

**MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION
SHILLONG**

NOTIFICATION
(8th February 2011)

NO.MSERC/OA/02/2011/01, The following draft of the Meghalaya State Electricity Regulatory Commission (Terms and Conditions of Open Access) Regulations, 2011 which the Commission proposes to make in exercise to the powers conferred under clauses (p) and (q) of subsection (2) of section 181 read with sub section(2), (3) and (4) of section 42 of the Electricity Act, 2003 and all powers enabling it in that behalf are hereby previously published as required under subsection (3) of section 181 and notice is hereby given that any person or persons who may be interested may send their objections, suggestions or comments to the Secretary of the Commission, New Administrative Building, Lower Lachumiere, Shillong within 30 days of the publication of this notification in the Gazette of Meghalaya for consideration by the Commission.

Secretary
Meghalaya State Electricity Regulatory Commission
Shillong

**THE MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION
(TERMS AND CONDITIONS OF OPEN ACCESS) REGULATIONS, 2011.**

(_____of 2011)

1. Short title, commencement and extent

- (1) These regulations may be called the “**Meghalaya State Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2011.**”
- (2) They shall come into force from the date of publication in the Gazette of Meghalaya.
- (3) They shall apply to the open access for use of the intra-state transmission system and/or the distribution system of licensees in the State, including when such system is used in conjunction with inter-state transmission system unless explicitly stated to be applicable only for a specific category of licensee.

2. Definitions

- (1) In these regulations, unless the context otherwise requires -
 - (a) "Act" means the Electricity Act, 2003 (36 of 2003);

- (b) "Allotted transmission 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 transmission capacity" shall be construed accordingly.
- (c) "Commission" means the Meghalaya State Electricity Regulatory Commission;
- (d) "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;
- (e) "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 user.
- (f) "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;
- (g) "Nodal agency" means the nodal agency defined in regulation 7 of these regulations;
- (h) "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;
- (i) "Open access user" means a person permitted by the Commission to use intra-state transmission system or 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;
- (j) "Person" shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;
- (k) "Premises" include any land, building or structure;
- (l) "Reserved transmission 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 transmission capacity" shall be construed accordingly.

- (m) "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;
 - (n) "State" means the State of Meghalaya.
 - (o) "State Transmission Utility" means the Board or the Government company specified as such by the State Government under sub-section (1) of Section 39;
 - (p) "State Grid Code" means the Meghalaya State Grid Code specified by the Commission and the expression includes the Indian Electricity Grid Code (IEGC) specified by Central Electricity Regulatory Commission.
 - (q) "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 and expressions used and not defined in these regulations but defined in the Act or State Grid Code or IEGC shall have the meanings assigned to them in the said Act or in the Grid Code or in IEGC, as the case may be.

3. Criteria for allowing Open Access

- (1) Long-term open access shall be allowed in accordance with the transmission and distribution planning criterion stipulated in the State Grid Code.
- (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.

4. Eligibility for Open Access and Phasing

- (1) Subject to the provisions of these regulations, any person 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.
- (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) above at such time as may be considered feasible.

5. Categorization of Open Access Users

- (1) The open access users 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 users, and
 - b) Short-term Open Access users
- (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 9(3) shall not apply for them.

- (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 to obtain fresh reservation after expiry of his term.

6. Allotment Priority

- (1) Allotment priority of a long-term open access user shall be higher than reservation priority of a short term open access user.

- (2) Within a category (Long-term or short-term), there shall be no discrimination between open access user and self-use by integrated entity.
- (3) The decision to allow open access shall be on the basis of first come first served.
- (4) In case of short-term open access users, at given point of time, if the capacity sought to be reserved by the open access users is less than the available capacity at that point of time, open access shall be permitted immediately and each short-term open access user shall pay the transmission or wheeling charges in accordance with Regulation 14.
- (5)
 - (a) In case of short-term open access, if the capacity sought to be reserved by the open access users 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 14.
 - (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 user 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.

7. Nodal Agency

- (1) For all long-term open access transactions the nodal agency for receiving and processing applications shall be the:
 - (a) STU for transactions from 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.
- (2) For short-term open access transactions the nodal agency for receiving and processing of applications shall be the SLDC.

8. Detailed Procedure

- (1) The STU shall issue guidelines, detailed procedures and applications forms for applying for long term open access within thirty days of notification of these regulations after obtaining approval from the Commission. The STU guidelines will also be adopted by the distribution licensees.
- (2) The SLDC shall issue guidelines, detailed procedures and application forms for applying for short term open access within thirty days of notification of these regulations after obtaining approval from the Commission.

9. Procedure for Long-Term Open Access

- (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 8.
- (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:
- (3) The application shall be accompanied by a non-refundable application fee of Rs five thousand payable in the name and in the manner to be decided by the nodal agency;
- (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 to 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, shall be allowed immediately after entering into commercial agreements.

- (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;
- (6) The nodal agency shall carry out the studies immediately on receipt of request from the applicant under clause (5) above and intimate results of the studies within 90 days of receipt of request from the applicant;

- (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.

Provided that the fee of rupees Rs five thousand paid by the applicant shall be adjusted against the actual expenditure to be reimbursed by the applicant

10. Bulk Capacity Agreement

- (1) A long-term open access user shall enter into Bulk Power Transmission / Distribution Capacity Agreement with the transmission / distribution licensee for use of their transmission system and distribution network.
- (2) The agreement shall provide, amongst other things for the eventuality of premature termination and its consequences on the contracting parties.
- (3) After agreement has been entered into 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.
- (4) The date of availability of open access shall not be later than 3 days from the date of furnishing of agreement.

11. Exit Option

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

12. Procedure for Short-Term Open Access User

- (1) A short-term open access user shall submit an application for transmission/distribution access to the State Load Dispatch Centre;
- (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 Dispatch Centre;

- (3) The application shall be accompanied by a non-refundable application fee of Rs. One thousand payable in the name and in the manner to be decided by the State Load Despatch Centre;
- (4) The reserved capacity shall not be transferred by a short-term open access user to any other open access user.

13. Non-Utilization of Reserved Capacity by Short-Term Open Access User

- (1) In case a short-term open access user 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;
- (2) The State Load Despatch Centre may reduce or cancel the reserved capacity of a short-term open access user when such a short-term open access user frequently under-utilizes the reserved capacity;
- (3) The short-term open access user, who has surrendered the reserved capacity under clause (1) above or whose reserved capacity has been reduced or cancelled under clause (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.
- (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 (1) or clause (2) above, may be reserved for any other short-term open access user in accordance with these Regulations.

14. 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 users, these charges shall be shared by the long-term users;
- (ii) (a) The charges payable by a short-term open access user 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 user 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 user in case of un-congested transmission corridor shall be levied as under, namely:-
- (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 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 6, 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 users.
- (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

In addition to transmission charges and wheeling charges, a consumer availing open access to the transmission system/distribution system shall pay a Cross-Subsidy Surcharge.

The Open access users, except those availing open access facility to transfer power from their captive generating plants to the destination of their own use, shall pay the (cross-subsidy) surcharge to the distribution licensee of their area, as determined by the Commission from time to time under section 42 (2) of the Act, in accordance with the National Electricity Policy and Tariff Policy.

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. In case surcharge so calculated is negative, it shall be treated as NIL.

(3) Additional Surcharge

- (a) A consumer availing open access and 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) The 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 whose consumer intends to avail open access shall submit to the Commission within thirty days of receipt of application an account of fixed cost paid by such open access user which the licensee is incurring towards his obligation to supply and demonstrate if any part of the fixed cost has become stranded.
- (d) The Commission shall scrutinize the statement of accounts submitted by the licensee and obtain objections, if any, of the consumer and determine the amount of additional surcharge, if any, payable by the consumer.
- (e) The additional surcharge shall be leviable for such period not normally exceeding one year as the Commission may determine.

(4) Scheduling and System Operation Charges

- (a) The scheduling and system operation charges shall be payable by all open access users who are under scheduling by State Load Despatch Centre as determined by the Commission in accordance with the Meghalaya State Electricity Regulatory Commission (Levy and collection of State Load Despatch Centre fees and charges) Regulations, 2009.
 - (b) Scheduling and system operation charges shall be payable by a supplier as well as his user availing open access under these regulations.
- (5) Reactive Power charges determined by the Commission shall be paid by open access users who draw reactive power from the grid.
 - (6) Charges for backup supply from the grid shall be payable by the open access user 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 consumers.
 - (7) If the open access user draws power at variance with the agreed schedule for drawl under the open access arrangement, the user shall pay UI charges as per Inter-State ABT until such charges are determined for intra-state operations.
 - (8) Where a dedicated transmission system or distribution system used for open access is constructed for the exclusive use of an open access user, the transmission charges and/or wheeling charges for such a dedicated system shall be borne entirely

by such open access user till such time the surplus capacity is allotted and used for by other persons or purposes.

- (9) The charges incurred for strengthening the system in order to provide open access for the exclusive use of an open access user shall be borne by that open access user.
- (10) Grid support charges and any other charges as may be specified by the Commission from time to time shall be payable by the open access user.

15. Curtailment Priority

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 users shall be subjected to curtailment first followed by the long-term open access users.

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

The nodal agency shall be responsible for curtailing supply in accordance with this regulation.

16. 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 users
 - (b) A status report on short-term users
 - (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 post the above information on its website within six months of the regulation coming into force and keep updating it on a continuous basis.

17. Special Energy Meters

- (1) The open access users 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.
- (2) Main meters shall always be maintained in good condition and shall be open for inspection by any person authorised by the nodal agency.
- (3) The concerned licensee may provide check meters of the same specifications as main meters.
- (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.
- (5) Reading of main and check meters shall be taken periodically at 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 user and the generating company or trader, as the case may be, by the licensee, within 12 hours of meter reading.
- (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.
- (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 generation of 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.
- (8) If an open access user 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

- (1) The open access users 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.

- (2) The loss in the transmission system and / or distribution system shall be compensated by additional injection at the injection point(s).

19. Collection and Disbursement of charges

- (1) In case of open access to user, the concerned Distribution Licensee (or concerned Transmission Licensee if the user 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 14 and the open access user shall pay those charges, in accordance with the procedures set out in the Bulk Capacity Agreement (Regulation: 10) 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.

- (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 users.
- (3) The Unscheduled Interchange charges shall be paid in the manner as directed by the State Load Despatch Centre on weekly basis.

20. Compliance of State Grid Code

The open access users 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.

21. Redressal Mechanism

- (1) All disputes and complaints relating to open access shall be made to the State Load Despatch Centre, which may investigate and endeavour to resolve the grievance within thirty days, and
- (2) Whenever the State Load Despatch Centre is unable to resolve a grievance, the grievance shall be referred to the Commission.

22. 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:

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

23. Communication facility

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

24. 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 these regulations and procedures to be followed.

25. Powers to remove difficulties

- (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, 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.
- (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.

26. Power to amend

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

Secretary
Meghalaya State Electricity Regulatory Commission.