS)**

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**WEST BENGAL ELECTRICITY REGULATORY COMMISSION
NOTIFICATION**

No. xx/WBERC

Dated xx.xx.2017

In exercise of the powers conferred by section 181 read with clause (d) of sub-section (2) of section 39, clause (c) of section 40, sub-sections (2), (3) and (4) of section 42 and section 66 of the Electricity Act, 2003 (36 of 2003) and all powers enabling on that behalf and in supersession of notifications No. 35/WBERC dated 12th April 2007 published in the Kolkata Gazette, Extraordinary on 12th April 2007 respectively along with all amendments, the West Bengal Electricity Regulatory Commission hereby makes the following regulations.

1. Short title and commencement.

- 1.1 These regulations may be called the West Bengal Electricity Regulatory Commission (Open Access) Regulations, 2017.
- 1.2 They shall come into force on the date of their publication in the Official Gazette.

2. Definitions

- 2.1 In these regulations, unless the context otherwise requires:
 - a) "Act" means the Electricity Act, 2003;
 - b) "ABT" means the Availability Based Tariff as specified in the State Electricity Grid Code and Balancing and Settlement Regulations specified by the Commission;
 - c) "Applicant" means a person applied for seeking open access;
 - d) "Area Load Despatch Centre" or "ALDC" has the same meaning as assigned to it in the State Grid Code.
 - e) "Backup Power" means the quantum of power supplied to an Open Access Customer out of the available power of the Connected Licensee when power from

- open access source is not available to the Open Access Customer or as and when required;
- f) "Bulk Power Transmission Agreement" means the open access agreement under regulation 12.1(a) between the Open Access Customer and the Transmission Licensee for transmission or wheeling of power through the Transmission Licensee's transmission lines / system;
 - g) "Bulk Power Wheeling Agreement" means the open access agreement under regulation 12.1(a) between the Open Access Customer and the Distribution Licensee for wheeling of power through the Distribution Licensee's distribution system and associated facilities;
 - h) "Capacity Charges" means the capacity charges as specified in the Tariff Regulations;
 - i) "Captive Generating Plant" means the Captive Generating Plant as defined in the Tariff Regulations;
 - j) "Commission" means the West Bengal Electricity Regulatory Commission;
 - k) "Connected Licensee" means a Licensee or any person who is engaged in the business of supplying electricity to the public under the Act or any other law for the time being in force and whose works are connected with the premises of any person including an Open Access Customer;
 - l) "Distribution Licensee" means a Distribution Licensee as defined in the Tariff Regulations;
 - m) "Distribution System Network" means the distribution system of a Distribution Licensee in his area of supply;
 - n) "Emergency requirement" means the requirement of supply of Start-up Power or survival power for generating stations in case of total power failure and / or power for failure in supply of power from open access source of an Open Access Customer for which there may be threat to public safety;

- o) "Energy Charge" means the energy charge as specified in the Tariff Regulations;
- p) "Force Majeure Event" means the Force Majeure Event as defined in the Tariff Regulations;
- q) "Intending Distribution System User" means the person who, being eligible for open access in distribution system, has applied for allocation of or increase in allocated capacity rights for the purpose of wheeling and has agreed to the carrying out of works on obtaining such access;
- r) "Intending Transmission System User" means the person who, being eligible for open access in transmission, has applied for allocation of or increase in allocated capacity rights for the purpose of transmission and has agreed to the carrying out of works for obtaining such access;
- s) "Inter State Transmission System" or "ISTS" means
 - (a) any system for the conveyance of electricity by means of a main transmission line from the territory of one State to another State;
 - (b) The conveyance of electricity across the territory of an intervening State as well as conveyance within the State which is incidental to such Inter-State transmission of energy;
 - (c) The transmission of electricity within the territory of State on a system built, owned, operated, maintained or controlled by CTU.
- t) "Intra State Transmission System (InSTS)" includes the entire Transmission network within the State excluding the Inter-State Transmission System. Intra-State Transmission System for the purposes of this Grid Code has been abbreviated as InSTS
- u) "Licensee" means the holder of a licence granted by the Commission including a deemed Licensee under 1st to 5th proviso to section 14 of the Act, persons exempted under section 13 or 8th proviso to section 14 of the Act and the holder of a licence granted by the Central Electricity Regulatory Commission;

- v) "Long Term Customer" means a person who has been granted long-term access;
- w) "Long Term Access" or "LTA" means the right to use the intra-State transmission system and/or any distribution system under the purview of Commission for a period exceeding twelve years but not exceeding twenty five years;
- x) "Medium Term Customer" means a person who has been granted Medium Term Open Access;
- y) "Medium-term open access" or "MTOA" means the right to use the intra-State transmission system and/or any distribution system under the purview of Commission for a period exceeding three months but not exceeding three years;
- z) "Nodal Agency" means the Nodal Agency as specified in regulation 9;
- aa) "Open Access Customer" means a person using or intending to use the transmission system or the distribution system of any Licensee(s) or any person engaged in the business of supplying electricity to the public under the Act or any other law for the time being in force in the State for transmission and wheeling of electricity and includes a person who has availed or intends to avail open access under section 42 of the Act;
- bb) "Open access source" means a generating station or any person holding appropriate licence for distribution or trading of electricity from which / whom the power can be accessed by an Open Access Customer;
- cc) "Ownership" of a generating station or Captive Generating Plant shall have the meaning as has been prescribed in the Electricity Rules, 2005;
- dd) "Regulations" means the regulations made under the Act;
- ee) "Rules" means the rules made under the Act;
- ff) "Safe Capacity" means continuous current carrying capacity considering outage of the largest element in such transmission and associated system or as stipulated in the planning criteria by the appropriate authority;

- gg) "Short Term Customer" means a person who has been granted Short Term Open Access;
- hh) "Short Term Open Access" or "STOA" means the right to use the intra-State transmission system and/or any distribution system under the purview of Commission for a period upto one (1) month at one time;
- ii) "SLDC" means the SLDC as defined in the Tariff Regulations;
- jj) "Standby Power" means the quantum of power supplied to an Open Access Customer by the Connected Licensee or by any generating station against booking of a reserved generation capacity when power from open access source is not available to the Open Access Customer or as and when required;
- kk) "Start-up Power" means the power required by any generating station or Captive Generating Plant for black start-up or cold start-up of the generating station within the State;
- ll) "State" means the State of West Bengal;
- mm) "STU" means the STU as defined in the Tariff Regulations;
- nn) "Tariff Regulations" mean the regulations specified by the Commission under section 61 of the Act;
- oo) "WBEGC" means the State Grid Code specified by the Commission under section 86(1)(h) of the Act;
- pp) "Wheeling" means the operation whereby the distribution system and associated facilities of a distribution licensee are used by another person for the conveyance of electricity on payment of charges to be determined under section 62 of the Act;

2.2 Words or expressions used and not defined in these regulations but defined in the Act or any other regulation of the Commission shall have the meanings respectively assigned to them in the Act or any other regulation of the Commission.

3. Extent of Application

- 3.1 These regulations shall apply to long-term access, medium-term open access and short-term open access, for use of intra-state transmission system and/or distribution system and associated facilities with such lines or systems of the Licensee(s) under the purview of the Commission including any such lines and/or systems as are used in conjunction with inter-State transmission lines.
- 3.2 These regulations shall apply to all Open Access Customers who are at present availing open access by orders of the Commission or had been granted open access by the Commission and notwithstanding anything to the contrary contained in earlier Regulations or orders of the Commission, these regulations shall have overriding effect.

4. Eligibility for open access:**4.1 Transmission:**

Subject to the provisions of these regulations, a Licensee or a generating company or a Captive Generating Plant or a consumer or any person engaged in the business of supplying electricity to the public under the Act or any other law for the time being in force or any other person shall be eligible for open access to the intra-State transmission system or associated facilities of the STU or any Transmission Licensee on payment of the charges, as may be specified by the Commission, for using the transmission system of the Transmission Licensee.

4.2 Distribution:

Subject to the provisions of these regulations and the regulations made under fifth proviso to sub-section (2) of section 42 of the Act, a Licensee or a generating company or a Captive Generating Plant or a consumer or any person engaged in the business of supplying electricity to the public under the Act or any other law for the time being in force or any other person shall be eligible for open access to the distribution system and associated facilities of a Distribution Licensee on payment of charges, as may be specified by the Commission, for using the distribution system and the associated facilities of the Distribution Licensee.

- 4.3 Any person intends to avail open access must have a valid connectivity agreement with the concerned transmission or distribution licensee, in whose system it is connected with, in line with WBEGC. However, for Long Term Access the applicant may submit the application for connectivity along with the application seeking Long Term Access.
- 4.4 Any person intends to avail open access must have ABT compliant interface meters in line with CEA (Installation and Operation of Meters) Regulations 2006, as amended from time to time. In case the intending open access customer is connected at 132kV and above voltage level then it must have a 24x7 control room along with dedicated communication system and real-time on-line data display facilities with SLDC and /or ALDC, as the case may be.
- 4.5 An open access Customer shall be eligible and also re-eligible to obtain fresh reservation of capacity for open access after expiry of his term, subject to the provisions of these Regulations.
- 4.6 A person having been declared insolvent or bankrupt shall not be eligible for open access.
- 4.7 A person having outstanding dues of any Transmission Licensee or Distribution Licensee, against billing, for more than one month shall become eligible for open access only after clearing his outstanding dues.
- 4.8 If an applicant for open access has already been charged for having committed any offence under the Act, his application for open access shall be considered only after a competent court of law clears him of the charges.
- 4.9 An Open Access Customer, after expiry of his open access term, will not have any priority for getting open access under any new application for open access by virtue of his earlier status of Open Access Customer.

5. Special Provisions for Existing Distribution Licensees

A Distribution Licensee using intra-State transmission lines and / or the distribution systems and associated facilities with such lines and systems in the State on the date of

coming into force of these regulations under an existing agreement shall be entitled to continue to avail open access on such transmission and distribution systems along with the associated facilities on the same terms and conditions of the existing agreement and on payment of transmission charges and wheeling charges as may be determined by the Commission from time to time.

However, where the Distribution Licensee is using such facilities not under an existing agreement but through an informal arrangement then a formal agreement shall be signed by the Distribution Licensee immediately, not later than one month, on such terms and conditions which are otherwise in line with the existing arrangement and in conformation with these regulations and on payment of such transmission charges and wheeling charges as may be determined by the Commission from time to time.

6. Allotment Priority

- 6.1 The Long Term Customers shall have priority over Medium Term Customers and Short Term Customers. The Medium Term Customers shall have priority over Short Term Customers.
- 6.2 The inter se priority within each category of Open Access Customers will be as per the following descending order:
 - a) A Distribution Licensee to the extent of its requirement for its consumers within the State and for supplying power to other Licensees within the State.
 - b) Power fully based on solar.
 - c) Power fully based on wind.
 - d) Power fully based on hydro.
 - e) Power fully based on cogeneration within the State.
 - f) Power fully based on renewable sources other than hydro, solar and wind.
 - g) Power from captive generation based on gas.

- h) Power from captive generation based on coal.
 - i) Power from captive generation based on oil.
 - j) Other sources, if any, not covered under (a) to (h).
- 6.3 Notwithstanding anything contained in regulations 6.1 and 6.2, the Commission may, by order, change the priority of allotment of open access to enable flow of adequate power to consumers providing essential services including public pumping station, medical care, mass transportation, dairy, airport, underground mines, etc. or when unforeseen natural calamities or other emergencies seriously disrupt public life.
- 6.4 Notwithstanding anything contained in regulations 6.1, 6.2 and 6.3, the open access for emergency requirement, if any, shall have the highest priority.
- 6.5 The Open Access Customers will have to indicate in their applications for open access the potential hazards concerning public safety in line with the Environment (Protection) Act, 1986 and any other law as applicable. On the basis of such declaration and subject to approval by the Commission after due consideration of such declaration the Open Access Customer will be listed for open access from different sources for emergency requirement.

7. Criteria for accessing the technical feasibility for open access:

While providing open access, the Nodal Agency shall not compromise with the margin of different parameters of distribution systems and / or transmission lines / systems as has been provided in the State Grid Code. The capacity available for open access shall be considered after taking into account the following factors.

7.1 Transmission lines and Associated Systems:

- a) In respect of transmission lines and associated systems forming part of evacuation system of a generating station, load flows anticipated at assessed output from the generating station considering transmission planning criteria as specified in WBEGC;

- b) Maximum load on such transmission and associated system recorded during the previous year vis-à-vis Safe Capacity of such system;
- c) The appropriate load growth potential on such transmission and associated system;
- d) Additional investment planning on new lines or improvement in lines / systems;
- e) The capacity already allotted for open access for the relevant period;
- f) Requirement, if any, of the State Grid Code, RLDC, SLDC;
- g) Evacuation network from on-going generating projects;
- h) Network augmentations / reorganization plan to provide reliability in supply; and
- i) Other factors, which are essential and may be required to be considered to ensure safe and economic operations of the system or safety of the grid.
- j) The open access for Long Term Customer shall be allowed in accordance with the transmission planning criteria specified in the State Grid Code.

7.2 **Distribution and Associated Systems:**

- a) Maximum load on distribution and associated systems recorded during previous year vis-à-vis Safe Capacity of the systems;
- b) Appropriate load growth potential on such systems;
- c) Additional investment planning on new or such distribution systems or impact of improvement in the distribution systems;
- d) Capacity already allotted for open access for the relevant period;
- e) Requirement, if any, of the State Grid Code or SLDC;
- f) Load flow anticipated on network with outage of any one circuit running in parallel;
- g) Sensitivity of load;

- h) Network augmentation / reorganization plan to provide reliability in supply; and
- i) Other factors, which are essential and may be required to be considered to ensure safe and economic operation of the systems and safety of grid or in the interest of the consumer, if any.

7.3 Eligibility of the open access customer upon fulfillment of conditions under regulation 4 of these Regulations.

7.4 For accessing the technical feasibility the Transmission licensee or distribution licensee shall co-operate with the nodal agency.

7.5 Notwithstanding anything contained contrary to any other regulations, while providing open access, the Nodal Agency shall ensure the grid security to its satisfaction.

Provided that the decision of the Nodal Agency to utilize inherent design margins for Short Term Open Access will be final.

8. Nodal Agency

8.1 The Nodal Agency for arranging the Long Term Access and Medium Term Open Access within the State shall be the STU if its system is used. Otherwise, the Nodal Agency shall be the Transmission or the Distribution Licensee in whose system the point of drawal of electricity is located;

8.2 The Nodal Agency for Short Term Open Access and open access for emergency requirement and trial run within the state shall be the SLDC.

8.3 Notwithstanding anything laid down hereinbefore, if the injection point of an open access source and open access drawal point are within the area of a single Distribution Licensee without involving any other distribution system of any other Distribution Licensee or transmission system of any Transmission Licensee, the nodal agency for such open access shall be the respective distribution Licensee.

9. Application for Open Access

9.1 Submission of Application

- a) An Open Access Customer shall, in all other cases except the cases falling under clause (g) of this Regulation, file an application, in the Format – 1, together with all relevant information and documents mentioned therein to the Nodal Agency with copies to SLDC (if different from the Nodal Agency), the Transmission Licensee (if different from the Nodal Agency and who owns the transmission lines through which power is to be transmitted) and the Distribution Licensee (if different from the Nodal Agency and in whose Distribution System Network the point of drawal of power is located).
- b) Such open access application shall be filed along with the non-refundable applicable fees as given below:

Table-1

	Upto 100 MW	More than 100 MW to 500 MW	More than 500 MW to 1000 MW	More than 1000 MW
LTA	Rs. 2 Lakh	Rs. 3 Lakh	Rs. 6 Lakh	Rs. 9 Lakh
MTOA	Rs. 1 Lakh	Rs. 2 Lakh	Rs. 3 Lakh	Rs. 4 Lakh
STOA	Rs. 5000/- per application			

- c) A generating company seeking open access shall submit along with its application an undertaking of not having entered into Power purchase agreement (PPA) or any other bilateral agreement with any other person for the capacity (quantum of power) for which open access has been sought, except for URS power.
- d) All documents and copy of agreements / MOU /PPA etc as mentioned in Format-1 and the application fees are to be submitted along with the application; otherwise, the submission of application will be treated as void. Nodal agency shall make due acknowledgement of each valid application with a serial number.
- e) Any other information / details that may be required by the concerned Transmission Licensee(s) / STU / SLDC / Distribution Licensee(s) / Commission shall be provided promptly by the applicant.

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- f) Any application for open access and grant of such open access is case specific in terms of capacity allotted, the injection point, drawal point and period for such open access.
 - g) A Licensee, for using the intervening transmission facility of any other Licensee, shall apply, in Format – 1, to the Commission under section 35 of the Act and the fee for such application shall be as per the application fees for respective categories as mentioned in the table-1 in clause (b) and shall be payable to the Commission.
- 9.2 The Nodal agency shall decide on the technical feasibility for open access including availability of transmission and / or wheeling capacity in consultation with SLDC / Transmission Licensee / Distribution Licensee as the case may be.
- 9.3 Once open access has been granted, such open access shall not be replaced by any other person on account of a subsequent request received from such other person.

10. Procedure for Granting Long Term Access

- 10.1 **Long Term Access Involving inter-State transmission system:** Notwithstanding anything contained in the regulations 10.2 and 10.3 herein below procedure for long-term access for inter-state transmission shall be as per concerned regulation of CERC.

Provided that the SLDC or STU, before giving its consent to the applicant as required under the concerned regulations of CERC shall consult the respective transmission and/or the distribution licenses, whose networks is intended to be used, and get their views/ suggestions for giving such consent. Licenses have to submit their views/ suggestions within seven days from receiving the request from SLDC or STU in such format as provided in the detail procedures.

- 10.2 **Long Term Access Involving intra-State transmission system:** Subject to the provisions of clause (1) herein above, intra-State long-term Access shall be in accordance with the provisions of sub-clause (a) to (i) herein below:
- a) After receiving the application, Nodal Agency based on system studies and in consultation with the SLDC, the Transmission Licensee(s) and/or the Distribution Licensee(s) concerned shall assess the capacity available for the long term access

application subject to conditions under regulations 6.1, 6.2 and 7 of these regulations.

- b) In case long term access can be provided without any further system strengthening, the Nodal Agency shall give consent in the Format – 2 for Long Term Access to the applicant with a copy to the SLDC and STU (if different from nodal agency) within 30 days from the date of receipt of the application.
- c) If in the opinion of the Nodal Agency open access cannot be allowed due to any ineligibility or further system strengthening is essential before providing Long Term Access, the Nodal Agency shall communicate the decision to the applicant in Format-2A stating the detail reasons within 30 days from receiving the application.
- d) In case system strengthening is required the applicant may on receiving Format-2A within 15 days request the Transmission Licensee(s) and / or the Distribution Licensee(s) concerned, as the case may be, to carry out system studies and preliminary investigation for the purpose of arriving at cost estimates and completion schedule for system strengthening plan. The Transmission Licensee(s) and / or the Distribution Licensee(s) concerned shall, on receipt of such request, intimate estimated expenditure for carrying out such study within 15 days from the date of receipt of such request from the applicant.
- e) The Transmission Licensee(s) and / or the Distribution Licensee(s), as the case may be, shall carry out the studies as mentioned in clause (d) immediately on deposit of estimated expenditure by the applicant and intimate the results of the studies to the applicant with copies to the Nodal Agency, SLDC and STU (if different from Nodal Agency) within 60 days from the date of deposit of amount of the estimated expenditure by the applicant.
- f) The applicant shall bear the actual expenditure incurred by the Transmission Licensee(s) and / or the Distribution Licensee(s), as the case may be, in this respect within the limit of 105% of cost estimate intimated by the Licensee concerned.

- g) In case the system requires strengthening for long term access, subject to approval of such strengthening by the STU (if different from Nodal Agency), the cost for such strengthening shall initially be paid by the applicant to the concerned Licensee(s) as an advance, if such strengthening is required for exclusive use of the applicant at that point of time.

Provided that for strengthening of transmission system or distribution system of 33kV and above, the advance shall be refunded by the Licensee(s) concerned to the long-term access customer in seventy two equal monthly installments.

Provided that for distribution system below 33kV the proportionate cost will be recovered from the future long term access consumers on present value basis, who will use such system and such amount will be refunded to the first applicant who initially paid the full amount of advance.

Provided further that any such extension or augmentation of the network will become the asset of the Licensee(s).

- h) In case application of connectivity with state grid is also accompanied with the long term access application STU may develop the network where the cost will be initially paid by the applicant and the advance shall be adjusted with the transmission access charge payable by the applicant for this portion of network. Alternatively STU may arrange for developing the line / system by third party through competitive bidding as per guidelines of the Central Government. STU will act as bid process coordinator for this purpose.
- i) In case any strengthening is required in inter-State transmission system to absorb / evacuate power beyond intra-State transmission system, the applicant shall co-ordinate with the STU and CTU concerned as deemed necessary.

10.3 **Within same distribution system:** The procedure specified in regulation 10.2 of these Regulations 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 Granting Medium Term Open Access:

11.1 **Involving inter-State transmission system:** Notwithstanding anything contained in the regulations 11.2 and 11.3 herein below procedure for medium-term open access for inter-state transmission shall be as per concerned regulation of CERC.

Provided that the SLDC or STU, before giving its consent to the applicant as required under the concerned regulations of CERC, shall consult the respective distribution and transmission licensees, whose networks are intended to be used, and get their views/ suggestions for giving such consent. Licensees have to submit their views/ suggestions within 7 days from receiving the request from SLDC in such format as provided in the detail procedure.

11.2 **Involving intra-State transmission system:** Subject to the provisions of clause (1) herein above, intra-State medium-term open access shall be in accordance with the provisions of clause (a) to (e) herein below:

- a) The start date of the medium-term open access shall not be earlier than 5 months and not later than 1 year from the last day of the month in which application has been made.
- b) Medium-term open access shall be granted if the resultant power flow can be accommodated in the existing transmission / distribution system or the transmission / distribution system under execution. No augmentation of transmission / distribution system is envisaged for granting MTOA except the cases where the Licensee(s) concerned and the applicant mutually agree and execute necessary agreement in this regard. Construction of dedicated transmission line shall not be construed as augmentation of transmission system for this purpose.
- c) On receipt of the application, the nodal agency shall, in consultation and through coordination with SLDC, the Transmission Licensee(s) and/or the Distribution Licensee(s) concerned, and based on system studies of the Licensee(s)

concerned, if required, assess the capacity available for the medium term open access application subject to conditions under regulations 6.1, 6.2 and 7 of these regulations. In case of inter-say priority within each category as mentioned in regulation 6.2 shall be decided on first-come-first-serve basis.

- d) In case medium term open access can be provided, the Nodal Agency shall give consent in the Format – 2 for Medium Term Open Access to the applicant with a copy to the SLDC and STU (if different from nodal agency) within 30 days from the date of receipt of the application.

Provided that for reasons to be recorded in writing, the nodal agency may grant medium-term open access for a period less than that sought for by the applicant.

- e) If the Nodal agency finds that medium term open access cannot be accorded to the applicant the same is to be communicated in Format-2A to the applicant within 30 days along with the reasons in details.

- 11.3 **Within same distribution system:** The procedure specified in regulation 11.2 of these Regulations shall, mutatis mutandis, apply to cases of medium-term open access when the point of injection and the point of drawal are located in the same distribution system.

12. Procedure for Granting Short Term open access

- 12.1 **Involving inter-State transmission system:** Notwithstanding anything contained in the regulation 12.2 and 12.3 herein below procedure for short-term open access for inter-state transmission shall be as per concerned regulation of CERC:

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 applicant as required under the concerned regulations of CERC, shall consult the ALDC of the respective distribution licensees and get their views/ suggestions for giving such

consent. Licenses have to submit their views/ suggestions within 2 days from receiving the request from SLDC in such format as provided in the detail procedure.

12.2 **Involving intra-State transmission system:** Subject to the provisions of clause (1) herein above, intra-State short-term Open Access shall be in accordance with the provisions of sub clause (a) to (k) herein below:

- a) Separate application shall be made for each month and for each transaction in a month. However the application for grant of Short Term Open Access may be submitted to the nodal agency for short term open access upto the fourth month, considering the month in which the application is made as the first month.
- b) For Short Term Open Access there will be no provision for system strengthening except the cases where the Licensee(s) concerned and the applicant mutually agree and execute necessary agreement in this regard.
- c) On receipt of the application, the nodal agency shall, based on system studies assess the capacity available for the short term open access application subject to conditions under regulations 6.1, 6.2 and 7 of these regulations. If the open access source or drawal point is connected to any distribution licensee then Nodal agency shall consult the ALDC of connected distribution licensees, and get their views/ suggestions before granting the short-term open access. ALDCs have to give their consent or reasons for denial in such manner as specified in the detail procedure for short-term open access.
- d) **Advance Reservation:** The application for grant of Short Term Open Access received upto 19th day of the Nth month for open access commencing and terminating in the (N+1)th month or (N+2)th month or (N+3)th month it shall be considered for advance reservation.
- e) Time schedule and processing of STOA in "advance reservation":
 - i) The application received up to the 19th day of a month for advance reservation shall be considered together on the twentieth day of the month.

- ii) In case the Nodal Agency does not anticipate any congestion or technical limitations on any of the transmission and / or distribution system involved, the applicant shall be granted such Short Term Open Access for which application is made for the quantum and duration sought for, latest by the 25th day of the month.
 - iii) If in the opinion of the Nodal Agency, grant of Short Term Open Access to all the applicants is likely to lead to congestion in transmission and / or distribution system to be used for Short Term Open Access for any duration, it shall inform the applicants of its opinion accordingly and the reasons therefore on or before the 23rd day of the month.
 - iv) On receipt of intimation in accordance with sub-clause (iii), an applicant may reduce its requirement during the period of congestion or opt for Short Term Open Access only for the duration when no congestion is anticipated and in such a situation, he shall inform the Nodal Agency accordingly by the 24th day of the month.
 - v) If the Nodal Agency still anticipates congestion in one or more of the transmission and / or distribution system to be used for Short Term Open Access, then the reservation of transmission or wheeling capacity shall be made pro-rata to the transmission or wheeling capacity sought to be reserved. Accordingly the Nodal Agency shall grant the quantum and duration of STOA by 25th of the month.
- f) **First-Come-First-Serve:** The application for grant of Short Term Open Access received in a month for open access in the month in which the application is made or received after the 19th day of a month for open access commencing and terminating in the following month shall be treated as "first-come-first-served basis", and Short Term Open Access shall be granted subject to availability of the transmission and / or wheeling capacity.

Provided that such applications shall reach before the nodal agency at least four (4) days in advance from the date of commencement of STOA.

- g) Time schedule and processing of STOA in "first-come-first-served basis":

- i) For all practical purposes the STOA application received upto 5:00 pm of a day shall be considered to be received in that day.
 - ii) All these applications shall be processed and decided within three days of their receipt
- h) **Day-ahead transaction:** All applications for short-term open access received within three days prior to the date of commencement of the open access shall be considered under Day-ahead transaction.
- i) Time schedule and processing of STOA in "Day-ahead transactions":
 - i) All applications of day-ahead transactions received by upto 2:00 pm of the day immediately preceding the date of commencement of the open access shall be clubbed together and treated as per by the nodal agency.
 - ii) A composite request for open access and scheduling for distribution licensees shall be sent to the SLDC through the ALDC latest by 2.00 p.m.
 - iii) The SLDC shall take steps to incorporate the requests for open access in the schedules to be issued by the SLDC, if the request can be accommodated without causing congestion after considering the final no-objection to power exchange transactions.
 - iv) A composite request for open access and scheduling to utilize surpluses known after issuance of the first despatch schedule by the SLDC at 7.00 p.m., must be submitted to the SLDC latest by 9.00 p.m. or preferably earlier. The SLDC shall endeavour to incorporate the same in the revised despatch schedule to be issued by the SLDC, if the request can be accommodated without causing congestion.
- j) **Same-day transactions:** In the event of emergency, the beneficiaries / buying utility may locate a source of power to meet short term emergency requirement on the same day and submit the application for open access to the SLDC. The SLDC shall endeavour to accommodate such requests for emergency requirement as soon as and to the extent practically feasible. Open access for emergency requirement will

be decided by the SLDC on requisition from Open Access Customer or generating station depending on the grid condition and State Grid Code.

Provided that where the Open Access Customer is connected to a distribution licensee it has to forward the application of same-day transaction to SLDC through concerned ALDC.

k) **Open Access for Trial Run:** In case of open access for trial run purpose the period shall not be more than 15 days.

12.3 Within same distribution system: The procedure specified in regulation 12.2 of these Regulations shall, mutatis mutandis, apply to cases of short-term open access when the point of injection and the point of drawal are located in the same distribution system.

13. Procedure for Granting Open Access through Power Exchanges:

Procedure for Open Access through power exchange shall be as per the concerned regulations of CERC.

Provided that, SLDC shall give a provisional prior no-objection to the applicant for energy exchange based on assessment of capacity availability, which will be treated for indicative purpose only. SLDC will intimate the final no-objection for power exchange transaction on day-ahead basis within 9:00 am to the applicant, RLDC, NLDC and Power Exchanges based on the network availability. SLDC will prepare a detail procedure in this respect in line with regulation 17.1 of these regulations.

Explanation: The "provisional no objection" shall be given considering the LTA, MTOA, Advance reservation for STOA and any other information available with SLDC. After considering network capacity availability and already allowed open access (including STOA based on "first-come-first-served", if any). SLDC shall intimate the "final no-objection" for transaction through power exchange to the applicant, RLDC, NLDC and power exchanges. This will avoid underutilization of network capacity in view of inherent uncertainty in bidding procedure of power exchanges and at the same time will reduce the scope of over booking of network and depriving others to avail open access.

14. Applicable Limitation in Short Term Open Access and Medium Term Open Access

Notwithstanding anything contrary contained elsewhere in these regulations the nature of the open access shall be determined according to the duration of the power purchase agreement (PPA). If the PPA is for more than three months but not exceeding 3 years the open access will be the Medium-term and for PPA more than twelve years it will be Long term access.

15. Adjudication of dispute on capacity availability

In case of any dispute regarding availability of transmission and / or wheeling capacity for open access between the applicant / Open Access Customer and the Licensee or between Licensees or between a Licensee and the STU and / or the SLDC, as the case may be, the aggrieved party may file a petition along with all necessary documents before the Commission for adjudication / settlement of the dispute within 60 days from cause of action.

16. Agreements required under these Regulations

- 16.1 **Connectivity Agreement:** Open access to the grid can be permitted only to a person having connectivity with the grid. An applicant must have a valid connectivity agreement in terms of State Grid Code or regulation 5 of these Regulations, before applying for Medium Term Open Access and Short Term Open Access. Notwithstanding anything contrary to any other regulations for consumers applying for Short Term Open Access and Medium Term Open Access who are already connected with a distribution licensee will be treated as having deemed connectivity with the grid for the purpose of these regulations.

For Long Term Access the long term customer may either have a valid connectivity agreement as per State Grid Code or regulation 5 of these regulations or may apply for connectivity along with the long term application.

A copy of valid connectivity agreement is to be submitted along with the application for MTOA and STOA when applying for the first time. In case change or modification/alteration is done in the agreement that should be communicated to the nodal agency within 3 working days.

If a generating station having connectivity agreement but not already connected with the grid can submit sufficient documentary evidence showing that it will be connected within the intending date of MTOA or LTA then the application will be considered for open access.

- 16.2 **Power purchase and sell agreement:** An open access customer intends to avail the open access must have a valid PPA or sale-purchase agreement with the generating companies, electricity traders and others as are applicable to him. In case of open access by a customer whose open access source is a Captive Generating Plant of which the Open Access Customer is qualified owner, no agreement between the Open Access Customer and the owner of the open access source is required. A copy of power purchase or sell agreement is required to be submitted along with the application for open access.
- 16.3 **Open Access Agreement:** An applicant, who has been permitted to avail long-term-access or medium-term-open-access to the transmission or distribution system of the state grid by the nodal agency, shall enter into a open access agreement with the STU or a tripartite agreement with STU and relevant transmission / distribution Licensee, in accordance with the provisions as may be made in the detailed procedure. The agreement shall, to the extent applicable, inter-alia, provide for the eventuality of premature termination of the agreement and its consequences on the contracting parties, duration of the agreement, the maximum power to be transmitted /wheeled, the point of injection, the point of drawal, duration of availing open access, payment of wheeling charges, transmission charges, cross-subsidy surcharge and other charges, as applicable, mode of payment, security deposit / advance payment including manner of payment of charges, metering of injection of energy and drawal of energy, manner of meter reading and its accounting, billing system and payment thereof, compliance of IEGC, State Grid Code and directives of SLDC.

16.4 **Bulk Power Transmission Agreement / Bulk Power Wheeling Agreement:** In case of long term customers where development of network and infrastructure in transmission and distribution system is required and has been agreed upon the applicant shall enter into a Bulk Power Transmission Agreement (BPTA) or a Bulk Power Wheeling Agreement (BPWA) with the concern transmission or distribution licensee as the case may be in accordance with provisions as may be made in the detailed procedure. The agreement shall, to the extent applicable, inter-alia, provide for the eventuality of pre-mature termination of the agreement and its consequences on the contracting parties, securities to be payable, sharing of capital cost, time schedule of implementation, payment of transmission access charge, distribution access charge, etc.

16.5 **Agreement for Back-up Power and Stand-by Power:** Any person, who has been allowed open access under section 42 of the Act, may enter into an agreement for backup or standby power for the purpose of getting supply of electricity on such terms and conditions (including tariff) as may be agreed upon by them. Such agreement shall include the mode of payment to and from the Open Access Customer for mismatch of energy in drawal mode at drawal point or injection at injection point for various time slabs of the schedule, where applicable, and shall comply with the relevant provisions of different Regulations of the Commission. While agreeing to a tariff, a Distribution Licensee shall not show any undue preference to any person or class of persons or discriminate any person or class of persons.

Provided further that the Distribution Licensee shall not pass any losses, arising out of such agreement, to its other consumers or other Licensees.

Provided further that such agreement needs to be consistent with the State Grid Code.

Provided further that nodal agency can deny open access in absence of agreement for Stand-by power for critical loads where the disruption of supply may cause safety and law & order problem. For such loads the open access customer shall enter into agreements for Back-up Power, Standby power prior to applying for open access and shall submit a copy of the same to the nodal agency along with the application for open access.

Provided also that any direction or order given by the Commission or the Appropriate Government as mentioned in the regulation 32 shall have overriding effect over such agreement.

- 16.6 After the agreements have been entered into, copies of the same shall be furnished to the SLDC. The SLDC shall, within 3 days from the date of receipt of the copies of the agreements, inform the Open Access Customer as also to all Licensee(s) concerned the date from which the open access will be available.
- a) If an Open Access Customer, who has been permitted to avail Long Term Access or Medium Term Open Access does not execute the Open Access Agreement and/or Bulk Power Transmission Agreement (BPTA) or a Bulk Power Wheeling Agreement (BPWA) as mentioned in regulations 16.3 and 16.4 of these Regulation, within 45 days from the date of such permission, the permission to avail open access shall be deemed to have been cancelled immediately without any further notice. Once allotment of open access is cancelled, the Open Access Customer shall have to apply as a new applicant for grant of open access, if required, at a later stage.
 - b) If the period for execution of such agreements requires any further time extension on any reasonable ground, the Open Access Customer shall take prior approval from the Commission through a petition seeking extension of time, mentioning the reasons for such extensions.

Provided that such extension of time shall not be more than 90 days from the date of granting of open access.

- 16.7 The power flow under the open access allocation shall not be effected unless the agreements as per regulation 16.1 to 16.4 are executed and the process under regulation 16.6 is completed.
- 16.8 After receipt of the request of agreement from the open access customer, the concerned licensee shall dispose the matter within 30 days in line with the detailed procedure.

17. Detail Procedure:

- 17.1 Subject to the provisions of these regulations SLDC shall lay down a detailed procedure for reservation of transmission and / or wheeling capacity to the Short Term Customers and submit it before the Commission for approval within 60 days of notification of these regulations. The detail procedure shall inter alia include procedure for submitting application, account details for submitting fees, procedural details for advance reservation, reservation on first-come-first-served basis, day-ahead transactions, same-day transactions, no-objection to power exchange, usage of alternative route, if any, no-objection for power exchanges, format for consent from ALDC , model agreement and other procedural details. Any further revision of the procedure shall be carried out only after obtaining prior approval of the Commission.
- 17.2 Subject to the provisions of these regulations STU shall lay down a detailed procedure for reservation of transmission and / or wheeling capacity to the Long Term Access and Medium Term Open Access and submit it before the Commission for approval within 60 days of notification of these regulations. The detail procedure shall include procedure for submitting application, to whom the application to be made, account details for submitting fees, model agreements, formats for consent from Licensees and other procedural details. Any further revision of the procedure shall be carried out only after obtaining prior approval of the Commission.

18. Non-Utilisation / Under-Utilisation of Open Access Capacity

- 18.1 In case an Open Access Customer is unable to utilize, full or part of the capacity allotted to him, he shall inform the concerned Licensee, STU and SLDC giving reasons for his inability to utilize the capacity in full or in part, as the case may be, and may surrender the capacity accordingly.
- 18.2 The SLDC may reduce / cancel the allotted capacity of an Open Access Customer who is frequently under utilizing the capacity allotted to him or not utilizing the same and if the customer is not able to give sufficient reasons within a reasonable time for such non / under utilization.

- 18.3 The capacity, which remains unutilized out of the allotted capacity of an Open Access Customer, cannot be transferred in favour of another person by the Open Access Customer. Grant of all open access shall be person and case specific, as mentioned in regulation 9.1(f) of these Regulations.
- 18.4 However, if any Open Access Customer does not use his allotted open access capacity within 40 days from the date of execution of the agreements as mentioned in regulation 16.6 of these Regulations, the grant of open access shall be deemed to have been cancelled automatically and the relevant open access agreement as per regulation 16 of these Regulations shall be deemed to have been terminated forthwith. Once allotment of open access is cancelled, the Open Access Customer shall have to apply as a new applicant for availing open access, if required, at a later stage.
- 18.5 The transmission and / or wheeling capacity becoming available as a result of surrender by the Open Access Customer under regulation 18.1 or as a result of reduction or cancellation of the reserved transmission and / or wheeling capacity by the SLDC / Nodal Agency, may be allocated for any other Open Access Customer in accordance with these regulations
- 18.6 An Open Access Customer, whose capacity has been reduced or cancelled, shall, in addition to discharging his contractual obligations, pay full charge for scheduling and system operation, as has been fixed by the Commission from time to time on full open access capacity allotted to him for the remaining period of the allocation. In case unutilized capacity is being allotted to any other open access customer, then proportional charges for that allocated capacity will be borne by the new open access customer and the rest amount will be borne by the original open access customer.
- 18.7 Notwithstanding any allocation for open access, it shall be lawful for the Distribution Licensee to utilize for the purpose of effecting supply for other purposes (except providing open access to any other Open Access Customer), at any point of time, any portion of allotted capacity, if and to the extent found underutilized by the Open Access Customer.

- 18.8 The Open Access Customer, the Licensee(s), the generating company(ies) and the electricity trader(s) shall be liable / responsible to follow the instructions of the SLDC from time to time in regard to optimum scheduling in despatch of electricity, safe and secured grid operation, keeping records for energy accounting, grid discipline, economic operation of the relevant grid in accordance with the Grid Code and State Grid Code. The Open Access Customer, the generating company(ies), the Licensee(s) and the electricity trader(s) shall follow the provision of the Act, applicable Rules, Regulations and Codes. Flow of power between point of injection and drawal should be on real time basis.
- 18.9 The relinquishment of rights and obligations by a Long Term Customer shall be subject to payment under regulation 18.6 and / or payment of fixed / capacity charges applicable, if any, of the Licensee concerned for the rest of the period, as may be determined by the Commission.

19. Charges for open access

- 19.1 In case intra-State transmission system and/ or distribution system within the State is used by an Open Access Customer in addition to inter-State transmission system, separate charges shall be payable for the power being conveyed on intra-State transmission system and/or distribution system in addition to payment of transmission and other charges for inter-State system as specified / determined by the appropriate Commission.
- 19.2 For the purpose of these regulations, the charges of open access for intra-State transmission system and distribution system shall mean charges and expenses on account of the following heads:

19.2.1. Transmission Charges:

- a) Transmission charges shall be expressed in Rs/MW/month for Long Term Customers and Medium Term Open Access Customers and in Rs/MWh for different time slot for Short Term Customers. Transmission charge will be calculated on the basis of MW capacity allotted.

- b) The Annual Transmission Charges (ATC) payable to the Transmission Licensee in the year of publication of these regulations shall be such as decided by the Commission on the basis of available data or as per tariff order in this respect, if any, in accordance with the Tariff Regulations.
- c) For subsequent years the Annual Transmission Charge (ATC) shall be shown in the transmission tariff order as determined under the Tariff Regulations.
- d) The transmission charge payable by a Long Term Customer, Medium Term customer and Short Term Customer shall be calculated in accordance with the following methodology:

$$LT_RATE = ATC / [Av_Cap \times 12] \quad \text{Rs./MW/month}$$

$$MT_RATE = ATC / [Av_Cap \times 12] \quad \text{Rs./MW/month}$$

$$ST_RATE \text{ for evening peak period} = [ATC \times 1.5] / [Av_Cap \times 365 \times 24] \quad \text{Rs./MWh}$$

$$ST_RATE \text{ for other than evening peak period} = ATC / [Av_Cap \times 365 \times 24] \quad \text{Rs./MWh}$$

Where: -

- i) LT_RATE is the rate for Long Term Customer in Rs./ MW / month
- ii) MT_RATE is the rate for Medium Term Customer in Rs. / MW / month
- iii) ST_RATE is the rate for Short Term Customer in Rs. / MWh;
- iv) "ATC" means the Annual Transmission Service Charges as specified in the Tariff Regulations.

- v) "Av_CAP" means the average capacity that is actually transmitted for Long Term Customers in MW as will be decided by the Commission or as will be determined in the relevant transmission tariff order, if any, by the Commission in accordance with the Tariff Regulations.
- vi) "evening peak period" for ST_RATE in general means 17:00 to 23:00 hrs or as notified by SLDC from time to time.

Transmission charges for open access from Renewable energy source where both drawal and injection points are within the state will be nil.

Transmission charges in case of LTA and MTOA transactions for part of a month at the beginning and / or end of the transaction period shall be based on prorate basis.

In case of LTA and MTOA for part of a month at the beginning and / or end of the period the proportionate transmission charge shall be based on prorate basis.

- e) For using intervening transmission facility the transmission charges shall also be applicable for respective categories of Open Access Customers.

19.2.2 **Wheeling Charges:**

- a) The wheeling charges will represent the charges for the use of the distribution system and associated facilities of a Distribution Licensee for conveyance of electricity through such distribution system and associated facilities and will be determined by the Commission from time to time in accordance with the Tariff Regulations.
- b) Wheeling charges payable to the Distribution Licensee shall be such as decided by the Commission on the basis of available data or as per tariff order in this respect, if any.
- c) There will be no differentiation in the wheeling charges on any ground among the Long Term Access, Medium Term Open Access and Short Term Open Access.

- d) Wheeling charges for open access of Renewable energy source where both drawal and injection points are within the state will be nil.

19.2.3 Reactive energy charges:

Reactive energy charges shall be such as given in the Schedule.

19.2.4 Meter reading and other related charges:

Meter reading and other related charges shall be such as given in the Schedule.

19.2.5 Handling and Service charges:

The Handling & Service charges shall be such as given in the Schedule.

19.2.6 Fee and Charges payable to SLDC:

The fee and charges payable to SLDC under sub-section (3) of section 32 of the Act shall be such as may be specified by the Commission from time to time.

19.2.7 Deviation Settlement charges in drawal / injecting energy:

- a) A twenty-four hour day-ahead schedule shall be submitted by the Open Access Customer for both drawal and injection of active power on 15-minute time block basis to the SLDC as specified in the State Grid Code and the Tariff Regulations. Deviation Settlement charges for deviation from the schedule shall be paid in line with Balancing and Settlement Code specified by the Commission.
- b) Notwithstanding anything specified hereinbefore, if the injection point of an open access source and open access drawal point are within the area of a single Distribution Licensee without involving any other distribution system of any other Distribution Licensee or transmission lines of any other Transmission Licensee, such Open Access Customer shall pay charges for deviation from the schedule to the Distribution Licensee at a suitable rate as agreed under any agreement between the Distribution Licensee and the Open Access Customer.

Provided that the Distribution Licensee shall not pass any losses, arising out of such agreement, to its other consumers or other Licensees.

19.2.8. Transmission System Access Charges:

Any Intending Transmission System User is entitled to obtain access to the intra-State transmission system in accordance with these regulations subject to payment of Transmission System Access Charges (TSAC) as determined by the Commission to the Transmission Licensee concerned as agreed to in Bulk Power Transmission Agreement as mentioned in regulation 16.4 when such TSAC consists of the following expenditure:

- a) Where the access of the Intending Transmission System User to the intra-State transmission system entails works of transmission lines or other transmission assets exclusive to such user, the said Transmission Licensee shall be entitled to recover, through the Transmission System Access Charges, all expenses reasonably incurred on such works for providing access to such Intending Transmission System User.
- b) Where the access of the Intending Transmission System User entails other works not covered under these regulations, relating to the intra-State transmission system, the said Transmission Licensee shall recover the expenses relating to such works through TSAC in accordance with these regulations.

19.2.9 Distribution Access Charges:

Any Intending Distribution System User is entitled to obtain access to the distribution system in accordance with these regulations subsequent to payment of distribution System Access Charges (DSAC) as determined by the Commission to the Distribution Licensee concerned as agreed to in Bulk Power Wheeling Agreement as mentioned in regulation 16.4 when such DSAC consists of the following expenditure:

- a) Where the access of the Intending Distribution System User to the distribution system entails works of distribution lines or other distribution assets exclusive to such user, the said Distribution Licensee shall be entitled to recover, through the

Distribution System Access Charges, all expenses reasonably incurred on such works for providing access to such Intending Distribution System User.

Provided that for distribution system strengthening below 33kV where the open access customer has borne the expenditure for such strengthening in line with regulation 10.2(g) of these regulations, no DSAC will be charged for that part of network.

- b) Where the access of the Intending Distribution System User entails other works not covered under these regulations, relating to the distribution system, the said Distribution Licensee shall recover the expenses relating to such works through DSAC in accordance with these regulations.

19.2.10 **Cross-subsidy surcharge:**

- a) An Open Access Customer shall pay cross-subsidy surcharge, as may be determined by the Commission, in addition to charges for using the transmission and / or distribution systems.
- b) The amount of such cross-subsidy surcharge shall be fixed by the Commission from time to time keeping in view the projected admitted cost of the Licensee for the relevant period following the National Tariff Policy.
- c) The amount of such surcharge shall be reduced in the same manner as may be specified for reduction of cross subsidies.
- d) No surcharge shall be levied in case open access is provided to a person for carrying the electricity produced in a Captive Generating Plant to the destination of his own use in line with Electricity Act 2003 as amended from time to time.

19.2.11 **Additional Surcharge:**

- a) A consumer availing open access and receiving supply of electricity from a person other than a Distribution Licensee of his area of supply, shall pay the

Distribution Licensee an additional surcharge, if applicable, in addition to any other charges including distribution wheeling charges and surcharge(s) to meet the fixed cost of such Distribution Licensee arising out of his obligation to supply in accordance with sub-section (4) of section 42 of the Act.

- b) The Commission shall fix the amount of additional surcharge through individual orders in a case specific manner keeping in view the amount of fixed / capacity cost as has been allowed by the Commission to such Distribution Licensee from year to year basis.
- c) The additional surcharge shall be decided and leviable for such period as the Commission may determine, keeping in view, inter-alia, sales growth.

19.2.12 In an application by any Licensee, the Commission may, by order, require any other Licensee owning or operating intervening transmission facilities to provide the use of such facilities to the extent of surplus capacity available with such Licensee at rates, charges and terms and conditions as may be mutually agreed upon.

Provided that any losses incurred for such agreement shall not be allowed to be recovered through the tariff from other consumers or Licensees.

Provided also that if the rates, charges and terms and conditions cannot be mutually agreed upon by the Licensees, the rates, charges and terms and conditions as specified in these regulations shall apply.

19.2.13 **Charges through Rule**

Any other charges prescribed under any Rule is to be borne by the Open Access Customer if it is applicable to him.

19.3 **For the purpose of these regulations**

- a) The surcharge(s) to be recovered from the Open Access Customers shall be such as will be fixed by the Commission from time to time in line with these regulations.

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- b) The Open Access Customers within the State who are exclusively availing inter-State transmission system shall also pay applicable surcharge (s), to the extent applicable.
- c) The surcharge(s) shall be payable to the Distribution Licensee concerned of the area of supply where the Open Access Customer's point of drawal of power is situated / located. In case multiple Licensees exist within the same area, the surcharge(s) shall be payable to the Distribution Licensee of whom the Open Access Customer is a consumer or was a consumer just before availing the open access.

20. Technical Loss Allocable

The technical loss for transmission and distribution system for different voltage level will be as under for the purpose of these regulations:

- EHV - As per the normative transmission loss of WBSETCL specified in the Tariff Regulations.
- HV - 4% but not exceeding the normative HV loss to be specified in the Tariff Regulations.
- LV&MV - Norm of distribution loss as will be determined by the Commission from time to time in the Tariff Regulations.

21. Energy Accounting

Energy accounting will be done in accordance with the Balancing and Settlement Code and the Tariff Regulations.

22. Mode of payment of fees and charges

- 22.1 Non-refundable application fees shall be submitted by an Open Access Customer to the Nodal Agency along with the application for open access in terms of regulation 9.1. Any

cost/fees etc towards payment of any charges are to be borne by the open access applicant.

22.2 Charges for Long-term Access and Medium-term Open Access:

- i) SLDC shall prepare a monthly account for all LTA and MTOA customers separately indicating all the charges and send the account to the STU within 3 working days on the next month.
- ii) STU, based on the monthly account prepared by the SLDC will raise the bills to the open access customers, separately indicating the charges receivable by SLDC, STU, transmission licensee and distribution licensee as applicable, within 3 working days from receiving the account from SLDC.
- iii) The open access customers shall pay the charges within 7 days from the date of receipt of the bill. STU may collect all charges and disburse the amounts to the concerned person or indicate their accounts details so that applicant may directly pay the applicable charges to those accounts as may be specified in detail procedure.

22.3 Charges for Short-term Open Access:

- i. The short-term open access customer shall deposit with SLDC / nodal agency the full amount of transmission charges, meter rent, meter reading and related charges within three working days of grant of the short-term open access. No open access transaction will be scheduled by SLDC/nodal agency unless the payments are made.

Provided that for day-ahead and same-day transaction advance payment shall not be insisted upon if such a customer provides a bank guarantee valid up to the date of payment and no previous dues are there on account of any charges to the SLDC. However these payments can be made within 3 working days from the date of filing the application.

- ii. Wheeling charges, reactive energy charges, cross subsidy surcharge and additional surcharge, if any, shall be paid by an Open Access Customer on weekly basis based on the weekly accounts prepared by SLDC within seven days from the date of presentation of the bill in such manner as specified in the detail procedure.
 - iii. For this purpose SLDC / nodal agency in the detail procedure shall provide the name and details of the accounts in which each charges will be submitted by the customer.
- 22.4 Bills for Deviation settlement charge for open access customer, if applicable, is to be raised by SLDC on weekly basis and to be settled in accordance with Balance and Settlement Code.
- 22.5 Late Payment Surcharge, as determined by the Commission through the latest relevant Tariff Order, shall be payable by an Open Access Customer for any payment after the due date.
- 22.6 In case of persistent default in payment and / or advance payment, as the case may be, of relevant charges by the open access customer an action to disconnect the arrangement shall be taken by the Licensee concerned under due intimation to the SLDC, Transmission Licensee and other concerned parties.

23. Payment Security Mechanism:

In case of long-term access and medium-term open access, the applicant for open access will open an irrecoverable Letter of Credit in favour of the STU equal to an estimated amount of various charges for a period of two months. In addition to this if the drawal / injection of the applicant is to be settled through deviation settlement mechanism, the applicant has to follow the payment-security mechanism mentioned in the Balancing of Settlement Code.

24. Formats for application and grant of open access

- 17.1 The application format for grant of open access is given as Format – 1 in Annexure – 1

- 17.2 The format for providing consent for open access is given as Format – 2 in Annexure – 2. The format for communicating decision on open access, where immediate open access cannot be granted is given as Format 2A in Annexure – 2.

25. Metering and Accounting

- 25.1 The open access customer must have ABT compliant interface main and check meters at all interconnecting points. The specifications, manner of installations, operation and maintenance of interface meters shall be in accordance with the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, as amended from time to time. The cost of meters is to be borne by the concerned Open Access Customer or connected licensee as per the connectivity agreement.
- 25.2 The open access customer may required to install commercial meters and/ or energy accounting & audit meters as per provisions of Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, as amended from time to time, if agreed under connectivity agreements.
- 25.3 The arrangements for communication equipment, as may be necessary, shall also be made available by the Open Access Customer as per the direction of the SLDC.
- 25.4 The main and check meters shall be periodically tested and calibrated by the Licensee concerned in the presence of other parties involved. The main and check meters shall be sealed by both the parties. The defective meters shall be replaced immediately by the licensee concerned.
- 25.5 Reading of main and check meters shall be taken periodically by the authorised representative of the Licensee concerned and the Open Access Customer or his representative, if present. Meter reading shall be communicated to the SLDC, Open Access Customer, STU, relevant generating company, electricity trader, Connected Licensee, Distribution Licensee and Transmission Licensee, as the case may be, by the Licensee concerned within 48 hours. Check meter readings shall be considered when main meters are found to be defective or stopped.

- 25.6 Main and check meters shall have facility to communicate its reading to the SLDC on real time basis or otherwise as may be directed by the SLDC.
- 25.7 The term meter shall include current transformers, voltage / potential transformers wiring between them and meter box / panel.

26. Communication Facility

- 25.8 An Open Access Customer connected State Transmission System or under the purview of frequency linked deviation settlement mechanism shall provide for all actual costs towards the equipment for communication up-to the nearest grid sub-station or the SLDC, as the case may be, for two communication channels for online real-time display at SLDC through SCADA. In case there is more than one Open Access Customer for such point of area of meter reading, then they will share such cost. An Open Access Customer shall also provide facilities for communication with the control room of the Connected Licensee concerned. STU shall assist in developing such facilities on request.
- 25.9 An Open Access Customer shall set up a round-the-clock arrangements / control room to take instructions from the SLDC and / or communication with the Licensee and others through telephone, mobile phone, fax, e-mail, etc.

27. Compliance with Grid Discipline

- 27.1 The Open Access Customers shall abide by the IEGC, State Grid Code, Balancing & Settlement Code and the instructions given by the SLDC and other appropriate authorities, if any, as applicable from time to time as per the provisions of the Act, Rules and the Regulations.
- 27.2 The Open Access Customer shall also abide by the Act, Rules, Regulations, directions, guidelines and orders of the Commission from time to time.
- 27.3 Subject to the provisions of regulation 18, any person, granted open access before these regulations came into force, shall continue to be an Open Access Customer till expiry of the period for which such open access has been granted to him.

28. Curtailment Priority

When because of transmission and / or wheeling constraints due to congestion in transmission and/or distribution system, it becomes necessary to curtail the transmission and / or wheeling service of the Open Access Customers, such curtailment shall be made in the reverse order of allotment priority as has been specified in regulation 6.1 and 6.2 of these regulations.

Provided that within a category, all Open Access Customers shall have same curtailment priority and shall be curtailed on pro rata basis of the allotted transmission and / or wheeling capacity

Provided also that during emergency requirement, as decided by the SLDC or the ALDC, the curtailment may be as per decisions of the ALDC and / or the SLDC.

29. Transmission and Wheeling charges for Short term customers during curtailment

- 29.1 In case of curtailment of more than 50% of the reserved transmission capacity by the SLDC on any particular day on account of transmission constraints, the transmission charges for that day shall be payable by the Short Term Customers on pro rata basis in accordance with the transmission capacity actually provided.
- 29.2 In case of curtailment of more than 50% of the reserved wheeling capacity by the ALDC on any particular day on account of wheeling constraints, the wheeling charges for that day shall be payable by the Short Term Customers on pro rata basis in accordance with the wheeling capacity actually provided.

30. Other Obligations of the Licensees

- 30.1 It is the obligation of the Licensee to adequately maintain and provide open access to the Open Access Customers without any discrimination subject to the provisions of the Act and the Regulations and maintain the transmission and distribution systems in proper manner.

30.2 The Licensee shall be deemed to have failed to provide the requisite services, if it is not able to provide to the Long Term Customer at least – (a) in case of transmission and necessary facilities – 98% of the time in a year ending 31st March and (b) in case of distribution system – 95% of the time in a year ending 31st March. The Commission shall through separate order or tariff order specify the charges, which the Licensee has to pay to the Long Term Customers if the target network availability is not met. However, the same shall not include non-availability due to outages or failure of upstream transmission system and / or generating stations, which are not assets of the Licensee concerned or any Force Majeure Event.

31. Information System

For sake of transparency, SLDC shall always make a display of the following information on its website in a separate page titled “Open Access Information”:

- a) the margin in the State Transmission system for next three months in their Website on regular basis, taking into consideration the (i) Inherent design margins, (ii) Margins available due to variation in power flows and unutilized capacity, if any, and (iii) Margins available due to inbuilt spare capacity in transmission and / or distribution systems created to take care to further load growth.
- b) Total capacity and capacity already allotted to each of the Long Term Customer Medium Term Customer and Short-Term Customer for the existing and future open access customers whose application of Open Access has already been approved along with the period of open-access.
- c) The status of pending application of Intending Transmission System User mentioning the type of application for short-term, long-term or medium-term open-access alongwith the period for which open-access has been applied for and along with capacity for which open-access has been applied for.
- d) In case any open-access application of any Intending Transmission System User is not being approved then such disapproval shall be mentioned in the display also alongwith the reason of non-approval and such display shall be maintained in the

web-site for at least three months from the date of first such display on non-approval.

- e) In the event of a reserved transmission / wheeling capacity subsequently becoming fully or partly vacant for certain duration in a month, the SLDC shall display this information in public domain on its website along with invitations for utilization of such spare capacity through 24-hour notice period.

The date of uploading of each and every information of (a) to (e) above in the website is to be mentioned separately. SLDC shall also publish a quarterly report containing such information in their website.

Every Transmission Licensee shall declare the existing Long Term Customers and Medium Term Customers using its transmission system on its website or the website of the State Load Despatch Centre.

32. Obligation under Sections 11 and 23 of the Electricity Act, 2003

- (i) In pursuance to section 11 of the Act, any part of generation of any generating station dedicated for supply under open access agreement for either own use or for any consumer of a Licensee or for any other person, may have to withdraw or reduce such supply in extraordinary circumstances for any period as may be directed by the Appropriate Government.
- (ii) In pursuance of section 23 of the Act or any Regulations for maintaining the efficient supply, securing the equitable distribution of electricity and promoting competition, the Open Access Customer shall abide by the order of the Commission for regulating supply, distribution and consumption or use thereof issued upon him directly or as a consequence to any order of the Commission on the Distribution Licensee of whom he is a consumer or from whom he is drawing power as an open access source.

33. Power to Intervene:

In case of any unethical practice or gaming by any person including an Open Access Customer, through power injection or drawal or change of status, the Commission may, by order, issue necessary directions which shall be binding on all parties concerned.

34. 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 STU, SLDC, Licensees, electricity traders, generating companies and Open Access Customers to take such action, not inconsistent with the Act, as may appear to the Commission to be necessary or expedient for the purpose of removal of the difficulty.

35. Dispute Resolution

35.1 In the event of any dispute on any or all of the following, the same shall be referred to the Commission for decision.

- (a) Available capacity of the system,
- (b) Operational constraints,
- (c) Charges to be recovered,
- (d) Eligibility for open access,
- (e) Allotment / Curtailment priority, etc.

35.2 The Commission, while deciding any dispute under these regulations or otherwise, by a general or special order made from time to time, may lay down, if required, the conditions to be complied with by the Licensees concerned, STU, SLDC and Open Access Customer in regard to operation constraints and the open access shall be allowed only subject to the due satisfaction of such conditions.

36. Power to Amend:

- 36.1 The Commission, at any point of time, at its own discretion, may vary, alter, modify, add or amend any provisions of these regulations.
- 36.2 The Commission may, at anytime and at its discretion, modify the Schedule through notification.
- 36.3 Nothing in these regulations shall be deemed to limit or otherwise affect the inherent powers of the Commission to make such orders as may be necessary for meeting ends of justice or to prevent the abuse of the process of the Commission.

37. Repeal and Savings

- 37.1 The West Bengal Electricity Regulation Commission (Open Access) Regulations, 2007 issued under Notification No. 35/WBERC dated 12th April 2007 and published in the Kolkata Gazette, Extraordinary, on 12th April 2007 along with all subsequent amendments are hereby repealed.
- 37.2 Notwithstanding such repeal, anything done or any action already taken under the repealed Regulations, shall in so far as it is not inconsistent with the West Bengal Electricity Regulatory Commission (Open Access) Regulations, 2017, be deemed to have been done or taken under the corresponding provisions of the West Bengal Electricity Regulatory Commission (Open Access) Regulations, 2017.

By order of the Commission

Place: Kolkata

Date: XX.XX.2017

Secretary of the Commission

SCHEDULE

(See regulations 19.2.3, 19.2.4 and 19.2.5)

A Reactive energy charges:

If the voltage at the point of drawal is below 97% of the normal voltage, the Open Access Customer shall pay to the concerned Licensee for drawal of reactive energy at the drawal point at a rate as stipulated in the tariff order issued by the Commission. If at the injection point the voltage is higher than 103% of normal voltage, the Open Access Customer shall pay to the concerned Licensee for injection of reactive energy at the point of injection at a rate as stipulated in the tariff order issued by the Commission. Both drawal and injection of reactive energy shall be measured at 15 minutes time block along with voltage.

B Meter reading and other related charges:

Charges for meter reading and other related charges including the charge for communicating the meter reading to SLDC shall be paid by the Open Access customers @ Rs. 2,000.00 per month for each meter and shall be payable to the Licensee, who is rendering such services, on monthly basis.

C. Handling & Service charges:

- (i) Handling & Service charges @ 1.5% on the sum of transmission charges and wheeling charges shall be payable to SLDC on monthly basis by an Open Access Customer having any open access source other than a cogeneration and non-conventional / renewable energy source.
- (ii) Handling & Service charges @ 0.5% on the sum of transmission charges and wheeling charges shall be payable to SLDC on monthly basis by an Open Access Customer having a cogeneration and non-conventional / renewable energy source as his open access source.

FORMAT – 1

APPLICATION FOR GRANT OF OPEN ACCESS
(to be submitted by Open Access Customer)

1. Application No. Date:
2. Name of the Applicant :
3. Address for Correspondence
Phone No. (Off) (Fax)
:
Email id: :
4. Category of Applicant : Long Terms Access /
(Please mark as appropriate) Medium Term Open Access /
Short Term Open Access
5. Nature (In case of overlapping, please fill in all the relevant items)
 - a) Distribution Licensee :
 - b) Power fully based on solar :
 - c) Power fully based on wind
 - d) Power fully based on hydro :
 - e) Power fully based on co-generation within the State :
 - f) Power fully based on non-conventional / renewable sources of energy other than hydro, solar and wind. :
 - g) Power from captive generation based on gas :

- h) Power from captive generation based on coal :
- i) Power from captive generation based on oil :
- j) Other sources, if any not covered under (a) :
to (i)

(Licensees to submit licence valid under the Act. Others to submit documentary evidence in support of above).

6. Coordinator Details – Applicant

Name :

Designation :

Phone Numbers : (Off): (Res):
(Fax): (Mobile):

e-mail id :

7. Capacity Applied

Period		Time Period		Capacity needed / Max. power to be conveyed (MW)
From (Date)	To (Date)	From (Hrs.)	To (Hrs.)	

8. Injecting Agency Details

Name :

Point of Injection :

Name of concerned SLDC :

9. Drawee Agency Details

- Name :
- Point of Drawal :
- Name of concerned SLDC :
10. Name and details of other agencies involved, if any :
11. Non-Refundable Application Fee (Please fill up the amount as appropriate)
- Long Term Access :
- Medium Term Open Access :
- Short Term Open Access :
- Bank Draft / Pay Order No./RTGS/NEFT : Dated:
- In favour of :
- Payable at :
- 12 Short notes may be attached covering the following (to the extent relevant):
- a) Generation planned.
 - b) Power purchase contracted.
 - c) Power factor.
 - d) Potential hazards concerning public safety in line with the Environment (Protection) Act, 1986 and other applicable laws.
 - e) Reactive compensation programme.
 - f) Harmonic distortion.
 - g) Peak load.
 - h) Average load.
 - i) Periods with time slab in line with concerned Grid Code(s).
 - j) Any other information as may be required.

13. (a) It is hereby certified that all agencies (including buyer, seller, trader etc.) to the transaction shall abide by the provisions of the "West Bengal Electricity Regulatory Commission (Open Access) Regulations, 2017".
- (b) The applicant hereby agrees to pay all the relevant charges applicable to him in terms of the "West Bengal Electricity Regulatory Commission (Open Access) Regulations, 2017" and regulations under the Act.
- (c) The applicant hereby agrees to keep the concerned SLDC, STU, Transmission Licensee and Distribution Licensee indemnified at all times and undertakes to indemnify, defend and save the concerned SLDC, STU, Transmission Licensee and Distribution Licensee harmless from any and all damages, losses, claims and actions relating to injury to or death of any person or damage to property, demands, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the transactions under this Approval.
- (d) Any other information / details that may be required by the concerned Transmission Licensee(s) / STU / SLDC / Distribution Licensee shall be provided promptly by the applicant.

Signature:

Place:

Name:

Dated:

Designation:

Seal of the office of the Applicant:

Enclosures:

1. Bank draft / Pay Order/ NEFT/RTGS remittance.
2. Copy of connectivity agreement
3. Copy of PPA or sell-purchase agreement.

4. Undertaking of not having entered into Power purchase agreement (PPA) or any other bilateral agreement for the capacity (quantum of power) for which open access has been sought.
5. Copy of agreements / MOUs as applicable.
6. Copy of Licence / supporting documents, as applicable.
7. Notes (Please see Item 12).

Copy to:

- a) SLDC (if different from the Nodal Agency)
- b) Transmission Licensee (if different from the Nodal Agency and who owns the transmission line through which power is to be transmitted).
- c) Distribution Licensee (if different from the Nodal Agency and in whose distribution network the point of drawal of power is located).

Note: In the event the application is made under regulation 9.1(g), full particulars relating to the intervening transmission facility are to be provided in the application.

Date & Time of Receipt of Application	(To be filled in by Nodal Agency)
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FORMAT – 2

CONSENT FOR OPEN ACCESS
(to be issued by Nodal Agency / SLDC)

1. Consent No. : Date:
2. Name of the Applicant :
3. Category of Applicant : LTA / MTOA /STOA
4. Name of Injecting Agency
5. Name of Drawee Agency :
6. Name of other Agencies involved, if any :
7. open access Capacity Applied :

Period		Time Period		Capacity needed / Max. power to be conveyed (MW)
From (Date)	To (Date)	From (Hrs.)	To (Hrs.)	

7. open access Capacity Approved

Period		Time Period		Capacity needed / Max. power to be conveyed (MW)
From (Date)	To (Date)	From (Hrs.)	To (Hrs.)	

8. Point of Injection

9. Point of Drawal
10. Name of concerned SLDC
11. Name of concerned ALDC
12. This approval is subject to full payment of requisite charges made by applicant on or before the due date as specified by the West Bengal Electricity Regulatory Commission.
13. This approval is subject to
- The Licensee holding a licence valid under the Act,
 - The West Bengal Electricity Regulatory Commission (Open Access) Regulations, 2017.
 - The responsibility of ensuring compliances with the provisions of the Electricity Act, 2003, applicable Rules and Regulations / Codes shall lie with the Applicant / Open Access Customer.
 - Signing of an Agreement / MOU and furnishing of following information:

Agreement / MOU Details (needs to fill up only relevant agreement details)						
With	No.	Date	Valid upto	Max. MW	Capacity already Utilized earlier	Balance MW

Signature:

Place:

Name:

Dated:

Designation:

Seal of the office of the Nodal Agency / SLDC

To:
(Applicant) -----

Copy to:

- a) SLDC (if different from the Nodal Agency)
- b) Transmission Licensee (if different from the Nodal Agency and who own the transmission line through which power is / are to be transmitted).
- c) Distribution Licensee (if different from the Nodal Agency and in whose distribution network the point of drawal of power is located).

FORMAT – 2A

DECISION ON OPEN ACCESS, WHERE IMMEDIATE
OPEN ACCESS CANNOT BE GRANTED
(to be issued by Nodal Agency / SLDC)

- 1. Name of the Applicant :
- 2. Category of the Applicant :
- 3. Name of Injecting Agency
- 4. Name of Drawee Agency :
- 5. Name of other Agencies involved, if any :
- 6. open access Capacity Applied :

Period		Time Period		Capacity needed / Max. power to be conveyed (MW)
From (Date)	To (Date)	From (Hrs.)	To (Hrs.)	

- 6. open access cannot be granted immediately due to the following reasons:

(Attached sheets, if required, including extracts of relevant correspondence with appropriate Licensees)

Signature:

Place:

Name:

Dated:

Designation:

Seal of the office of the Nodal Agency / SLDC:

To:

(Applicant) -----

Copy to:

- (a) SLDC (if different from the Nodal Agency)
- (b) Transmission Licensee (if different from the Nodal Agency and who own the transmission line through which power is / are to be transmitted).
- (c) Distribution Licensee (if different from the Nodal Agency and in whose distribution network the point of drawal of power is located).