

KERALA STATE ELECTRICITY REGULATORY COMMISSION

NOTIFICATION

No.1/1/KERC-2005/VII *Dated, Thiruvananthapuram 2nd November , 2005.*

STATEMENT OF OBJECTS AND REASONS

Sub section (2) of Section 42 of the Electricity Act, 2003 (Central Act No.36 of 2003) stipulates that the State Commission shall introduce open access in such phases and subject to such conditions as may be specified. The amendment to the Electricity Act, 2003 (Central Act No.57 of 2003) stipulates that the State Commission shall not later than five years from the date of commencement of the Electricity (Amendment) Act, 2003, by regulations, provide open access to all consumers who require a supply of electricity where the maximum power to be made available at any time exceeds 1MW.

Sections 39 and 40 of the Electricity Act, 2003 (Central Act No.36 of 2003) envisages non-discriminatory open access to the transmission system of a licensee for use by any licensee or generating company.

The Regulations hereunder have been framed in pursuance of the above provisions of the Act.

REGULATIONS

In accordance with the provisions of Section 181 of the Electricity Act, 2003 (Central Act No.36 of 2003), the Kerala State Electricity Regulatory Commission hereby makes the following Regulations, namely:

GENERAL

1. Short title, commencement and extent.- (1) These Regulations may be called the Kerala State Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2005

(2) They shall come into force at once.

(3) They shall apply to the State of Kerala.

2. Definitions. (1) In these Regulations, unless the context otherwise requires,

- a) "**Act**" means the Electricity Act, 2003 (Central Act No.36 of 2003)
- b) "**Commission**" means the Kerala State Electricity Regulatory Commission.
- c) "**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 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;
- d) "**Existing Customer**" means a person already availing open access to the transmission system and/or distribution system of a licensee in the State under an existing agreement on the date of coming into force of these Regulations.
- e) "**SLDC**" means the State Load Dispatch Centre established under sub-section (1) of section 31 of the Act.
- f) "**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 consumer or licensee or a person engaged in generation in accordance with the regulations specified by the Commission.
- g) "**Open Access Customer**" means a consumer 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.
- h) "**Person**" shall include any company or body corporate or association or body of individuals;
- i) "**Premises**" includes any land, building or structure;
- j) "**State Transmission Utility**" means the Board or the Government company specified as such by the State Government under sub-section (1) of section 39 of the Act;
- k) "**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;

(2) Words or expressions used in these Regulations and not defined herein but defined in the Act shall have the meaning as in the Act.

3. Eligibility for Open Access and Conditions to be satisfied.- (1) Any generating company or Licensee is eligible for availing open access to the transmission system and/or distribution system of any licensee. A consumer or a person whose premises are situated within the area of supply of distribution licensee (other than local authority engaged in the business of distribution of electricity before the appointed date) is eligible to avail open access as per the Time Table specified under clause 7.

(2) Any person availing open access shall be liable to pay applicable charges as per Clause 13.

4. Categorization of Open Access Customers.- (1) Open access customers shall be classified into the following categories based on the nature of service:

- (a) Short-term Open Access customer- persons availing or intending to avail open access for a period of less than five years.
- (b) Long-term Open Access customer- persons availing or intending to avail open access for a period equal to or more than five years.

(2) Open access customers are eligible to renew open access after the expiry of the term and shall be treated as a new applicant for capacity allocation.

5. Criteria for allowing Open Access.- (1) Long-term open access shall be allowed in accordance with the State Grid Code.

(2) Short-term open access shall be allowed, if the request can be accommodated, by utilizing

- a. Inherent design margins and spare capacity available
- b. Margins available due to variation in power flows

(3) The STU and distribution licensees shall at all times endeavour to provide open access to their system and shall always equip their system to meet the future demand for open access and create sufficient capacity in the system to promote open access and thereby competition.

6. Provision for existing entities.- (1) Existing licensees and generating companies: The existing licensees and generating companies shall be deemed to be the long term open access customer/s to the intra State transmission system/s and/or the distribution system/s for the term specified under the existing agreement/s or arrangement. The existing distribution licensee/s shall, within 60 days of coming into force of these Regulations, furnish details of their use of intra-state transmission system/s and/or distribution system/s to the STU, SLDC and the Commission.

(2) Other Existing Customers.- Other existing customers may continue to avail open access as per the existing agreements or arrangements for the period specified in those agreements or arrangements, to the extent they are not inconsistent with the Act. Provided that if any additional capacity is sought by such existing customer/s it shall be treated as new application for open access to the extent of additional capacity sought.

7. Phasing of Open Access for Consumers.-The time table for allowing open access for consumers would be as below:

Phase	Consumers with maximum demand of	Time
Phase I	10 MW and above	from 1.12.2005 onwards
Phase II	5 MW and above	from 1.12.2006 onwards
Phase III	3 MW and above	from 1.12.2007 onwards
Phase IV	1 MW and above	from 1.12.2008 onwards

8. Allotment and curtailment Priority.- (1) Allotment of capacity for open access shall be strictly based on the first come first served basis.

(2) The long term customers shall have priority over the short term customers for open access.

(3) Subject to clause 8(1), 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.

(4) The Licensees upon the instructions of SLDC or otherwise, to safeguard the security and stability of the system, may curtail the open access service to its customers. Curtailment of service shall be resorted

to only in situations of exigencies. The curtailment shall be as far as possible on a proportionate basis of allocated capacity. Any dispute on this issue shall be referred to SLDC and appeal on the decision of SLDC shall lie before the Commission.

9.Procedure for Grant of Open Access.- (1) A consumer or a person whose premises are situated within the area of supply of the distribution licensee seeking open access shall apply to the respective distribution licensee in such form as may be formulated by the distribution licensee with the prior approval of the Commission.

(2) A generating company or a licensee requiring open access shall apply to the respective licensee, whose transmission system/distribution system is intended to be used or immediately connected.

(3) The distribution licensee or transmission licensee shall require in the application details regarding maximum power to be wheeled in the system at any point of time, nature of service, number of units to be wheeled, the point of injection, the point of drawal, duration and hours of availing open access and accordingly the capacity in the system to be earmarked for the applicant and any other additional information.

Provided that, the respective licensees granting open access shall, within one month of coming into force of these Regulations, submit the detailed guidelines and application procedure in accordance with these regulations for grant of open access, to the Commission for approval.

(4) The respective licensees shall coordinate with other Licensees and SLDC and assess the capacity available and the existence or absence of operational constraints for permitting open access.

(5) The respective licensees shall communicate the decision on the availability of open access within 30 days of the receipt of the application in the case of long term open access and 10 days in the case of short term open access.

(6) Where the licensee is of the opinion that open access cannot be allowed without system strengthening or because of other operational constraints, he shall identify the scope of such additional work for the system strengthening and removal of operational constraints, the estimated cost and the probable date from which the open access can be allowed after carrying out the requisite works and the applicant shall be informed accordingly, within 90 days of receipt of the application. In

such cases, the licensee shall notify the person within 30 days the requirement of system strengthening and other requirements, if any.

(7) Before availing open access, the person seeking open access shall enter into an agreement with the concerned transmission licensee or distribution licensee as the case may be for the use of the system and payment of charges.

(8) The applicants aggrieved by the decision of the licensee on grant of open access may appeal to the Commission within 60 days of communication of such decision.

10. Available Capacity.- (1) The STU after considering the application of the person seeking the open access shall determine the availability of capacity in the transmission lines including the existence or absence of operational constraints affecting the open access. Where the distribution system of a distribution licensee is also involved in open access, the STU shall consult the concerned distribution licensee regarding the availability of capacity, operational constraints, *etc.*

(2) The operational constraints in the System as per this Regulation shall include the availability of adequate capacity in the System, appropriate metering and energy accounting system so that the electricity to be wheeled can be correctly measured and accounted for.

11. Energy losses.- The Commission from time to time shall specify the methodology for estimation of energy losses of the transmission and distribution system.

12. Non-utilisation of open access capacity contracted for.- (1) If the capacity contracted under open access is underutilized or not utilized, the persons availing the service may surrender unutilized capacity subject to such conditions as may be given in the agreement.

(2) If the capacity allocated is cancelled or reduced, the issue whether any compensatory charges are to be paid or not shall be as per the agreement between the parties concerned.

13. Applicable Charges.- (1) The charges for the use of the transmission/distribution system by an open access customer shall be regulated as under:

- (i) Where open access is availed from a transmission licensee (including STU) under Section 39(2)(d)(ii) and Section 40(c) of the Act, transmission charges/wheeling charges as

- determined by the Commission under Section 62(1)(b) of the Act shall be applicable from time to time.
- (ii) Where open access is availed from a distribution licensee under section 42(2) of the Act, wheeling charges for the use of distribution system as determined by the Commission under section 62(1)(c) of the Act shall be applicable from time to time, in addition to transmission charges, if any, payable under sub-clause (i) above.
 - (iii) In case inter-State transmission system is used by an open access customer in addition to intra-State transmission system, transmission charges and wheeling charges shall be payable for use of inter-State system in addition to payment of intra-State transmission charges.
 - (iv) A consumer availing open access shall be liable to pay the surcharge as determined by the Commission from time to time for meeting the current level of cross subsidy. such consumer shall also be liable to pay an additional surcharge, if called upon as per Sub Section (4) of Section 42 of the Act, as determined by the Commission. The Commission would determine the surcharge and additional surcharge in accordance the Act and the National Policy and Tariff policy notified by the Government of India from time to time with suitable modifications, if warranted, to meet the ground realities.
 - (v) Where a dedicated transmission system or distribution system has been constructed for exclusive use of open access customer, the transmission charges for such 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 exclusive use of open access by a customer shall be borne by that open access customer.
 - (vii) Reactive Power Charges shall be paid by the Open access Customers who draw reactive power from the grid as may be determined by the Commission from time to time.

(2) Within in one month of coming into force of these regulations, the distribution licensee in consultation with STU and SLDC shall prepare balancing and settlement procedures for the power and energy transactions in accordance with these regulations, detailing out the

proposed measures, charges, *etc.*, for any deviation from scheduled drawl for the approval of the Commission.

14. *Savings.*- (1) Nothing in these Regulations shall be deemed to limit or otherwise affect the power of the Commission to make such orders as may be necessary to meet the ends of justice

(2) Nothing in these Regulations shall bar the Commission from adopting in conformity with 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 a class of matters, deems it just or expedient for deciding such matter or class of matters.

(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, as it considers just and appropriate.

15. *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 give directions, not being inconsistent with the Act, which appears to the Commission to be necessary or expedient for the purpose of removing difficulties.

16. *Power to Amend.*- The Commission may, at any time add, vary, alter, modify or amend any provision of these Regulations.

By Order of the Commission

Secretary

