

অসম



ৰাজপত্ৰ

# THE ASSAM GAZETTE

অসাধাৰণ

**EXTRAORDINARY**

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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GOVERNMENT OF ASSAM

ASSAM STATE ELECTRICITY REGULATORY COMMISSION

## **NOTIFICATION**

**The 1<sup>st</sup> August, 2005**

### **TERMS AND CONDITIONS FOR OPEN ACCESS**

**No. AERC./2005/36.** -- In exercise of the powers conferred by sub-section (3) of section 42, 39(d) and 40(c) of the Electricity Act 2003 (36 of 2003) and all powers enabling it in that regard, the Assam Electricity Regulatory Commission hereby makes the following Regulations, namely:-

#### **1. Short title, commencement and interpretation**

- 1.1 These Regulations may be called the Assam Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations 2005.
- 1.2 These Regulations shall apply within the geographical area of the State of Assam and shall apply to open access customers for use of intra-state transmission system and/or the distribution systems of licensees in the State, including such system when it is used in conjunction with inter-state transmission system.
- 1.3 These Regulations shall come into force on the date which the Commission may by notification appoint for the purpose.

#### **2. Definitions**

- 2.1 In these Regulations, unless the context otherwise requires:-

(a) "Act" means the Electricity Act, 2003 (36 of 2003);

- (b) “Assam Electricity Grid Code” means the set of rules, requirements, procedures approved by the Commission under clause (h) of sub-section (1) of section 86 of the Act for the Assam State Transmission System, covering all material technical aspects relating to connections to and the operation of the Grid, the use of a Distribution System, or (in so far as relevant to the operation and use of a Distribution System) the operation of electric lines and electrical plant connected to the Distribution System, the Distribution Systems, or the system of any Supplier;
- (c) "allotted distribution capacity" means the power contracted for transfer (in MW) between the specified point(s) of injection and point(s) of drawal allowed to a long-term access customer on the distribution licensee's distribution system under normal circumstances and the expression "allotment of distribution capacity" shall be construed accordingly;
- (d) "allotted transmission capacity" means the power contracted for transfer (in MW) between the specified point(s) of injection and point(s) of drawal allowed to a long-term access customer on the intra-state transmission system under normal circumstances and the expression "allotment of transmission capacity" shall be construed accordingly;
- (e) “Commission” means the Assam Electricity Regulatory Commission constituted under section 17 of the Electricity Regulatory Commissions Act, 1998 and which continues to be so under section 82 of the Electricity Act, 2003 (.36 of 2003);
- (f) “consumer” means any person who is supplied 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 the 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;
- (g) "Distribution Code" means the set of rules, requirements, procedures, and standards approved by the Commission governing electric utilities in the operation and maintenance of their distribution systems, and which defines and establishes the relationship of the distribution systems with the facilities or installations of the parties connected thereto;
- (h) “distribution wheeling agreement” means an agreement entered into between a distribution licensee and an open access customer for wheeling of electricity on the licensee's distribution system;

- (i) "Electricity Supply Code" means the Electricity Supply code specified by the Commission under section 50 of the Act;
- (j) "month" means the calendar month as per British calendar. The period of about 30 days between the two consecutive meter readings shall also be regarded as a month for purpose of billing;
- (k) "Open access applicant" means a person who makes an application to a licensee for transmission or wheeling of electricity and can include any generator, licensee including Trading Licensee or open access consumer;
- (l) "Open access consumer" means a consumer who is eligible to receive supply of electricity from a person other than the distribution licensee of his area of supply;
- (m) "Open access customer" means a person using or intending to use the transmission system or the distribution system or both of the Licensees in the state for transmission or wheeling of electricity in the State;
- (n) "operational constraints" means the non availability of adequate capacity in the intra-state transmission system or licensee's distribution system and non existence of a metering and energy accounting system where the electricity to be purchased or sold by open access customers can be correctly measured and accounted for.
- (o) "person" shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;
- (p) "point of injection" means a connection at which electricity is transferred to the electricity transmission network or the electricity distribution network (as the case requires);
- (q) "point of drawal" means a connection at which electricity is transferred from the electricity transmission network or the electricity distribution network (as the case requires);
- (r) "reserved distribution capacity" means the power transfer allowed (in MW) between the specified point(s) of injection and point(s) of drawal allowed to a short-term customer on the Distribution Licensee's distribution system depending on availability of distribution capacity and the expression "reservation of distribution capacity" shall be construed accordingly;
- (s) "reserved transmission capacity" means the power transfer allowed (in MW) between the specified point(s) of injection and point(s) of drawal allowed to a short-term customer on the intra-state transmission system or transmission licensee's

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

- (t) "State Load Dispatch Centre (SLDC)" means the State Load Dispatch Centre established under sub-section (1) of section 31 of the Act located in the control room of the Transmission Licensee operating round the clock for the purpose of managing the integrated operation of power system and coordinating the state generation, transmission, distribution and load requirements with the Regional Load Dispatch Centre;
- (u) "State Transmission Utility" means the utility notified by the Government of Assam as State Transmission Utility under section 39 of the Electricity Act, 2003. State Transmission Utility (STU) owns and operates the transmission system of the State. Assam Electricity Grid Corporation Limited (Assam Gridco) is the State Transmission Utility for Assam as notified by the State Government; and
- (v) "Transmission Services Agreement" means an agreement entered into between a transmission licensee and the open access customer and distribution licensee to avail access to the licensee's transmission system for the transmission of electricity.

2.2 Words and expressions used and not defined in these regulations but defined in the Act shall have the meanings as assigned to them in the Act, or in absence thereof, shall have the same meaning as commonly understood in the electricity supply industry.

### **3. Extent of application**

This Regulation 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 clause (37) and clause (19) respectively of section 2 of the Act.

### **4. Eligibility for Open Access and Conditions to be met**

- 4.1 Subject to the provisions of these regulations, open access customers shall be eligible for open access to the intra state transmission system operated by the State Transmission Utility (STU) or any transmission or distribution system operated by transmission licensees or distribution licensees.
- 4.2 Such open access shall be available for use by an open access customer on payment of such charges as may be determined by the Commission in accordance with the Terms and Conditions of Tariffs Regulations framed for that purpose.

- 4.3 Subject to Operational Constraints and other relevant factors, open access shall be allowed in the following phases:

Phase	Criteria	Start Date
I	Consumers with a Connected Load of 10 MW and above	1 April 2006
II	Consumers with a Connected Load of 7.5MW MVA and above	1 April 2007
III	Consumers with a Connected Load of 3 MW and above	1 April 2008

- 4.4 Based on the experience of commencement and operation of open access with consumers with a connected load of 10 MW and above, the Commission may revise the schedule for allowing open access in subsequent phases.

- 4.5 The Commission will allow open access to consumers with a connected load less than 3MW connected load after 1.04 2008 and at such time and in phases as the Commission may consider feasible having regard to operational constraints, the level of cross subsidies between consumers and the costs and benefits that may be realized.

Provided that Commission will only grant open access to consumers below 3MW when in its opinion the benefits to the consumers outweigh the costs.

- 4.6 Pursuant to coming into force of these regulations, the distribution companies shall also be required to apply for open access to the transmission licensee's network for meeting power requirements of their existing and future consumers. In such cases clause 4.3 of these regulations shall not be applicable.
- 4.7 An open access consumer, who wishes to purchase electricity from outside of the State of Assam, must comply with the regulations issued by the Central Electricity Regulatory Commission with respect to gaining access to the inter-state transmission system and the transmission system of the state where the point of injection of the generator or trader is located.
- 4.8 A generator located in Assam, who wishes to sell electricity outside of the State of Assam, must comply with the regulations issued by the Central Electricity Regulatory Commission with respect to gaining access to the inter-state transmission system and the transmission system of the state where the drawal point of the distribution licensee, open access consumer, or trader is located.

## **5. Treatment of Existing Distribution Licensees, Generators and Consumers**

- 5.1 The distribution licensees in the State on the date of coming into force of these regulations shall be entitled to avail long term open access on the intra-state transmission system operated by the STU based on their current capacity utilized, point of drawal, peak load and average load on payment of

transmission charges and SLDC charges as may be determined by the Commission.

- 5.2 Pursuant to coming into force of these regulations, the existing distribution licensees shall also be required to apply for long term open access to the STU's intra-state transmission network for meeting the power requirements of their current consumers and future consumers within 90 days of the notification of these regulations. The Distribution Licensees will submit to the STU load forecasting data for their area of supply for the next five years in accordance with the requirements of Chapter 4 of the Assam Electricity Grid Code. Such load forecasts will include all consumers currently supplied by the licensee regardless of whether they are eligible for open access under clause 4.3.
- 5.3 All existing generating stations owned by Assam Power Generation Corporation Limited (APGCL) and any other generating stations which are connected to the intra-state transmission system will be granted long term open access for their current requirements for evacuating power from their power stations at their point of injection by the STU.
- 5.4 Pursuant to coming into force of these regulations, the APGCL and other generating stations shall also be required to apply for open access to the STU's network for meeting their current and future power injection requirements within 90 days of the notification of these regulations. The APGCL and other generating stations will submit to the STU their generation capacity and evacuation requirements for power generation for the next five years in accordance with the requirements of Chapter 4 of the Assam Electricity Grid Code.
- 5.5 Upon application, an open access consumer, who has been supplied by the distribution licensee for at least three years shall be granted long term open access to the intra-state transmission system and their local distribution system for their current capacity utilized, point of drawal, peak load, and average load.
- 5.6 Pursuant to coming into force of these regulations, the open access consumer shall not be required to apply for open access to the transmission and distribution licensees' networks for meeting their current requirements until the person is eligible for open access. The transmission licensee and distribution licensee in the area of supply shall be obligated to reserve the network capacity for all consumers who have been supplied electricity in the state for at least three years until such time as they may apply.

Provided that no consumer shall be required to pay for augmentations to a transmission or distribution system including metering arrangements of required accuracy to support their open access requirement when the person has been a consumer of electricity in the area of supply for the last three years and has already been paying for their current network capacity allocation required for their contract demand through tariffs for the supply of electricity.

Provided further that in case the augmentation to transmission or distribution system required is of such an order that fresh investment is required to serve that customer exclusively, that customer shall have to pay for such minimum additional investment.

**6. Categorization of open access customers:**

- 6.1 The open access customers shall be classified as per the following:
- (a) **Short-Term Open Access Customer:** An open access customer who is availing or wishes to avail open access for a period of less than five years.
  - (b) **Long-Term Open Access Customer:** An open access customer who is availing or wishes to avail open access for a period of equal to or more than five years.
- 6.2 An open access customer may register to be both a short term and long term access customer.
- 6.3 The short-term customer shall be eligible and re-eligible to obtain fresh open access after the expiry of its term. In such a case the application for renewal of open access shall be treated as a new application for capacity allocation.

**7. Nodal Agency**

- 7.1 For all long-term open access transactions the nodal agency for receiving and processing applications shall be the:
- (a) STU for transactions for 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 drawl is located.
- 7.2 For short-term open access transactions the nodal agency for receiving and processing applications shall be the SLDC.
- 7.3 The STU shall notify draft guidelines, procedures and application forms for applying for long term open access within ninety days of the notification of these regulations after obtaining approval from the Commission. The STU guidelines will also be adopted by the distribution licensees.
- 7.4 The SLDC shall draft guidelines, procedures and application forms for applying for short term open access within ninety days of the notification of these regulations after obtaining approval from the Commission.

**8. Allotment Priority and Criteria for Allocations**

- 8.1 The priority for the allotment of network capacity for open access shall be:
- (a) Distribution licensee for long-term;
  - (b) Other open access customers including existing generating stations and open access consumers as specified in regulations 5.3, 5.5, and 5.6 respectively who elect to apply for long-term;
  - (c) Distribution licensee for short-term; and
  - (d) Other open access customers for short-term.
- 8.2 Subject to clause 8.1, the decision for allowing open access shall be based on the basis of first come first served within the respective priority groups.
- 8.3 The criteria applied to determine the amount of allotted transmission capacity to a long term open access customer to an intra-state transmission system will be determined in accordance with the transmission planning criteria stipulated in the Assam Electricity Grid Code and regulation 5 of these regulations.
- 8.4 The criteria applied to determine the amount of allotted distribution capacity to a long term open access customer to a distribution system will be determined in accordance with the distribution planning criteria stipulated in the Assam Distribution Code and regulation 5 of these regulations.
- 8.5 Short-term access shall only be allowed, if the request can be accommodated, by utilising: -
- (a) Inherent design margins;
  - (b) Margins available due to variation in power flows; and
  - (c) Margins available due to in-built spare transmission or distribution capacity created to cater to future load growth which is available for a period of six months or less.

**9. Application Procedure – Long Term Access Customers**

- 9.1 An open access customer shall file an application to the nodal agency with details such as the capacity needed, generation planned or power purchase contracted, point of injection, point of drawal, duration of availing open access, peak load or peak injection, average load and any other additional information that may be required by the nodal agency.
- 9.2 A consumer intending to avail open access shall also submit a copy of his application to the distribution licensee who is supplying electricity to him.

- 9.3 The application shall be accompanied with a fee of Rs. 1,00,000/- for long term open access.
- 9.4 In processing the application, the nodal agency, as the case may be, will consult with the STU, SLDC and the distribution licensee of the open access customer to determine capacity allotment requirements for the intra-state transmission system, distribution licensee's distribution system, and any other transmission licensee's transmission system.
- 9.5 If the nodal agency or other licensees are unable to allocate the required allotment of transmission or distribution capacity to a long term open access customer due to inadequate capacity, then:
- (a) In cases where more than one long term open access customer applies for capacity allocation on the same day and if the capacity sought to be allocated to the customers is more than the available capacity at that point of time, the nodal agency concerned may offer to allocate the capacity in the ratio of capacity sought by the customers; or
  - (b) If the applicant does not accept this offer, then he may request and pay to the nodal agency to carry out system studies and preliminary investigation for the purpose of cost estimates and completion schedule for system strengthening.
  - (c) If, in the opinion of the nodal agency, further system strengthening is essential before providing the long-term access because a rationing method will not work, the applicant may request and pay for the nodal agency to carry out the system studies and preliminary investigation for the purpose of cost estimates and completion schedule for system strengthening.
  - (d) 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. Before the study proceeds the licensee will provide a quotation for the cost of the study to the applicant.
  - (e) The applicant shall reimburse the actual expenditure incurred by the nodal agency for system strengthening studies limited to Rs. 50,000.

Provided that the fee of rupees one lakh paid by the applicant shall be adjusted against the actual expenditure that is required to be reimbursed by the applicant.

Provided that where the results of the study may be applicable to more than one applicant, then the costs of the study shall be apportioned across the applicants.

Provided that if the applicant is an existing user of the licensee's network in accordance with regulation 5, then the licensee will carry out the study and the cost will be borne by the licensee and will be passed through to all consumers.

- 9.6 If the applicant is unsatisfied with the quality of the system study, he may engage his own independent consultants to review the system study and to present the results to the Commission. The STU and/or distribution licensee will be obligated to co-operate with the consultants in the review of the system study.
- 9.7 All system strengthening studies and any review by a consultant will be presented to the Commission. The Commission will review the costs of any works necessary to reinforce the systems of the licensee to support open access and will determine whether the investment should proceed in accordance with the Commission's powers to approve major investments in the general terms and conditions for an intra-state transmission licence or distribution licence.
- 9.8 The cost of any necessary works to reinforce the STU's intra-state transmission system and other Licensee's transmission and distribution systems will be shared and recovered from all users of these systems through the transmission charges, distribution wheeling charges, and retail tariffs in a manner determined by the Commission.

Provided that where a dedicated transmission system or a distribution system used for open access has been constructed for exclusive use of an open access customer, the transmission charges or wheeling charges for such dedicated system shall be borne entirely by such open access customer until such time the surplus capacity is used for other persons or purposes.

## **10. Application Procedure – Short Term Access Customers**

- 10.1 An open access customer shall file an application to the SLDC with details such as the capacity needed, generation planned or power purchase contracted, point of injection, point of drawal, duration of availing open access, peak load, average load and any other additional information that may be required by the SLDC. Such an application may be submitted through a licensed trader also.
- 10.2 A consumer intending to avail short term open access shall also submit a copy of his application to the distribution licensee who is supplying electricity to him.
- 10.3 The application shall be accompanied with a fee of Rs. 5,000/- for short term open access.
- 10.4 In a case where more than one short term open access customer applies for capacity reservation on the same day and if the capacity sought to be

reserved by the customers is more than the available transmission capacity at that point of time, the SLDC concerned shall invite bids from such customers. The minimum price of the bids shall be the transmission charges or wheeling charges fixed by the Commission. The capacity shall be allocated to the open access customer bidding at a higher price.

- 10.5 In the case of a distribution licensee’s distribution system, short term open access reservations will be automatically granted by the SLDC provided that the capacity sought is less than or equal to the contract demand or maximum sanctioned load of the open access consumer.

**11. Time Schedule for Open Access Applications**

- 11.1 The nodal agency shall acknowledge the receipt of long term access application received by it under clause 7, immediately, and not later than 24 hours of receipt of such application.

- 11.2 The following time schedule shall be adhered to by the nodal agency for processing of the application for grant of open access:

<b>S.No.</b>	<b>Type of service/activity</b>	<b>Maximum Processing Time</b>
1.	Short-Term Service	
	Up to One day	12 hours
	Up to one week	2 days
	Up to one month	7 days
	Up to one year	30 days
2.	Long-Term Service	
	Intimation regarding feasibility of access without system strengthening	30 days
	Intimation of results of studies for system strengthening with cost estimates and completion schedule	90 days

**12. Open Access Agreements**

- 12.1 Where the nodal agency is the STU, the long term open access customer will enter into a Transmission Services Agreement with a transmission licensee for the use of the allotted transmission capacity on his transmission system if the point of drawl is on that system.

- 12.2 Where the nodal agency is the distribution licensee, the long term open access customer will enter into a Distribution Wheeling Agreement with a

distribution licensee for the use of the allotted distribution capacity on his distribution system for the point of drawal.

Provided that the distribution licensee will be responsible for organizing with transmission licensee an allocation of transmission capacity to support the load requirements of the open access customer.

Provided that the Distribution Wheeling Agreement will specify the allotted transmission capacity for the open access consumer and a separate transmission services agreement between the transmission licensee and open access customer will not be required.

- 12.3 Where the nodal agency is the SLDC, the short term access customer will enter into an short term access agreement with the SLDC for:
- (a) Reserved transmission capacity on the transmission licensee's system or the STU's intra-state transmission system as the case may be; and
  - (b) Reserved distribution capacity on the distribution licensee's system as the case may be.
- 12.4 The STU, distribution licensee(s), and SLDC shall draft model agreements and submit the same to the Commission for review and approval. The Commission will approve the same within a period of 15 days.
- 12.5 After agreements have been entered into and copies furnished to the nodal agency, the SLDC shall inform the open access customer the date from which open access will be available, which will not be later than three days from the date of furnishing of agreements.
- 12.6 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.

### **13. Non-utilisation of capacity allotments**

- 13.1 In case an open access customer is unable to utilize, in full or substantial part of the transmission or distribution capacity allotted to him, he shall inform the nodal agency and SLDC along with reasons for his inability to utilize the capacity and may surrender a part of or the whole of the capacity allotted to him for whole of the remaining period or part thereof.
- 13.2 The long-term open access customer who does not use more than 50 per cent of capacity agreed for in the transmission services agreement or distribution wheeling agreement for a continuous period of one months and has not given any notice to the nodal agency for voluntary surrender of capacity as per clause 13.1, shall be classified as hoarding network capacity.

Provided that the definition of capacity used shall be measured as the metered peak demand of the long term open access customer compared to his allotted

transmission capacity or distribution capacity excluding those days where the transmission network or distribution network capacity is reduced by the SLDC due to system security constraints.

Provided that the user shall be liable to pay the charges for open access services for the entire capacity contracted regardless of the actual usage.

Provided further that if the nodal agency determines that the capacity is being hoarded and the user hoarding the capacity is not willing to surrender the unutilised capacity, the nodal agency can terminate the transmission services agreement or the distribution wheeling agreement if more than two cases of hoarding are identified by the nodal agency against the user in a period of twelve consecutive months. The capacity thus terminated can be re-allotted to other open access applicants

Provided that the long term open access customer can appeal this decision to the Commission.

13.3 A long-term customer shall not relinquish or transfer his rights and obligations specified in the transmission services agreement or distribution wheeling agreement, without prior approval of the Commission except where a person is no longer in business. The relinquishment or transfer of rights and obligations by a long-term customer shall be subject to payment of compensation in accordance with the provisions of the transmission services agreement or distribution wheeling agreement.

13.4 The short term customer, who surrenders or reduces the transmission and/or distribution capacity reserved for him shall bear full transmission and/ or wheeling charges based on original reserved capacity and the period for which the capacity was reserved as per the short term access agreement with the SLDC until such time as the capacity is reallocated to other open access customers.

13.5 The nodal agency may reduce or cancel the allotted or reserved capacity of a short term open access customer when such a customer under-utilises more than 50 per cent of the capacity allotted to him for more than half the days in the period of the short term access agreement.

Provided that the definition of capacity used shall be measured as the metered peak demand of the short term open access customer compared to his allotted transmission capacity or distribution capacity excluding those days where the transmission network or distribution network capacity is reduced by the SLDC due to system security constraints.

Provided that the short term open access customer can appeal this decision to the Commission.

13.6 The capacity available as a result of surrender, reduction or cancellation of allocated or reserved transmission capacity or distribution capacity by the nodal agency under regulation 13, may be allocated or reserved in accordance with these regulations.

**14. Curtailment Priorities**

- 14.1 When because of system security constraints including a transmission constraint or otherwise, it becomes necessary to curtail transmission services, the SLDC will curtail transmission services on a reasonable endeavors basis in the following order:
- (c) Short-term Open Access Customers (excluding distribution licensees) whose point of drawal is connected to the transmission system;
  - (d) Short term Open Access capacity allotted to distribution licensees;
  - (e) Long-term Open Access Customers (excluding distribution licensees) whose point of drawl is connected to the transmission system;
  - (f) Long term Open Access capacity allotted to distribution licensees; and
  - (g) Generators whose point of injection is connected to the transmission system.
- 14.2 Within a category, where feasible power curtailment shall be carried out on a pro-rata basis except for generators who will be curtailed on a least cost basis.
- 14.3 All open access consumers whose point of drawal is connected to a distribution system will be treated the same as all other consumers connected to that system as it is not practical or economically justified to introduce the infrastructure into distribution systems to support selective curtailment of distribution services to individual consumers.

Provided that where an open access consumer has paid for such infrastructure then SLDC and distribution licensee shall implement selective curtailment giving a higher priority to that consumer.

**15. Open access charges and billing agency**

- 15.1 The principles and methodologies to determine charges payable by an open access customer for the use of the intra-state transmission system or distribution system of a licensee shall be according to the Terms and Conditions of Tariff regulations approved by the Commission.
- 15.2 The open access charges are the:
- (a) Transmission Charge that is payable by the long term and short term open access customer for the use of the intra-state transmission system or the transmission system of a transmission licensee under sections 39 (2) (d) (ii) and 40 (c) (ii) of the Act. The charges shall be determined under section 62 (1) (b) of the Act and may vary between long term and short term open access consumers.
  - (b) Wheeling Charge that is payable by the long term and short term open access customer for the use of the distribution system of the distribution licensee according to section 42 (2) of the Act. The charges shall be determined under section 62 (1) (c) of the Act.

Provided that the wheeling charge rate for an open access customer will be the same for both long and short term open access customers.

- (c) Cross subsidy surcharge that determined annually and is payable by the open access consumer to meet the current level of cross subsidy level according to section 42 (2) proviso 1 of the Act. Provided that:
  - (i) The cost of supply to the category of consumers for the purpose of tariff to which the open access consumer belongs and the realisation from that category of consumers shall be the basis of calculating the extent of cross subsidy provided by such consumer.
  - (ii) The amount of surcharge shall be so calculated as to meet the current level of cross subsidy from that category of consumers and shall be paid to the distribution licensee of area of supply where the consumer is located.
  - (iii) The surcharge shall be reduced and eliminated in the same manner as the Commission may lay down for reduction and elimination of cross subsidies in its regulations relating to terms and conditions of tariff of distribution licensees.
  - (iv) The consumers availing exclusively interstate transmission system shall pay the same amount of surcharge as determined under these regulations.
  - (v) The cross subsidy surcharge is not payable if open access is provided to a person who has established a captive generating plant for transmit electricity to the destination for his own consumption.
- (d) Additional Surcharge that is payable by the open access consumer to meet the fixed cost of such distribution licensee arising out of his obligation to supply according to section 42 (4) of the Act. Provided that:
  - (i) The distribution licensee whose consumer intends to avail open access shall submit to the Commission within fifteen days of receipt of application under regulations 9 or 10 an account of the fixed cost associated with the generation capacity entitlement in MW which the licensee is incurring towards his obligation to supply, the amount of income that may earned by selling that entitlement to other persons, and the time required to relinquish the generation capacity MW entitlement amount associated with the open access consumer.

- (ii) The Commission shall scrutinize the statement of account submitted by the licensee and obtain objections, if any, of the open access consumer and determine the amount of additional surcharge payable by the open access consumer to the licensee.
- (iii) The additional surcharge shall be leviable for a maximum period of three years or less as the Commission may determine and the amount of the additional surcharge will be adjusted annually by the Commission.
- (iv) At the end of the financial year, the licensee shall be required to demonstrate that the net fixed costs incurred for the MW generation capacity entitlement and the additional surcharges paid by the open access consumer will be adjusted either by a rebate or an additional payment to reflect the actual costs incurred. Net fixed costs shall be determined by deducting from the fixed costs any income earned by the licensee with the generation capacity entitlement.

(e) Grid Support / Parallel Operation Charges (captive generators only);  
and

(f) Reactive energy charges, if applicable.

15.3 An open access consumer will only be required to pay a wheeling charge to the distribution licensee in his area of supply. No additional wheeling charge will be payable to any other distribution licensee in the state.

15.4 In case, the intra-state transmission system or distribution system is used by an open access customer in addition to inter-state transmission system, transmission charges and wheeling charges shall be payable for use of intra-state system in addition to payment of transmission charges for inter-state transmission as determined by Central Electricity Regulatory Commission (CERC) from time to time.

15.5 The nodal agency will be responsible for the billing and collection of open access charges from the open access customers on a monthly basis. The open access customer will remit the funds to the nodal agency.

15.6 The nodal agency will be responsible for remitting the open access charges to the respective licensees.

## **16. Scheduling and Energy Accounting**

16.1 An open access consumer shall be required to submit an ex-ante day ahead drawal schedule to the SLDC in accordance with CERC's availability based tariff regulations. The open access consumer will receive or pay UI charges for any difference between the scheduled and the actual drawal at open access

consumer's drawal point(s) at the UI schedule determined by the Commission in accordance with the Terms and Conditions of Tariff regulations.

- 16.2 The information regarding average energy losses at different voltage levels, as approved by the Commission, for the previous twelve months shall be posted on the website of the nodal agencies.
- 16.3 An open access consumer shall bear average energy losses in the intra-state transmission system as estimated by the Regional Load Dispatch Centre and the State Load Dispatch Centre concerned and the average distribution losses in his area of supply at the injection points. The energy losses in the transmission system shall be compensated by additional injection at the injection point(s)
- 16.4 The energy losses on account of use of the transmission and distribution system shall be adjusted in proportion to the energy drawn by the open access consumers on the basis of actual losses in the system for that category of consumers during the previous year.
- 16.5 SLDC shall be responsible for all unscheduled inter-change energy accounting for long term and short term open access customers.
- 16.6 Provided that for carrying out balancing and settlement of energy and demand at all entry and exit points relating to energy purchase or sale agreements, the licensee and SLDC shall strictly adhere to the Balancing and Settlement Code regulations to be approved by the Commission.

## **17. Metering**

- 17.1 The open access consumer shall provide Main Meters, as may be specified by the Commission in metering code for such consumer based on voltage, point and period of supply and tariff category.
- 17.2 The Generating company or a licensee contracting to effect supply to an open access consumer shall provide Main Meters at interconnecting points as specified in the relevant Metering Code based on the consumers to whom it will effect supply under open access or shall arrange communication of energy accounts of North Eastern Regional Load Dispatch Centre effected through displacement/adjustment in the format as may be specified by State Load Despatch Centre on real time basis as well as periodically.
- 17.3 The Distribution licensee may provide Check Meters of the same specification as Main Meters.
- 17.4 The Main and Check Meters shall be periodically tested and calibrated by State Transmission Utility in the presence of other party involved. Main and Check meters shall be sealed by both parties. Defective meter shall be replaced immediately.
- 17.5 Reading of Main and Check meters shall be taken periodically at appointed day and hour by authorized officer of distribution licensee and consumer or his representative, if present. Meter reading shall be immediately communicated to State Load Despatch Centre, consumer, State Transmission Utility and

Generating Company/trader, as the case may be, by the distribution licensee, within 12 hours. Check meter readings shall be considered when Main Meters are found to be defective or stopped;

Provided that Main meter will be deemed to be defective if difference between readings of main and check meters vis-à-vis Main meter reading exceed twice the percentage errors applicable for relevant accuracy class and Main meter shall be replaced immediately;

Provided further that Distribution licensee for the purpose of this clause shall be the distribution licensee operating and maintaining distribution system to which consumer's premises are connected.

- 17.6 An open access consumer or generating company or licensee may request distribution licensee to provide Main Meters. In that case he shall provide security to distribution licensee and shall pay for its rent and Main Meter shall be maintained by Distribution licensee.
- 17.7 Main and Check Meters shall have facility to communicate its reading to the SLDC on real time basis or otherwise as may be specified in the Assam Distribution Metering Code.

## **18. Communication facility**

- 18.1 The communication facility to be provided by the open access customer will be defined by SLDC on a case-to-case basis. The open access customer shall have to provide all such facilities.
- 18.2 An open access customer shall have the facilities of telephone, fax and email. The details of their communication systems shall be provided to the SLDC and the nodal agency.

## **19. Information system**

- 19.1 The licensees and the SLDC shall be required to maintain the following information on their websites, separately for the short-term and long-term open access customers, in order to ensure transparency and carry out information exchange among themselves required to process open access applications:
- (a) Name of customer;
  - (b) Period of the access granted (start date and end date);
  - (c) Point(s) of injection;
  - (d) Point(s) of drawal;
  - (e) Allotted or reserved capacity.

19.2 A quarterly report based on the above information shall also be provided in the nodal agency's website. Information regarding average energy loss in transmission system and distribution system for the previous twelve months should also be provided in such websites.

19.3 If an open access customer or licensee so desires, the SLDC shall provide information to them on capacity available or desired.

**20. Redressal Mechanism**

20.1 Any dispute or complaint relating to open access, such as unfair practice, delay, discrimination, lack of information or any other matter shall be reported to the SLDC, which will investigate and endeavour to resolve the grievance.

20.2 The Commission shall adjudicate upon any unresolved dispute regarding the availability of a transmission or distribution facility.

**21. Coordination**

For the success of open access implementation, it is imperative that the licensees and the SLDC carry out information exchange among themselves on a daily basis to determine the level of open access transactions in their respective areas of supply, with emphasis on energy flows, load on transmission and distribution lines and equipment to determine system stability, available capacity, congestions in the networks, etc.

**22. Grid Discipline and Quality of Supply:**

22.1 The licensee must make all reasonable endeavour to ensure that the quality of supply standards as prescribed by the Commission under section 57 of the Act, the Indian Electricity Grid Code and the Assam Electricity Grid Code are met in respect of all open access users of its network, to the extent these quality parameters are applicable to such users.

22.2 The open access customer shall abide by the Indian Electricity Grid Code, the Assam Electricity Grid Code and the instructions given from time to time by the STU and SLDC.

**23. Force Majeure**

23.1 Events such as war, mutiny, civil commotion, riot, flood, cyclone, lightning, earthquake or other force and strike, lockout, fire affecting the premises, installations and activities of any of the parties having an access agreement shall be classified as force majeure events for the purpose of these regulations.

23.2 If any person being party to an access agreement is unable to, wholly or in part perform on time and as required, any obligation under such access agreement or these regulations because of the occurrence of a force majeure event, then, subject to these regulations, that obligation is suspended to the extent for so long as the affected person's ability to perform such obligation is affected by that force majeure event.

**24. Savings**

- 24.1 Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary to meet the ends of justice or to prevent abuses of the process of the Commission.
- 24.2 Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Act a procedure, which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters.
- 24.3 Nothing in these Regulations shall, expressly or impliedly, bar the Commission dealing with any matter or exercising any power under the Act for which no Regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit.

**25. 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 SLDC, licensees and the Open Access Customer, to take such action, as may appear to the Commission to be necessary or expedient for the purpose of removing the difficulties.

- 26. Power to amend:** The Commission may from time to time add vary, alter, modify or amend any provisions of these regulations.

**(By the Order of the Commission)**

**Secretary  
Assam Electricity Regulatory Commission**