

**(TO BE PUBLISHED IN DELHI GAZETTE EXTRAORDINARY PART IV)
GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI**

Delhi Electricity Regulatory Commission

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Notification

Delhi, the 3rd January, 2006

No. F.11(133)/2003/Power/12/ No. F. 8(18)/DERC/2005-06/3635.
____In exercise of powers conferred by sections 39, 40, 42 read with 181 of the Electricity Act, 2003, the Delhi Electricity Regulatory Commission, makes the following regulations for the introduction of open access to the Transmission and Distribution System and terms and conditions thereof:

1. Short Title and Commencement: -

- (1) These regulations may be called the **Delhi Electricity Regulatory Commission (Terms and conditions for Open Access) Regulations, 2005.**
- (2) These regulations shall come into force on the date of its publication in official gazette.
- (3) These regulations shall extend to the National Capital Territory of Delhi.

2. Definitions:-

- (1) In these Regulations, unless the context otherwise requires –
 - (a) "Act" means the Electricity Act, 2003 (36 of 2003);
 - (b) "Central Commission" means the Central Electricity Regulatory Commission constituted under section 76 of the Act;
 - (c) "Commission" means the Delhi Electricity Regulatory Commission being the Commission for the National Capital Territory of Delhi in terms of the first proviso to sub-section (1) to section 82 of the Act;
 - (d) "Grid Code" means Grid Code specified by the Central Commission under clause (h) of sub-section (1) of section 79 of the Act and includes State Grid Code specified by the Commission under clause (h) of sub-section (1) of section 86 of the Act.
 - (e) "Nodal Agency" means for the purpose of arranging long-term open access in Transmission, the State Transmission Utility and for the purpose of arranging short-term open access the State Load

Despatch Centre. For the open access in Distribution, both for short term and long term, the " Nodal Agency" shall be the State Load Despatch Centre.

- (f) "Open Access Customer" means a consumer permitted by the Commission to receive supply of electricity from a person, other than distribution licensee of his area of supply, and the expressions includes a generating company and a licensee, who has availed of or intends to avail of open access.
- (g) "State" shall mean National Capital Territory of Delhi.
- (h) "State Government" means the Lieutenant Governor of National Capital Territory of Delhi appointed by the President under article 239 and designated as such under article 239AA of the Constitution.
- (i) "State Transmission Utility (STU)" means the State Transmission Utility operating as such, under the Act, in the State;
- (j) "State Load Dispatch Centre (SLDC)" means State Load Dispatch Centre operating as such, under the Act, in the State;
- (2) Words and expressions occurring in these Regulations and not defined herein above shall bear the same meaning assigned to them in the Act.

3. Extent of Application:

These Regulations shall apply to open access for use of intra-state transmission system and distribution systems in the State within the meaning of the term defined in sub-section (37) and sub-section (19), respectively of section 2 of the Act.

4. Eligibility for Open Access and Conditions:

- (1) The Licensees, the Generating companies, including the persons who have established a captive generating plant and the intending consumers, shall be eligible for non discriminatory open access to the intra-state transmission system of the State Transmission Utility or any transmission licensee, subject to the availability of adequate transmission facility in the Intra-State Transmission System of the State and further, subject to the payment of the transmission charges, as may be determined by the Commission, from time to time:

Provided that in the event such open access is for the use by a consumer including, the transmission or for otherwise conveyance or wheeling of electricity, as required by any person for delivery to such consumer, in the area of supply of a Distribution Licensee in the

State, the open access to the intra-state transmission system shall be subject to payment of a surcharge, as may be determined by the Commission, from time to time, under sub-section (2) of section 42 of the Act.

- (2) The Licensees, the Generating companies, including the persons who have established a captive generating plant and the intending consumer, shall be eligible for open access to Distribution System of the Distribution Licensee, in accordance with the phases for introduction of open access as provided under regulation 5, herein, and further subject to the absence of operational constraints in the Distribution System and also the payment of the wheeling charges and surcharge, as may be determined by the Commission from time to time:

Provided that in the event such open access is for the use by a consumer including the conveyance or wheeling of electricity as required by any person for delivery to such consumer in the area of supply of a Distribution Licensee in the State, the open access to the Distribution System shall be subject to payment of an additional surcharge as may be determined by the Commission as provided under sub-section (4) of section 42 of the Act.

Explanation: For the purpose of the open access under these regulations, the operational constraints in the Distribution System shall include the availability of the adequate capacity in the Distribution System, appropriate metering and energy accounting system where the electricity to be wheeled can be correctly measured and accounted for.

5. Phases of Introduction of Open Access:

- (1) The Open Access shall be allowed to the intra-state transmission system in the State immediately, subject to the satisfaction of the conditions contained in the Act or in these Regulations.
- (2) The Open Access to the Distribution System in the State shall be allowed in the Distribution System subject to the absence of operational constraints in the following phases:

S.No	Particulars	Date of Introduction
a.	Delivery of electricity for use by the Consumers with the connected load of five MW and above	1 st July 2007
b.	Delivery of electricity for use by the Consumers with the connected load of three MW and above	1 st January 2008

c.	Delivery of electricity for use by the Consumers with the connected load of one MW and above	1 st July 2008
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(3) The Commission may allow Open Access to consumers with capacity requirement less than one MW after the 1st July 2008, subject to review of the operational constraints and other factors.

6. Special Provisions for existing open access customers:-

The persons availing open access to the Intra State Transmission System and the Distribution System in the State under an existing agreement or arrangement, shall be entitled to continue to avail the open access on the terms and conditions applicable to them as before, for the period of the existing agreement or arrangement, subject to the payment of the transmission charges, the wheeling charges and the applicable surcharges as may be determined by the Commission, from time to time.

7. Categorisation of Open Access Customers:-

(1) Subject to the provisions of regulation 6, the open access customers shall be divided into two categories, based on the duration of use of the Intra-State Transmission System or the Distribution System, namely:

- a) Long-term Open Access customers; or
- b) Short-term Open Access customers.

(2) The persons availing or intending to avail of the open access for a period of one year or less shall be categorise as the short-term open access customers.

(3) The persons availing or intending to avail of the open access for a period of more than five year shall be the long-term open access customers.

(4) Short-term open access customer shall be eligible to obtain fresh open access after the expiry of the term and shall be treated as a new applicant for capacity allocation.

8. Allotment Priority:-

(1) The priority for allowing open access shall be decided generally on the criteria that the long-term open access customer shall be given priority over the short-term open access customer.

- (2) The open access shall be allowed only after determining the capacity available in the intra-state transmission system and the operational constraints, including the capacity available in the Distribution System, the utilisation thereof by the existing customers and the capacity already committed for Transmission, Distribution and Retail Supply of Electricity to the consumers of the Distribution Licensees in the State.
- (3) Subject to the above, the decision to allow open access shall be made on the basis of first-come-first-serve.
- (4) The Commission may in the public interest and for reasons to be recorded in writing, by a general or special order, deviate from the norms provided above and allow open access to any person in the Intra State Transmission System and /or the Distribution System.

9. Determination of Capacity:

- (1) The availability of capacity in the Intra State Transmission System for long term open access shall be determined by the State Transmission Utility and for short term open access, it shall be determined by the State Load Despatch Centre, after considering the representation of the Transmission Licensees and the person seeking open access.
- (2) The availability of capacity in the Distribution System, for long term and short term open access, including the existence or absence of operational constraints affecting the open access being allowed shall be determined by the State Load Despatch Centre after considering the representation of the distribution licensee and the person seeking the open access.
- (3) In the event of any dispute on the capacity of the Transmission System available or the existence or absence of operational constraints in the Distribution System, to be determined by the State Transmission Utility or State Load Despatch Centre, as the case may be, the same shall be referred to the Commission for adjudication.
- (4) The Commission may while deciding on the dispute under sub-regulation (3) above, or otherwise, by a general or special order, made from time to time, lay down the conditions to be complied by the persons seeking open access to the Distribution System in regard to operational constraints and the open access shall be allowed subject to the due satisfaction of such conditions.

- (5) The conditions to be satisfied may include construction, operation or maintenance of dedicated electric lines or works from the sub-stations or feeder line or undertaking such other works as the Commission may decide to be necessary for open access without operational constraints.

10. Procedure for seeking Open Access:

- (1) The persons seeking open access shall, apply to the concerned nodal agency. The application shall contain details regarding maximum power (MW/kW) to be transmitted or wheeled in the system and accordingly the capacity in the system to be earmarked for the applicant, the point of injection, the point of drawal, duration and hours of availing open access and any other additional information that may be required by the Nodal Agency.
- (2) Application for open access should be accompanied by a non-refundable processing fee as given in table below:

Particulars		Amount (Rs.)
Transmission Open Access	Long Term	One lakh
	Short Term	Ten thousand
Distribution Open Access	Long Term	Twenty five thousand
	Short Term	Two thousand five hundred

- (3) The Nodal Agency shall, in consultation with State Transmission Utility or State Load Dispatch Centre, as the case may be, assess the capacity available and the existence or absence of operational constraints in permitting open access and communicate the decision to the applicant within the time frame prescribed below:

S.No.	Type of service/activity	Maximum processing time
1.	Short-term Service (for the period to be treated on first-come-first-serve basis)	
(a)	For the same day (Emergency only)	Four hours from receipt of the application
(b)	Up to one day (Request received at least one day in advance)	Eight hours from receipt of the application
(c)	Up to one week	Two days from receipt of the application

(d)	More than a week	Three days from receipt of the application
2.	Long-term Service	
(a)	Intimation regarding feasibility of access without system strengthening	Thirty days from receipt of the application
(b)	Intimation of results of studies for system strengthening with cost estimates and completion schedule	Sixty days from receipt of the application

- (4) The Nodal Agency shall decide on the capacity available or the existence of operational constraints, consistent with the principles and guidelines as decided by the State Transmission Utility. The State Transmission Utility shall decide such principles within thirty days of publication of these Regulations.
- (5) The Nodal Agency shall also inform the applicant of the pre-requisites required for the activation of open access. Such pre-requisites shall be as directed by the Commission from time to time.

11. Non-Utilisation of open access capacity:-

- (1) In the event of inability of the short-term open access customer to utilize, continuously for more than four hours, on any day, full or substantial part of the capacity allocated to him, such a short-term open access customer shall inform the respective State Load Dispatch Centre of his inability to utilise the capacity, along with reasons, thereof, and may surrender the use of capacity allocated to him. However, such short-term open access customer shall bear full transmission and/ or wheeling charges based on the original reserved capacity till the time such capacity is allotted to some other customer.
- (2) A long-term open access customer shall not relinquish or transfer his rights and obligations laid down in the long term open access agreement without prior approval of the Nodal Agency. The relinquishment or transfer of such rights and obligations by a long-term open access customer shall be subject to payment of compensation by the customer, as per the terms of the long term open access agreement.

- (3) The State Load Dispatch Centre may cancel or reduce the capacity allocated to a short-term open access customer when such a short-term open access customer, frequently under-utilizes the allocated capacity or fails to inform of his inability to utilise the allocated capacity to the State Load Dispatch Centre, Transmission Licensee or Distribution Licensee, as the case may be:

Provided the capacity allotted shall not be reduced or cancelled under this clause without notice to such customer whose reserved allotted capacity is sought to be cancelled or reduced.

- (4) The surplus capacity available as a result of its surrender by the short-term open access customer, under sub-regulation (1) above or reduction or cancellation of capacity by the State Load Dispatch Centre, under sub-regulation (3) above, may be allocated to any other short-term open access customer.

12. Applicable Charges:

- (1) The Open Access Customers shall pay the transmission charges, wheeling charges, surcharges, additional surcharges, scheduling charges (payable to State Load Dispatch Centre), unscheduled inter-change (UI) charges, reactive energy charges and such other charges as the Commission may determine from time to time, as a part of the tariff under sections 61, 62 and 86 of the Act or otherwise decide or authorise the Nodal Agency to charge in exercise of its regulatory powers under the Act.
- (2) The Commission, while determining the charges for open access to the Transmission System or the Distribution System, provide for adjustment of losses in the system either in terms of money or in the quantum of electricity to be delivered at the destination, after the transmission and/or wheeling of electricity as the Commission considers to be appropriate.

- 13. Curtailment Priority:** When because of transmission constraints or otherwise, it becomes necessary to curtail the transmission service, the short-term open access customers shall be curtailed first followed by the long-term open access customers:

Provided that within a category, the open access customers shall have equal curtailment priority and shall be curtailed on pro-rata basis:

Provided further that in case of such curtailment, the transmission or wheeling charges paid by open access customers shall be reduced in proportion to their curtailed capacity.

14. Other Conditions: -

- (1) The Open Access customers shall meet the metering requirements as the Commission may direct from time to time. The meters shall always be maintained in good condition and shall be open for inspection by any person authorised by the concerned Licensee.
- (2) The Open Access customers shall abide by the Grid Code, the State Grid Code and instructions given by State Transmission Utility, the State Load Dispatch Centre and other authorities from time to time.
- (3) The Open Access customer shall abide by the provisions of the Act, rules and regulations and the directions, guidelines and Orders of the Commission made from time to time

15. Information System: The State Load Despatch Centre shall maintain the following information on their websites in a separate web-page titled "Open Access Information":

- (1) A status report on the current short-term customers indicating:-
 - (a) Name of the customer;
 - (b) Period of the access granted (start date/time and end date/time);
 - (c) Point(s) of injection;
 - (d) Point(s) of drawal;
 - (e) Transmission / Distribution system used (in terms of area and ownership);
 - (f) Reserved capacity; and
 - (g) Applicable rate (Rs per MW per day).
- (2) Month-wise and year-wise report on past short-term customers indicating:-
 - a. Name of the customer;
 - b. Period of the access granted (start date/time and end date/time);
 - c. Point(s) of injection;
 - d. Point(s) of drawal;
 - e. Transmission / Distribution systems used;
 - f. Reserved capacity;
 - g. Applicable rate (Rs per MW per day); and
 - h. Actual load factor.

16. Dispute Resolution:

- (1) The complaints regarding all grievances and disputes relating to open access shall be made to the State Transmission Utility or State Load Dispatch Centre, as the case may be, which may investigate and endeavour to resolve the grievance amicably.
- (2) If State Transmission Utility or State Load Dispatch Centre is unable to redress the grievance or complaint or dispute, the matter may be referred to the Commission, by the State Transmission Utility or State Load Dispatch Centre as the case may be, for adjudication.

17. Issue of Orders and Practice Directions: Subject to the provisions of the Act, and these regulations, the Commission may, from time to time, issue Orders and Practice Directions in regard to the implementation of these regulations and procedure to be followed on various matters, which the Commission has been empowered by these regulations to direct and matters incidental or ancillary thereto.

18. Powers to Remove Difficulties:

If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may do or undertake to do things or by a general or special order, direct the Transmission or Distribution Licensee, to take suitable action, not being inconsistent with the Act, which appears to the Commission to be necessary or expedient for the purpose of removing difficulties.

19. Power to Amend:

The Commission may, at any time vary, alter or modify any provision of these regulations.

20. Inquiries and Investigations:

All inquiries, investigations and adjudication shall be done by the Commission through a proceeding as per the provisions of DERC (Conduct of Business) Regulations 2001.

(SOMIT DASGUPTA)

Secretary