

THE MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION

The Meghalaya State Electricity Regulatory Commission (Terms and Conditions of Open Access) Regulations, 2009

(REGULATION 1 OF 2009)

(Published in the Gazette of Meghalaya issue dated 2009)

NOTIFICATION

No. MSERC/Regn-01/2009/ In exercise of the powers conferred under sub section (2) of section 181 read with clause (2) (d) of section 39 and clauses (2), (3) and (4) of section 42 of the Electricity Act, 2003 and all powers enabling it in that behalf the Meghalaya State Electricity Regulatory Commission hereby makes the following Regulations, the same having been previously published in the Gazette of Meghalaya of Issue dated November 27, 2008 (Part II A pages 346-354), namely.

The Meghalaya State Electricity Regulatory Commission (Terms and Conditions of Open Access) Regulations, 2009.

1. Short Title and Commencement

- (1) These regulations shall be called **the Meghalaya State Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2009.**
- (2) They shall come into force from the date of publication in the Gazette of Meghalaya.
- (3) They shall apply to the open access customers using the intra-state transmission system and/or distribution system of licensees in the State, including any system, which is incidental to intra-state transmission of electricity.

2. Definitions

- (i) In these regulations, unless the context otherwise requires -
 - (a) "Act" means the Electricity Act, 2003 (36 of 2003);
 - (b) "Commission" means the Meghalaya State Electricity Regulatory Commission;
 - (c) "consumer" means any person defined as such in sub-section 15 of section 2 of the Act;
 - (d) "installation" means the whole of electric wires, fittings, motors and apparatus installed and wired by or on behalf of the Consumer on one and the same premises starting from the point of commencement of supply;

- (e) "SLDC" means the State Load Dispatch Centre established under sub-section (1) of section 31 of the Act;
 - (f) "nodal agency" means the nodal agency defined in regulation 8 of these regulations;
 - (g) "open access" carries the same meaning as defined in sub-section 47 of section 2 of the Act;
 - (h) "open access consumer" means a person permitted by the Commission to receive supply of electricity from a person other than the distribution licensee of his area of supply, and the expression includes a generating company and licensee, who has availed of or intends to avail of, open access;
 - (i) "person" shall carry the same meaning as defined in sub-section 49 of section 2 of the Act;
 - (j) "premises" shall carry the same meaning as defined in sub-section 51 of section 2 of the Act;
 - (k) "State Transmission Utility" carries the same meaning as defined in sub-section 67 of section 2 of the Act;
 - (l) "wheeling" carries the same meaning as defined in sub-section 76 of section 2 of the Act;
- (2) Words and expressions used and not defined in these Regulations but defined in the Act shall have the meanings assigned to them in the said Act.

3. Criteria for allowing Open Access

- (1) Long-term open access shall be allowed in accordance with the approved transmission and distribution plan.
- (2) Short-term open access shall be allowed, if the request 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.

4. Eligibility for Open Access and Phasing:

- (1) Subject to the provisions of these regulations, any consumer shall be eligible for open access to the intra-state transmission system of the State Transmission utility or any transmission licensee/s and distribution system/s of the distribution Licensee/s within the State.

- (2) Such open access shall be subject to payment of such charges as may be determined by the Commission from time to time.
- (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) Subject to operational constraints and other relevant factors, open access shall be allowed to the consumers by the transmission licensee/s and/or distribution licensee/s for contracted demand of 1 MW and above.
- (5) The Commission may allow Open Access to Consumers other than those specified in clause 4(4) above at such time as it may consider feasible.

5. Categorization of Open Access Consumers

- (1) The open access customers shall be classified into the following categories based on the duration of use of the intra- state transmission and/or distribution system, namely -
 - (a) Short-term Open Access customer- persons availing or intending to avail the open access for a period of less than one years and;
 - (b) Long-term Open Access customer- persons availing or intending to avail the open access for a period equal to or more than one years.
- (1) 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. Priority, if necessary, will be determined with reference to the date of application.

6. Allotment Priority

- (1) The priority for allowing open access shall be determined in the following order:
 - (a) Distribution licensee for long term
 - (b) Other Open access customers for long term
 - (c) Distribution licensee for short term
 - (d) Other open access customers for short term.
- (2) Among the open access customers within a category, the person applying for open access for a longer duration shall have preference over the person applying for shorter duration at any given time.
- (3) Subject to the above clauses, the decision to allow open access shall be on the basis of first come first served.

- (4) In case short-term open access is to be accommodated through congested corridors of the network, the Nodal Agency shall invite bids by Fax/e-mail with floor price equal to the un-congested price for short term users. The allotment shall be done on the basis of decreasing order of price quoted. In case the quoted prices are equal, the allotment shall be done on *pro rata* basis of capacity sought. The user getting allotment of capacity less than the capacity sought shall pay the price quoted by him. All other applicants shall pay charges as per the price quoted by the last applicant getting full allotment of capacity sought.

8. Nodal Agency

- (1) The nodal agency for arranging long-term open access shall be the state transmission utility if its system is used; otherwise the nodal agency shall be the respective distribution licensee, within whose area the point of drawal is situated.
- (2) For short term open access the nodal agency shall be the state load dispatch centre.

9. Procedure for applying for Open Access

- (1) An application for open access shall be filed with the respective nodal agency by the intending open access customer, with a copy marked to the distribution licensee of the area. ,
- (2) The application shall contain such details as capacity needed, point of injection, point of drawal, voltage level, phase arrangement, duration of availing open access, peak load/time, average load and any other additional information that may be required by the nodal agency.
- (3) The nodal agency shall host on its website the details of applications received and the status of each application on a continuous basis.
- (4) The nodal agency shall issue necessary guidelines, procedure and application forms within 30 days of publication of these regulations in the official gazette.
- (5) The application shall be accompanied by a non-refundable processing fee of Rs 5,000/- for long-term customers and Rs. 1000/- for short-term customers.
- (6) The nodal agency, based on the system studies by the concerned licensee or otherwise assess the capacity available and communicate the same to the applicant within the time schedule indicated below, namely-
 - (a) Short term open access – Within 7 days from the date of receipt of application; and
 - (b) Long term open access – within 30 days from the date of receipt of application.

- (7) Where the nodal agency is of the opinion that open access cannot be allowed without system strengthening, it shall identify the scope of work for system strengthening and the probable date from which the open access can be allowed and the applicant shall be informed accordingly within 30 days.
- (8) An open access customer shall enter into commercial agreements with transmission and distribution licensees, generators, traders, consumers and others, as applicable to him. Such agreements shall include a clause pertaining to payment security mechanism.
- (9) The nodal agency shall prepare the standard agreement formats within 30 days of publication of these regulations and after obtaining due approval of the Commission makes the standard agreement formats available to the public. The agreement formats shall be hosted on the website of the nodal agency.
- (10) After agreements have been entered into and copies furnished to the nodal agency, the nodal agency shall inform the open access customer the date from which open access will be available, within three days from the date of furnishing agreements.
- (11) STU/Distribution Licensees shall conduct the System Studies annually or as often as directed by the Commission to provide open access to long-term customers. The System data including the additional loading capacity of lines shall be updated on a continuous basis and shall be made available to the public. Such data shall also be hosted on the licensees' website.

Notwithstanding the above, if the studies are insisted upon by any person, the system studies shall be carried out by the STU/ Distribution licensee by collecting reasonable charges from such person. Such studies shall be completed within 90 days from the date of receipt of charges toward the study and a detailed report shall be furnished to such person.

10. Non-Utilisation of open access service by Open Access Customer

- (1) In the event of inability of the short-term open access customer to utilize for more than four hours, full or substantial part of the capacity allocated to him, such a short-term open access customer shall inform the respective SLDC of his inability to utilise the capacity, along with reasons therefor and may surrender the use of capacity allocated to him. However, such short-term customer shall bear full transmission and /or wheeling charges based on the original reserved capacity and the period for which such capacity was reserved.
- (2) A long-term customer shall not relinquish or transfer his rights and obligations specified in the open access agreement without prior approval of the nodal agency. The relinquishment or transfer of such rights and obligations by a long-term customer shall be subject to payment of compensation, as per the terms of the open access agreement.

- (3) The SLDC may cancel or reduce the capacity allocated to a short-term open access customer to the extent it is underutilized, when such a short-term open access customer under-utilizes the allocated capacity more than 2 times in a month with duration of underutilization exceeding 2 hours each time or fails to inform the distribution licensee of his inability to utilise the allocated capacity. Such cancellation shall be resorted to after giving due notice to the affected parties.
- (2) The surplus capacity available as a result of its surrender by the short-term open access customer under clause (1) above or reduction or cancellation of capacity by the SLDC under clause (3) above, may be allocated to any other short-term open access customer in the order of pending applications based on the point of injection and drawal.

11. Open Access Charges

The charges for the use of the transmission/distribution system by an open access customer shall be regulated as under, namely-

- (i) Where open access is availed from a transmission licensee (including STU) under section 39(2)(d)(ii) and section 40(c)(ii) of the Act, transmission charges as determined by the Commission under section 62(1)(b) of the Act shall be applicable.
- (ii) Where open access is availed from a distribution licensee under section 42(2) of the Act, wheeling charges in addition to transmission charges payable under sub-clause (i) shall be charged.
- (iii) In case intra-state transmission system or distribution system is used by an open access customer in addition to inter-state transmission system, transmission charges and wheeling charges shall be payable for use of intra state system in addition to payment of inter-state transmission charges.
- (iv) According to proviso 1 of sub-section 2 of section 42 surcharge to meet the current level of cross subsidy is payable if open access is availed. The surcharge will be determined as per the following formula:

$$S=T - [C (1+L/100) + D]$$
 Where;
 S is the surcharge
 T is the tariff payable by the relevant category of consumer
 C is the weighted average cost of power purchase of the top 5% at the margin excluding liquid fuel based generation and renewable power.
 D is the wheeling charge
 L is the system loss for the applicable voltage level in percentage terms.
- (v) Where a dedicated transmission system or distribution system used for open access is constructed for the exclusive use of an open access customer, the transmission charges and/or wheeling charges for such a dedicated system shall be borne entirely by such open access customer till such time the surplus capacity is allotted and used for by other persons or purposes.

- (vi) The charges incurred for strengthening the system in order to provide open access for the exclusive use of an open access customer shall be borne by that open access customer.
- (vii) According to section 42(4) of the Act, an additional surcharge as may be specified by the Commission on charges of wheeling will be payable by a consumer seeking open access for receiving supply from a source other than the distribution licensee of his area of supply to meet the fixed cost of the distribution licensee arising out of his obligation to supply. In the case of a new open access customer (i.e. if the open access customer was not a consumer of the licensee), no such additional surcharge will be payable. The additional surcharge would be determined on a case-to-case basis.
- (viii) Charges for backup supply from the grid shall be payable by the open access customer in the event of failure of contracted supply. In case of outages on the part of the generator meeting open access load, standby arrangements should be provided by the licensee on payment of charges applicable to temporary connections for the relevant category of consumer.
- (ix) If the open access customer draws power at variance with the agreed schedule for drawal under the open access arrangement, the customer shall pay UI charges as per Inter-State ABT until such charges are determined for intra-state operations.
- (x) Scheduling and system operation charges shall be payable by all open access customers who are under scheduling by SLDC. Such charges shall be governed by the relevant regulations issued by the Commission.
- (xi) Grid support charges and any other charges as may be specified by the Commission shall be payable by the open access customer.
- (xii) An open access consumer shall make a security deposit equivalent to charges for two months to the appropriate licensee to secure the licensee against default in payment.
- (xiii) Reactive power charges determined by the Commission shall be paid by open access consumers who draw reactive power from the grid.
- (xiii) Monthly transaction charges for meter reading and maintaining the transaction details shall be payable by an open access consumer to the nodal agency maintaining such transaction details.

12. Curtailment Priority

In case of transmission/distribution system constraints or otherwise, it becomes necessary to curtail power supply, short-term open access consumers shall be subjected to curtailment of supply first followed by 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. The nodal agency shall be responsible for curtailing supply in accordance with this regulation.

13. Information System:

- (1) SLDC shall post the following information in a separate web page titled “Open Access Information” and also issue a monthly and annual report containing such information, namely-
 - (a) A status report on long term customers
 - (b) A status report on short term customers
 - (c) Floor rate for bidding in case of congestion
 - (d) Peak load flows on EHV and HV lines
 - (e) Information regarding average loss in the transmission system and distribution system as determined by the licensee/s on a monthly basis.
- (2) The information shall be updated upon every change in status.
- (3) All previous reports shall be available in the web-archives.
- (4) The SLDC shall host the above information on its website within six months of the regulation coming into force and keep updating it on a continuous basis.

14. Dispute Resolution

- (1) All disputes and complaints relating to open access shall be made to the SLDC, which may investigate and endeavour to resolve the grievance.
- (2) If the SLDC is unable to redress the grievance, it may be referred to the Commission for resolution.

15. Special Energy Meters

- (1) Tri-vector meters with Time of the Day (TOD) facility shall be installed by the open access customers.
- (2) The meters shall be capable of time-differentiated measurements (15 minutes) of necessary parameters. These meters shall always be maintained in good condition and shall be open for inspection by any person authorized by the nodal agency.

- (3) The meter shall include CTs, PTs and associated accessories and shall be tested and calibrated at least once in a year.
- (4) The meters shall be sealed by the distribution licensee in whose area the Consumer is situated.
- (5) In case the meter is provided by the transmission/distribution licensee, the open access customer shall pay for its rent and also provide security deposit.
- (6) The meter shall be capable of communicating its reading to SLDC on real time basis.
- (7) The metering code prevailing in the state shall be applicable to the open access customers also.

16 Energy losses

The Commission will allow average loss compensation at the appropriate voltage level for open access transactions. Energy losses in transmission and distribution shall be determined in accordance with the methodology specified by the Commission from time to time.

17. Compliance of Grid Code/Distribution Code

All open access consumer shall abide by the State Grid Code, Distribution Code and all other Codes and Standards, as applicable from time to time.

18. Collection and Disbursement of charges

The charges in respect of open access customers shall be payable directly to the relevant licensee or the STU depending on whose facilities are used by the open access consumer. Distribution licensees in the area where the open access supply is made shall receive payment in all cases where charges are collected by a transmission licensee or STU.

19. Reports

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

SCHEDULE

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

20. Miscellaneous

(1) Communication facility

An open access customer shall have the facilities of telephone, fax and e-mail and the details of his communication systems shall be provided to the SLDC and the nodal agency.

(2) Issue of orders and directions

Subject to the provisions of the Act and these regulations, the Commission may, from time to time, issue orders and directions with regard to the implementation of the regulations and procedures to be followed.

(3) Power to remove difficulties

- (a) 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, generators and the licensees to take suitable action, not being inconsistent with the provisions of Electricity Act, 2003, which appears to the Commission to be necessary or expedient for the purpose of removing the difficulty.
- (b) 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.

(4) Power to amend:

The Commission may from time to time add, vary, alter, modify or amend any provisions of these regulations after following the necessary procedures.

By Order of the Commission

Sd/-
Secretary