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NAGALAND ELECTRICITY REGULATORY COMMISSION (NERC)  
NAGALAND : KOHIMA**

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**NOTIFICATION**

**Dated Kohima, the            <sup>st</sup> Jan ‘12**

**No.NERC/REGN/2012(C):** In exercise of the powers conferred on it by Section 181 read with Sections 39(2)(d), 40(C), 42(2), 42(3), 42(4) and 86(1)(c) of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in that behalf, the Nagaland Electricity Regulatory Commission (NERC) makes the following Regulations, namely:-

**1. Short Title, Commencement and Extent**

1.1 These regulations may be called the **“Nagaland Electricity Regulatory Commission (Terms and Conditions for Intra–State Open Access) Regulations, 2012.”**

1.2 These regulations shall come into force from the date of its publication in the Gazette of Nagaland.

1.3 These regulations extend to the whole State of Nagaland.

**2. Scope**

These regulations shall apply to the open access for use of the intra-state transmission system and/or the distribution system of licensees in the State of Nagaland including when such system is used in conjunction with inter-state transmission system.

**3. Definitions**

3.1 In these regulations, unless the context otherwise requires: -

- (a) "Act" means the Electricity Act, 2003 (36 of 2003) as amended from time to time;
- (b) “Allotted capacity” means the contracted power for transfer (in MW) between the specified point(s) of injection and point(s) of drawal allotted to a long term

customer on the intra-state transmission system and the expression “allotment of capacity” shall be construed accordingly;

- (c) “Applicant” means a consumer, trader, distribution licensee or a Generating company who has applied seeking open access;
- (d) "Commission" means the Nagaland Electricity Regulatory Commission constituted by the Government of Nagaland vide notification dated 21-02-2008 (under section 82 of the Act );
- (e) “Consumer” means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be;
- (f) “Distribution licensee” means any person licensed under Part IV of the Act for distribution and retail supply of electricity in the State of Nagaland;
- (g) “Existing beneficiary” means a person who is a user of the transmission / distribution system on the date of coming into force of these regulations either as a generator or transmission licensee or distribution licensee or deemed licensee or otherwise permitted to its use;
- (h) “IEGC” means the Indian Electricity Grid Code Specified by Central Electricity Regulatory Commission under clause (h) of sub-section (1) of section 79 of the Act, and as amended from time to time;
- (i) "Nodal agency" means the nodal agency defined in Regulation 8 of these regulations;
- (j) “Open access” means the non-discriminatory provision for the use of transmission lines or distribution system or associated facilities with such lines or system by any licensee or consumer or a person engaged in generation in accordance with the regulations specified by the Commission;
- (k) “Open access customer” means a consumer, trader, distribution licensee or a generation company who has been granted open access under these regulations;
- (l) “Person” shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;
- (m) “Premises” include any land, building or structure;
- (n) “Reserved capacity” means the power transfer (in MW) between the specified point(s) of injection and point(s) of drawal allowed to a short term customer on

the transmission system depending on availability of transmission capacity and the expression "reservation of capacity" shall be construed accordingly;

- (o) "SLDC" means the State Load Despatch Centre in its present form as an integral unit of the licensee until or established under sub-section (1) of section 31 of the Act;
- (p) "State" means the State of Nagaland;
- (q) "State Transmission Utility" means the Utility or the Government Company specified as such by the State Government under sub-section (1) of Section 39 of the Act. State Transmission Utility owns and operates the transmission system of the State;
- (r) "State Grid Code" means the State Grid Code specified by the Commission under clause (h) of sub-section (1) of section 86 of the Act as amended from time to time;
- (s) "Transmission licensee" means any person licensed under Part IV of the Act for transmission of electricity;
- (t) "Wheeling" means the operation whereby the distribution system and associated facilities of a transmission licensee or distribution licensee, as the case may be, are used by another person for the conveyance of electricity on payment of charges to be determined under Section 62 of the Act.

3.2 Words and expressions used and not defined in these regulations but defined in the Act or State Grid Code or IEGC shall have the meaning as assigned to them in the Act or in the State Grid Code or in IEGC, as the case may be.

#### **4. Eligibility for Open Access and Phasing**

4.1 Subject to the provisions of these regulations, the licensees, generating companies, captive generating plants and consumers shall be eligible for open access to the intra-state transmission system of the State Transmission Utility or any transmission licensee(s) and/or distribution system(s) of the distribution licensee(s) within the State.

4.2 Such open access shall be subject to payment of such charges as may be determined by the Commission from time to time.

4.3 Every person, with a captive generating plant shall have the right to open access as per the provisions of section 9 of the Act.

4.4 Subject to the provision of these regulations, open access shall be permissible to the consumers seeking open access for a capacity of 1 MW and above.

Provided that the Commission may allow open access to consumers seeking open access for capacity less than 1 MW at such time as it may consider feasible having regard to operational constraints and other factors.

4.5 A person having outstanding dues for more than two months billing of distribution/ transmission licensee at the time of application shall not be eligible for open access.

## **5. Criteria for Permitting Open Access**

5.1 Long-term open access shall be allowed in accordance with the transmission and distribution planning criterion stipulated in the State Grid Code. Before permitting Long-term open access, the State Transmission Utility shall have due regard to the augmentation required for the intra-state transmission system.

5.2 Short-term open access shall be allowed, if the request for open access can be accommodated, by utilizing:-

- a) Inherent design margins;
- b) Margins available due to variation in power flows; and
- c) Margins available due to in-built spare transmission system capacity and distribution system capacity created to cater for future load growth.

## **6. Categorization of Open Access Customers**

6.1 The open access customers shall be classified into the following categories based on the duration of use of the intra- state transmission system and/or distribution system, namely: -

- a) Long-term Open Access customers, and
- b) Short-term Open Access customers.

6.2 The persons availing or intending to avail access in case of intra-state transmission system or distribution system for a period of five years or more shall be the long-term open access users.

Provided that the existing beneficiaries of an intra-state transmission system and distribution system owned or operated by the State Transmission Utility and distribution licensee respectively shall be deemed to be the long-term open access

users of the particular system and the application fee schedule according to Regulation 10.3 shall not apply for them.

6.3 The open access users other than the long-term open access users shall be the short-term open access users.

Provided that the maximum duration for which the short-term access is allowed at a time shall not exceed one year.

Provided further that the short-term open access user shall be eligible and re-eligible to obtain fresh reservation after expiry of his term.

## **7. Allotment Priority**

7.1 Allotment priority of a long-term open access customer shall be higher than reservation priority of a short term open access user.

7.2 Within a category (Long-term or short-term), there shall be no discrimination between open access user and self-use by integrated entity.

7.3 The decision to allow open access shall be on the basis of first come first served.

7.4 In case of short-term open access customers, at a given point of time, if the capacity sought to be reserved for the open access is less than the available capacity at that point of time, open access shall be permitted immediately and each short-term open access customer shall pay the transmission or wheeling charges in accordance with Regulation 15.

7.5 (a) In case of short-term open access customers, if the capacity sought to be reserved for the open access is more than the available capacity at that point of time, the State Load Despatch Centre concerned shall invite snap bids through fax/e-mail.

(b) The floor price for the bidding shall be the price determined in accordance with Regulation 15.

(c) The bidders shall quote price in terms of percentage points above the floor price.

(d) The reservation of capacity will be made in decreasing order of the price quoted.

(e) In case of equal price, if required (capacity is short), the reservation of capacity shall be made pro-rata to the capacity sought.

(f) The open access customer getting reservation for a capacity less than the capacity sought by him shall pay charges for the capacity allotted at the rate quoted by him.

## **8. Nodal Agency**

8.1 For the long-term open access transactions, the nodal agency for receiving and processing applications shall be the: -

- (a) State Transmission Utility (STU) of the State where the point of drawal or point of injection is located on the intra-state transmission network;
- (b) Otherwise, the Distribution licensee of the area where the point of drawal is located.

8.2 For short-term open access transactions, the nodal agency for receiving and processing of applications shall be the State Load Dispatch Center (SLDC).

## **9. Detailed Procedure**

9.1 Subject to the provision of these regulations, the STU shall submit the guidelines, detailed procedures and application forms for applying for long term open access within thirty days of notification of these regulations for approval of the Commission.

The STU guidelines approved by the Commission will also be adopted by the distribution licensees.

9.2 The SLDC shall submit the guidelines, detailed procedures and application forms for applying for short term open access within thirty days of notification of these regulations for approval of the Commission.

## **10. Procedure for Long-Term Open Access**

10.1 An application for long-term open access shall be submitted to the concerned nodal agency in accordance with the detailed procedure issued under Regulation 9.

10.2 The application shall contain the details, such as capacity needed, point(s) of injection, point(s) of drawal, voltage level, duration of availing open access, peak load, average load and such other additional information that may be specified by the nodal agency.

10.3 The application shall be accompanied by a non-refundable application fee of Rs.10,000.00 (Rupees ten thousand) only payable in the name and in the manner to be decided by the nodal agency.

- 10.4 Based on system studies conducted in consultation with other agencies involved, including other transmission and distribution licensees, the nodal agency shall, within 30 days of receipt of the application, intimate the applicant whether or not the long-term access can be allowed without further system strengthening.

Provided that where the long-term access can be allowed without further system strengthening, this shall be allowed immediately after entering into commercial agreements.

- 10.5 If, in the opinion of the nodal agency, further system strengthening is essential before providing the long-term access, the applicant may request the nodal agency to carry out the system studies and preliminary investigation for the purpose of cost estimates and completion schedule for system strengthening.
- 10.6 The nodal agency shall carry out the studies immediately on receipt of request from the applicant and intimate results of the studies within 90 days of receipt of request from the applicant.
- 10.7 The applicant shall reimburse the actual expenditure incurred by the nodal agency for carrying out the system studies and preliminary investigation for the purpose of cost estimates and completion schedule for system strengthening.

## **11. Bulk Capacity Agreement**

- 11.1 A long-term open access customer shall enter into Bulk Power Transmission/Distribution Capacity agreement with the transmission/distribution licensee for use of their transmission system and distribution network.
- 11.2 The agreement shall provide, amongst other things for the eventuality of premature termination and its consequences on the contracting parties.
- 11.3 The State Transmission Utility, Distribution Licensee(s) and State Load Dispatch Center shall draft model agreements and submit the same to the Commission for approval.
- 11.4 After the agreement has been entered into with the Nodal Agency and copies furnished to State Load Dispatch Centre, the State Load Dispatch Centre shall

inform the open access user the date from which open access is likely to be available.

11.5 The date of availability of open access shall not be later than 3 days from the date of furnishing of agreement.

11.6 The Nodal Agency shall intimate any new agreement entered into by an open access customer to the Commission within seven days of formalization of the agreement.

## **12. Exit Option**

12.1 A long-term open access customer shall not relinquish or transfer his rights and obligations specified in the Bulk Power Transmission/Distribution Capacity Agreement, without prior approval of the Commission.

12.2 The relinquishment or transfer of rights and obligations by a long-term open access user shall be subject to payment of compensation, as per the terms of open access agreement or as may be directed by the Commission.

## **13. Procedure for Short-Term Open Access**

13.1 A short-term open access customer shall submit an application for transmission/distribution access to the State Load Despatch Centre.

13.2 The application shall contain the details such as capacity needed, point(s) of injection, point(s) of drawal, duration of availing open access, peak load, average load and such other additional information that may be specified by the State Load Despatch Centre.

13.3 The application shall be accompanied by a non-refundable application fee of Rs.1,000.00 (Rupees one thousand) only payable in the name and in the manner to be decided by the State Load Despatch Centre;

13.4 The reserved capacity shall not be transferred by a short-term open access user to any other open access user.

## **14. Non-Utilization of Reserved Capacity by Short-Term Open Access Customer**

14.1 In case a short-term open access customer is unable to utilize, full or substantial part of the reserved capacity, it shall inform the State Load Despatch Centre



along with reasons for his inability to utilize the reserved capacity and may surrender the reserved capacity.

- 14.2 The State Load Despatch Centre may reduce or cancel the reserved capacity of a short-term open access customer when such a short-term open access customer frequently under-utilises the reserved capacity.
- 14.3 The short-term open access customer, who has surrendered the reserved capacity under clause 14.1 above or whose reserved capacity has been reduced or cancelled under clause 14.2 above, shall bear the transmission/wheeling charges and the scheduling and system operation charge based on the original reserved transmission capacity for seven days or the period of reservation surrendered or reduced or cancelled, as the case may be, whichever period is shorter.
- 14.4 The capacity available as a result of surrender or reduction or cancellation of the reserved capacity by the State Load Despatch Centre under clause 14.1 or clause 14.2 above, may be reserved for any other short-term open access customer in accordance with these regulations.

## **15. Open Access Charges**

The charges for open access shall consist of one or more of the following components, namely:-

### **(1) Transmission / Distribution (Wheeling) Charges**

The charges for use of the system of the licensee for intra-state transmission or distribution except intervening transmission facilities shall be regulated as under, namely:-

- (i) The annual charges shall be determined by the Commission in accordance with the terms and conditions of tariff notified by the Commission from time to time and after deducting the adjustable revenue from the short-term open access customer, these charges shall be shared by the long-term users;
- (ii) (a) The charges payable by a short-term open access customer shall be calculated in accordance with the following methodology: -

$$\text{ST RATE} = 0.25 \times [\text{TSC} / \text{Av CAP}] / 365$$

Where:

ST RATE is the rate for short-term open access customer in Rs per MW per day.

"TSC" means the Annual Transmission/Distribution Charges of the transmission or distribution licensee determined by the Commission.

"Av CAP" means the average capacity in MW served by the system

The capacity of the transmission licensee shall be the sum of the generating capacities connected to the transmission system and contracted capacities of other transactions handled by the system of the transmission licensee.

The capacity of the distribution licensee shall be the sum of the distributed load for the licensee.

(b) The transmission charges payable by a short-term open access customer shall be levied as under:

(1) Up to 6 hours in a day in one block: 1/4th of ST RATE.

(2) More than 6 hours and up to 12 hours in a day in one block: ½ of ST RATE

(3) More than 12 hours and upto 24 hours in a day in one block: Equal to ST RATE

(c) Every licensee shall declare the rate in Rs. per MW per day, which shall remain fixed for a period of one year:

Provided further that where reservation of capacity has been done consequent to bidding in the manner specified in Regulation 7, the ST RATE shall be taken as the floor price for bidding.

(iii) 25% of the charges collected from the short-term open access user shall be retained by the licensee and the balance 75% shall be adjusted towards reduction in the charges payable by the long-term open access customers.

(iv) The rates, charges and terms and conditions for providing the use of intervening transmission facilities would be mutually decided by the licensees.

(v) Any dispute on the extent of surplus capacity available or disagreement on the rates, charges and terms and conditions, shall be adjudicated upon by the

Commission. However the rates, charges and terms and conditions shall be fair and reasonable and may be allocated in proportion to the use of such facilities.

**(2) Cross-Subsidy Surcharge**

- (1) If Open access facility is availed of by a subsidizing consumer of a distribution licensee of the State, then such consumer, in addition to transmission and/or wheeling charges, shall pay cross subsidy surcharge determined by the Commission. Cross subsidy surcharge determined on Per Unit (kwh) basis shall be payable, on monthly basis, by the open access customers based on the actual energy drawn during the month through open access. The amount of surcharge shall be paid to the distribution licensee of the area of supply from whom the customer was availing supply before seeking open access.
- (2) The Cross subsidy surcharge shall be determined by the Commission in accordance with the principles and formula stipulated in the Tariff Policy. Provided also that such cross subsidy surcharge shall not be levied in case distribution access is provided to a person who has established a captive generation plant for carrying the electricity to the destination of his own use.

**(3) Additional Surcharge**

- (a) An open access customer, receiving supply of electricity from a person other than the distribution licensee of his area of supply shall pay to the distribution licensee an additional surcharge, in addition to wheeling charges and cross subsidy surcharge, to meet the fixed cost of such distribution licensee arising out of his obligation to supply as provided under sub-section (4) of section 42 of the Act.
- (b) This additional surcharge for obligation to supply shall become payable only if it is conclusively demonstrated that the obligation of a licensee, in terms of existing power purchase commitments, has been and continues to be stranded, or there is an unavoidable obligation and incidence to bear fixed costs consequent to such contract.
- (c) The distribution licensee shall submit to the Commission, on half yearly basis a detailed calculation statement of fixed cost which the licensee is incurring towards his obligation to supply and demonstrate if any part of the fixed cost has become stranded.  
The Commission shall scrutinize the statement of calculation of fixed cost submitted by the licensee and obtain objections, if any, and determine the amount of additional surcharge.

(d) The additional surcharge determined on Per Unit (kwh) basis shall be payable, on monthly basis, by the open access customers based on the actual energy drawn during the month through open access.

Provided that such additional surcharge shall not be levied in case distribution access is provided to a person who has established a captive generation plant for carrying the electricity to the destination of his own use.

#### **(4) Scheduling and System Operation Charges**

(a) The scheduling and system operation charges shall be payable by all open access customers who are under scheduling by State Load Despatch Centre as determined by the Commission in accordance with the Nagaland Electricity Regulatory Commission (Levy and collection of State Load Despatch Centre fees and charges) Regulations, from time to time.

(b) The scheduling and system operation charges shall be payable by a supplier as well as his user availing open access under these regulations.

#### **(5) Other Charges**

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

### **16. Curtailment Priority**

16.1 In case of transmission/distribution capacity constraints or otherwise, if it becomes necessary to curtail the open access already granted, the short-term open access customers shall be subjected to curtailment first followed by the long-term open access customers.

Provided that within a category, all the open access customers shall have same curtailment priority and shall be curtailed pro-rata to the allotted capacity in case of long-term open access customers and the reserved capacity in the case of short-term open access customers.

16.2 The SLDC shall frame guidelines for curtailment of open access customers.

## **17. Information System**

The State Load Dispatch Center shall post the following information on its website in a separate web page titled "Open access information" and also issue a monthly and annual report containing such information.

- (1) A status report on long-term open access and short-term open access customers indicating:
  - (a) Name of customer;
  - (b) Period of open access granted (dated of commencement and date of termination);
  - (c) Point of injection;
  - (d) Point of drawal;
  - (e) Transmission system/distribution system used; and
  - (f) Open access capacity used.

The above mentioned details of long-term customers shall be provided by the STU to State Load Dispatch Center.

- (2) Peak load flows and capacity available including the reserve capacity on all EHV lines and HV lines emanating from EHV sub-stations.
- (3) The information regarding average loss in transmission and distribution system as determined by respective licensees.
- (4) The SLDC shall post the above information on its website within six months of these regulations coming into force and keep updating it upon every change in status.

## **18. Special Energy Meters**

- 18.1 The open access customers shall provide ABT compatible Special Energy Meter as Main Meter, capable of time-differentiated measurements (15 minutes) of necessary parameters as may be specified by the STU or SLDC.
- 18.2 Main meters shall always be maintained in good condition and shall be open for inspection by any person authorized by the nodal agency.
- 18.3 The concerned licensee may provide check meters of the same specifications as main meters.
- 18.4 The main and check meters shall be periodically tested and calibrated by the concerned licensee in the presence of other party involved. Main and check meters shall be sealed by both parties. Defective meter shall be replaced immediately.
- 18.5 Reading of main and check meters shall be taken periodically on appointed day and hour by authorized officer of the concerned licensee, the generator and the

open access user or his representative, as the case may be. Meter reading shall be communicated to SLDC by the open access customer and the generating company or trader, as the case may be, by the licensee, within 12 hours of meter reading.

- 18.6 Readings of the check meters shall be considered when main meters are found to be defective or stopped. Both the main meter and check meter shall be tested for accuracy if difference between the readings of main and check meters vis-à-vis main meter reading exceed twice the percentage errors permissible for relevant accuracy class. The meter found defective shall be replaced immediately.
- 18.7 If during the test checks or otherwise, both the main meters and the corresponding check meters are found to be beyond permissible limits of error as per the IS specifications, both the meters shall be immediately calibrated and the correction applied to the energy registered by the main meter to arrive at the correct generation of energy registered by the main meter for billing purposes for the period of the month up to the time of such test check. Billing for the period thereafter until the next monthly meter reading shall be as per the calibrated main meter.
- 18.8 If an open access customer requires the licensee to provide main meter it shall provide security to the licensee and shall pay for its rent. The meter shall be maintained by the licensee.

## **19. Energy losses**

- 19.1 The open access customers shall bear average energy losses in the transmission system and/or distribution system as determined by the Commission from time to time in accordance with the terms and conditions of tariff regulations, in proportionate to its drawal.
- 19.2 The loss in the transmission system and/or distribution system shall be compensated by additional injection at the injection point(s).

## **20. Billing Collection and Disbursement of open access charges**

- 20.1 In case of open access to a customer, the concerned Distribution Licensee (or concerned Transmission Licensee if the customer is directly connected to its network), may invoice a user in respect of the open access charges (such as Transmission Charges/Wheeling Charges/Cross Subsidy Surcharge/ Additional Surcharge as the case may be) as set out in Regulation 15 and the open access customer shall pay those charges, in accordance with the procedures set out in the Bulk Capacity agreement (Regulation 11) between the Licensees and the user.

Provided that the Distribution Licensee and Transmission Licensee(s) shall have the appropriate back-to-back arrangements in place in order to pass on Open access charges, pertaining to the concerned Licensees.

20.2 The scheduling and system operation charges in respect of open access shall be paid to the State Load Despatch Centre by the Open access customer.

20.3 The Unscheduled Interchange charges shall be paid in the manner as directed by the State Load Despatch Centre on weekly basis.

## **21. Late Payment Surcharge**

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

## **22. Default in Payment**

22.1 Non Payment of any charge or sum of money payable by the open access customer under these regulations shall be considered non-compliance of these regulations and shall be liable for action under section 142 of the Act in addition to action under section 56 of the Act. The STU or any other transmission licensee or a distribution licensee may discontinue open access after giving customer an advance notice of fifteen days without prejudice to its right to recover such charges by suit.

22.2 In case of default in payment of charges due to the Load Dispatch Center, the Load Despatch Center concerned may refuse to schedule power to the defaulting open access customer and direct the licensee concerned to disconnect such customer from the grid.

## **23. Compliance of State Grid Code**

The open access customers shall abide by the State Grid Code as applicable and instructions given by State Transmission Utility and State Load Despatch Centre from time to time.

## 24. Redressal Mechanism

24.1 Any disputes or complaints relating to open access shall be reported to the State Load Despatch Centre, which will investigate and endeavour to resolve the grievance within thirty days, and

24.2 Where the State Load Despatch Centre is unable to resolve a grievance, the grievance shall be referred to the Commission.

## 25. Reports

The distribution licensee shall submit a quarterly report in every calendar year within one month of the end of the quarter in the following format:

Sl. No.	Name and address of the open access customer	Point of injection	Point of drawal	Capacity allowed (MW)	Period of open access allowed	Actual utilization in MU
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## 26. Communication facility

The open access customer shall meet the communication requirements such as telephone, fax and e-mail as the SLDC may direct from time to time.

The details of the Communication system available shall be reported to the SLDC and to the nodal agency.

## 27. Powers to remove difficulties

27.1 In case of any difficulty, in giving effect to any of the provisions of these regulations, the Commission may by general or special order, direct the Open Access customers, SLDC, STU, generators and the licensees to take suitable action, as may appear to the Commission to be necessary or expedient for the purpose of removing the difficulty.

27.2 The open access customers, generators and the licensees may make an application to the Commission and seek suitable orders to remove any difficulties that may arise in implementation of these regulations.

## 28. Power to amend

The Commission may, from time to time add, vary, alter, modify or amend any provisions of these regulations.

**By order of the Commission.**

**P. SANI**  
Dy. Director-cum-Commission Secretary  
NERC, Kohima.