

ANDHRA PRADESH ELECTRICITY REGULATORY

COMMISSION

TERMS AND CONDITIONS OF OPEN ACCESS TO INTRA-STATE TRANSMISSION AND DISTRIBUTION NETWORKS

Regulation No. 2 of 2005

**(Published in Andhra Pradesh Gazette Part-II Extraordinary on
July 1, 2005)**

Introduction:

Subsection (2) of Section 42 of the Electricity Act, 2003, mandates the introduction of open access in such phases and subject to such conditions as may be specified by the State Commission considering the relevant factors including operational constraints. The Commission formulated a draft Regulation on the terms and conditions for allowing open access for supply of electricity to consumers and sought comments/ suggestions from interested persons by publishing the same in the Andhra Pradesh Gazette on 4-8-2004 and also putting it on the website of the Commission. Twenty-three (23) persons/organisations including one licensee and some generating companies have offered comments/suggestions on the draft Regulation. The Commission considered these comments/ suggestions and finalised the Regulation.

In exercise of the powers conferred by sections 181(1) read with sections 42(2), 42(4),39(2)(d)(ii) and 40(c)(ii) of the Electricity Act 2003 (36 of 2003) and all others powers enabling it in that behalf, the Andhra Pradesh Electricity Regulatory Commission hereby makes the following Regulation, namely:-

Amendment Regulation to the Principal Regulation 1/2016

(Published in AP Gazette Part-II Extraordinary on 08.01.2016)

The Andhra Pradesh Electricity Regulatory Commission (hereinafter Referred to as the Commission) has issued and notified the Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions of Open Access) Regulation, 2005 (Regulation No.2 of 2005) in A.P. Extra Ordinary Gazette on 01-07-2005.

The said Principal Regulation No.2 of 2005 contained the guidelines for the Licensees and Open Access users in the State of Andhra Pradesh in the matter of availing Open Access by the users including Generating Companies and Licensees.

Whereas the Government of Andhra Pradesh has issued the new Solar Power Policy, 2015 and new Wind Power Policy, 2015 vide G.O.Ms.No.8, dated 12-02-2015 and G.O.Ms.No.9, dated 13-02-2015 respectively superseding the earlier Solar Power Policy, 2012 and Wind Power Policy, 2008, inter alia, to meet the twin objectives of energy security and clean energy development.

And whereas the Government of Andhra Pradesh vide its letter No.348/Power.II(2)/2015, dated 09-03-2015, citing the provisions of Section 108 of the Electricity Act, 2003, requested the Andhra Pradesh Electricity Regulatory Commission to adopt and issue necessary Regulations / Orders for giving effect to the Andhra Pradesh Solar Power Policy, 2015 and the Andhra Pradesh Wind Power Policy, 2015.

Among other things, the above policies provide certain incentives in respect of the following items/parameters (which come under the

purview of the Commission and require amendments to the existing Regulation) to the Solar and Wind Power Projects commissioned during the operative periods of the policies viz., from 12-02-2015 to 11-02-2020 in respect of Solar Power Projects and from 13-02-2015 to 12-02-2020 in respect of Wind Power Projects in the State of Andhra Pradesh.

(A) Transmission and Distribution charges for wheeling of Power:

(i) Para 4.a of Solar Power Policy, 2015

Transmission and distribution charges shall be exempted for wheeling of power generated from Solar Power Projects for only captive use/third party sale within the State.

(ii) Para 8 (b) of Wind Power Policy, 2015

There will be no Transmission and Distribution charges for wheeling of power generated from wind power projects, to the desired location/s for captive use/third party sale within the State through grid. However, the Transmission and Distribution charges for wheeling of power generated from the wind power projects for sale outside the State shall be as per regulations of APERC. The 3rd party sale by eligible developers under this policy will be permitted only to HT-I category consumers as categorized in Tariff Orders and as per the regulations issued by APERC from time to time.

(B) Distribution Losses

Para 4(b) of Solar Power Policy, 2015

Distribution losses shall be exempted only for Solar Power Projects injecting at 33 KV or below irrespective of voltage-level of the delivery point within the Discom.

(C) Open Access

Para 4(d) of Solar Power Policy, 2015 and Para 8(d) of Wind Power Policy, 2015

Intra-state Open Access clearance for the whole tenure of the project or 25 years whichever is earlier will be granted as per the APERC Regulations amended from time to time. In the absence of any response or intimation from the Nodal Agency to the generator within 21 days, then such application shall be considered to be deemed open access.

(D) Cross Subsidy Surcharge

Para 4 (f) of Solar Power Policy, 2015

Cross Subsidy Surcharge shall be exempted for third party sale provided the source of power is from Solar Power Projects setup within the State for a period of five (5) years from the date of Commissioning of the SPP.

Accordingly, the Commission has published Draft Regulation on its website on 27-08-2015 and invited comments/views/suggestions from all the stake-holders/interested parties. The Commission has also conducted public hearing on 19-12-2015.

During the public hearing and also through written views submitted to the Commission, there were several requests from both the Solar and Wind power developers and the Government of Andhra Pradesh to make the new Regulation applicable from the dates of issue of the respective Solar and Wind Power Policies by the Government of Andhra Pradesh.

Having regard to the views/suggestions/comments received and the request made by the Government of Andhra Pradesh, in exercise of

Powers vested with it under section 181(1) of the Electricity Act,2003 read with Sections 39 (2) (d) (ii), 40 (c) (ii), 42 (2), 42 (3), 42 (4) and 86 (1) (e) of the Electricity Act, 2003 (Central Act 36 of 2003) and all other powers enabling in this behalf including those conferred by the Andhra Pradesh Electricity Reform Act,1998 (State Act 30 of 1998) and the Andhra Pradesh Reorganization Act, 2014 (Central Act 6 of 2014), the Andhra Pradesh Electricity Regulatory Commission hereby makes the following Amendments to the Principal Regulation viz., Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions of Open Access) Regulation,2005.

Principal Regulation 2/2005

(Amendment Regulation is incorporated in the Principal Regulation)

Introduction

1. Short title, commencement and interpretation

- (a) This Regulation may be called the Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions of Open Access) Regulation, 2005.
- (b) This Regulation shall extend to the whole of Andhra Pradesh.
- (c) This Regulation shall come into force on the date of its publication in the Andhra Pradesh Gazette.
- (d) This Regulation shall be read with the Electricity (Removal of difficulties) Second Order, 2005, notified by Ministry of Power, Government of India, in the Gazette of India, Extraordinary, Part II, Section 3(ii), dated 8th June 2005.

2 Definitions

- (i) In this Regulation, unless the context otherwise requires:-
- (a) “Act” means the Electricity Act, 2003 (36 of 2003);
 - (b) "applicant" means a person who makes an application to the Nodal Agency for open access and includes any person engaged in generation, a licensee or any consumer eligible for open access under this Regulation;
 - (c) “available capacity” means the capability in megawatts (MW) or kilowatts (kW) of a transmission or distribution network to transfer power from one point to the other, after deducting the power requirements of already committed users;
 - (d) “Commission” means the Andhra Pradesh Electricity Regulatory Commission;
 - (e) “contracted capacity” in the context of open access for supply to consumers means the capacity contracted in megawatts (MW) or kilowatts (kW) for transmission and /or wheeling to a consumer under open access ;
 - (f) “open access agreement” means an agreement entered into between a licensee and the applicant to avail open access to the licensee’s network for transmission and/or wheeling of electricity;
 - (g) “entry point” means a point at which electricity is injected into the electricity transmission network or the electricity distribution network ;
 - (h) “exit point” means a point at which electricity is drawn

from the electricity transmission network or the electricity distribution network ;

- (i) “Nodal Agency” means the entities referred to in clause 5 of this Regulation;
- (j) “user” or “ open access user” means a person using or intending to use the transmission system and/or the distribution system of the licensees in the state for receiving 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.
- (k) Words and expressions used and not defined in this Regulation 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 to intra-state transmission and distribution systems of licensees in the State, including when such systems are used in conjunction with inter-state transmission system(s).

4. Categorization of open access users

The open access users of the transmission and/or distribution system(s) shall be classified as follows:

- (a) **Long-Term Open Access User:** Any user of the transmission and/or distribution system(s) entering into an open access agreement with the concerned licensee(s) for a period of two

years or more shall be categorised as a Long-Term Open Access User.

- (b) **Short-Term Open Access User:** Any user other than a long term user of the transmission and/or distribution system(s) entering into an open access agreement with the concerned licensee(s) shall be treated as Short-term open access user, but open access shall not be allowed at a time for a period of more than one year.

5. Nodal Agency

5.1 For all long-term open access transactions, the Nodal Agency for receiving and processing applications shall be the State Transmission Utility (STU).

5.2 For short-term open access transactions, the Nodal Agency for receiving and processing applications shall be the State Load Dispatch Centre (SLDC). The SLDC shall, however, allow short-term open access transactions only after consulting the concerned transmission and/or distribution licensee(s) whose network(s) would be used for such transactions:

Provided that for short-term transactions with duration of less than one week, the SLDC may not consult the concerned licensees for permitting such transactions. The SLDC and Licensees shall devise procedures for coordination among themselves for allowing such short-term transactions.

6. Criteria for allowing open access to transmission and/or distribution systems

6.1 The long-term open access shall be allowed in accordance with the transmission planning criterion and distribution planning

criterion stipulated in the State Grid Code and/or the Distribution Code and / or Indian Electricity Rules as the case may be.

6.2 The short-term open access shall be allowed, if the request can be accommodated by utilizing:

- (a) Inherent design margins;
- (b) Margins available due to variations in power flows and unutilised capacity, if any; and
- (c) Margins available due to in-built spare capacity in transmission and/or distribution system(s) created to cater to future load growth

7. Provision for existing users:

7.1 Existing distribution licensees:

The existing distribution licensee(s) shall be deemed to be the long-term open access user(s) of the Intra-State transmission system(s) and/or the distribution system(s) for the term specified in/under the existing agreement(s) or arrangement(s) and shall make payment of transmission charges, wheeling charges and other charges, as applicable, and as may be determined by the Commission from time to time.

The existing distribution licensee (s) shall, within 60 days of coming into force of this Regulation, furnish details of their use of intra-state transmission system (s) and/or distribution system (s) to the STU, SLDC and the Commission.

7.2 Existing users other than the distribution licensees:

The existing user(s) other than the existing distribution licensees may continue to avail themselves of the wheeling facility as per

the existing agreements for the period(s) specified in those agreement(s), to the extent they are not inconsistent with the Act and this Regulation:

Provided that such existing user (s) shall pay the transmission charges, wheeling charges and other charges as may be determined by the Commission from time to time:

Provided also that any additional capacity sought by such existing user(s) in addition to the capacity already contracted, shall be treated as new application for open access to the extent of additional capacity sought.

8. Phasing of Open Access

8.1 Where open access to the Transmission and/or Distribution systems is sought by **any** user, the Nodal Agency shall permit such open access strictly in accordance with the following phases:

1.	Consumers availing of power from NCE developers irrespective of the quantum of contracted capacity	September, 2005
2.	Contracted capacity being greater than 5 MW	September, 2005
3.	Contracted capacity being greater than 2 MW	September, 2006
4.	Contracted capacity being greater than 1 MW	April, 2008

Provided that the Commission shall allow open access to consumers with contracted capacity of 1 MW or less in due

course at such time and in such phases as it may consider feasible having due regard to operational constraints and other factors:

Provided further that the Commission may revise the above schedule for the subsequent phases of open access, as considered necessary, not being inconsistent with the provisions of the Act:

Provided also that the Commission may exempt any consumer or a class of consumers from this phasing scheme if it considers necessary or expedient in the public interest:

Provided also that only the consumers availing of supply from the existing users covered under clause 7.2 from a date prior to coming into force of this Regulation shall not be affected by the above phasing.

8.2 The licensees shall make all reasonable attempts to ensure that operational constraints in the Transmission and/or Distribution systems as the case may be, including metering, communication systems, capacity determination, etc. are removed as per the phasing plan indicated above so that, as far as possible, no eligible consumer is denied open access on the grounds of operational constraints in the system.

9. Criteria for allotment/reservation of capacity

9.1 A distribution licensee, due to its obligation to supply on request under section 43 of the Act, shall have the highest priority in allotment of capacity, long-term as well as short-term.

9.2 As regards the other applicants for allotment of capacity of transmission and/or distribution systems, the persons applying for Long-Term open access shall have priority over the persons applying for Short-Term open access. However, within a

category, an applicant requesting transmission and/or distribution access for longer duration shall have priority over the person(s) seeking access for shorter duration.

9.3 Allotment of capacity in case of insufficient spare capacity/ congestion

9.3.1 For Long-Term applicants: In the event of insufficient spare capacity in distribution system/congestion in the transmission system hindering accommodation of all long-term open access applications, the Nodal Agency shall inform the applicants of the same and shall advise the concerned Licensee(s) to carry out an assessment of works required to create additional capacity by strengthening of the system to accommodate such applicant(s). After completion of such works, the Nodal Agency shall allot the capacity to such applicant(s). As regards capital expenditure incurred by the licensee(s) for system-strengthening, the licensee(s) can require a capital contribution from the applicant(s) subject to the provisions of clause 17.1 (v) of this Regulation.

9.3.2 For Short-Term applicants: In case of applicants for short-term open access with transactions required 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 uncongested price for the short-term users. The bidders shall quote percentage points above the floor price. The allotment of capacity shall be done in decreasing order of the price quoted. In case of quotes involving equal prices, the allotment of capacity shall be done, if required, *pro rata* to the capacity sought. The user getting allotment of capacity less than the capacity sought by him shall

pay charges as per the price quoted by him. All other applicants getting capacity allotment equal to the capacity sought by them shall pay charges as per the price quoted by the last applicant getting full allotment of the capacity sought.

Explanation 1: For the purpose of clauses 9.3.1, and 9.3.2, “congestion” in the context of allotment of capacity for transmission of electricity shall be construed to have occurred when a transmission system cannot accommodate all transactions that would normally occur among users due to physical or engineering limitation.

Explanation 2: For the purpose of clause 9.3.2, the term “un-congested price” means the transmission and/or wheeling charges required to be paid by the short-term users as per the rates approved by the Commission and published by the Nodal Agency from time to time.

10. Procedure of application for Long Term open access

10.1The Nodal Agency (STU) shall make available the format of application for open access requiring broadly the details as set out in Annexure-1 to this Regulation, to the general public in physical form at its offices and in electronic printable form at its website.

10.2An application for long-term open access shall be filed with the STU by the applicant, with a copy to the concerned transmission / distribution licensee(s) . The application shall be accompanied by a non-refundable processing fee as prescribed by the Commission in the Tariff Orders, or otherwise, from time to time:

Provided that till such time the processing fee is so prescribed by the Commission, it shall be Rs.10,000.

10.3The Nodal Agency shall acknowledge the receipt of an application made under clause 10.2 above within 24 hours of the receipt of the application.

10.4If after submission of the open access application, the applicant becomes aware of any material alteration in the information contained in the application, the applicant shall promptly notify the Nodal Agency of the same:

Provided that in case the Nodal Agency is made aware of the material alteration in the information contained in the application already submitted under clause 10.2 above, the Nodal Agency shall treat the application as if the same was received on the date the applicant notifies it of the said alteration.

10.5All applications received within a calendar month e.g. during 1st April to 30th April, shall be considered to have been filed simultaneously. This window of a calendar month shall keep rolling over i.e. after the expiry of a monthly window, another window of the duration of the next calendar month shall commence.

10.6Based on system studies conducted in consultation with other agencies involved including other Licensees, if it is determined that Long-Term open access sought can be allowed without further system-strengthening, the Nodal Agency shall, within 30 days of closure of a window, intimate the applicant(s) of the same.

*[Provided that in the absence of any response or intimation from the Nodal Agency to the applicant within 30 days of

closure of a window, then such application shall be deemed to have been allowed Open Access by the Nodal Agency in terms of such application]

10.7If, on the basis of the results of system studies, the Nodal Agency is of the opinion that the Long-Term open access sought cannot be allowed without further system- strengthening, the Nodal Agency shall notify the applicant of the same within 30 days of closure of a window. Thereafter, at the request of the applicant, which shall be made within 15 days of such notification by the Nodal Agency, the Nodal Agency shall carry out further studies, if required, to identify the scope of works involved and intimate the same to applicant within 30 days of receipt of such request from the applicant. The Nodal Agency shall also inform the applicant of the probable time frame for execution of the works involved after consultation with the concerned licensee(s).

Provided that in such cases, the applicant shall fully reimburse the Nodal Agency for actual expenditure incurred to carry out such system studies to identify the scope of works involved in system-strengthening. The fee, as prescribed in clause 10.2, paid by the applicant shall be adjusted against the actual expenditure to be reimbursed by the applicant:

Provided further that while identifying the scope of works for such system-strengthening, the Nodal Agency shall follow the standards required under the Grid Code and /or Distribution Code and / or Indian Electricity Rules, as the case may be.

11. Procedure of application for Short-Term open access

11.1The SLDC shall make available the format of application similar to the one referred to the clause 10.1 above, to the general public in physical form at its office and in electronic printable form at its website.

11.2The application for short-term open access to Transmission and / or Distribution system(s) shall be filed with, the SLDC with copies to concerned licensees. The application shall be accompanied by a non-refundable processing fee as prescribed by the Commission in the Tariff Orders, or otherwise, from time to time:

Provided that till such time the processing fee is so prescribed by the Commission, it shall be Rs.1,000.

11.3The SLDC shall process the applications for Short-Term open access within the following time limits:

Duration for which open access is required	Maximum processing time
Up to one day	12 hours
Up to one week	Two days
Up to one month	Seven days
Up to one year	Thirty days

12. Open Access Agreement

12.1Based on the intimation by the Nodal Agency to the open access applicant, the applicant shall execute an open access agreement with the concerned Licensee(s), which shall broadly set out the

information as given in Annexure-2 to this Regulation. The Licensees shall draft a standard open access agreement format and get the same approved by the Commission within 30 days of coming into effect of this Regulation.

12.2. The open access agreement referred to in clause 12.1 shall be bipartite, tripartite or multi-partite involving the applicant, the concerned Distribution Licensee in whose area of supply the applicant's exit point is located and the concerned Transmission Licensee or Licensees. The Open Access Agreement shall clearly bring out the rights and obligations of all parties which are broadly set out in Annexure – 3 with respect to exit points on transmission and distribution systems separately:

Provided that in cases where the open access applicant's point(s) of entry as well as the point(s) of exit are located within the distribution system of the same Distribution Licensee (at voltages 33KV and below), the applicant shall be required to execute an open access agreement only with such Distribution Licensee.

12.3 Subject to the capacity being available, the Licensee(s) shall, after the applicant for long-term open access has completed all the pre-requisite formalities, including the execution of open access agreement, make arrangements to provide access to the applicant within the time period specified in the Andhra Pradesh Electricity Regulatory Commission (Licensees' Duty for Supply of Electricity on Request) Regulation, 2004 (No. 3 of 2004):

Provided that in the case of short-term users, the open access shall be allowed as early as possible notwithstanding the time frame specified in the aforementioned Regulation.

12.4 Minimum term and renewal of the Open Access Agreement:

The minimum term of an open access agreement is such term as the parties may agree and set out in the agreement subject to the provisions of clause 4 above. A long-term open access agreement between a long-term user and the licensee may be renewed for a further term of two years or more without the requirement of a fresh open access application, on receipt of at least three (3) months' notice from the concerned long-term user to the concerned licensee(s) and the Nodal Agency, before the expiry of the Agreement. . In case, no notice is provided by the Long-Term user, the Long-Term user shall forgo his right over the allotted capacity.

In case of short-term users, however, no extension of the original open access agreement shall be allowed, and a user wanting extension shall have to apply afresh to the Nodal Agency for open access.

13. Metering

13.1 All Long-Term and Short-Term open access users shall provide special energy meters capable of measuring active energy, reactive energy, average frequency and Demand integration in each 15-minute time block, with a built-in calendar and clock and conforming to BIS/CBIP Technical Report/IEC standards at all entry and exit points. This shall however be subject to the regulations to be made by the Central Electricity Authority under section 55 of the Act.

13.2 The users covered under clause 7 of this regulation shall have to provide the required metering at their premises within a period of

3 months from the date of coming into force of the Regulation failing which the Licensees shall no longer be obliged to wheel the energy to them. In such an event, all energy recorded at the premises of the user shall be deemed to have been supplied by the Distribution Licensee of that area of supply and shall be billed for by such Licensee accordingly at the appropriate tariff:

Provided that in the case of distribution licensees, the Commission may, considering the large number of meters required to be installed by them extend this 3-month time limit, as considered appropriate, on receipt of requests to this effect duly supported by valid reasons.

14. Procedure for determining the available capacity of transmission and distribution (T&D) networks

14.1 The licensees shall carry out load flow studies, system impact studies, etc. taking into account the existing capacity commitments and future projections of capacity requirements for open access users, load growth as projected by distribution licensees, growth of generation, network topology and consumption pattern, network investments, Repairs and Maintenance programs, etc. to determine the capacity available to accommodate open access transactions. While so determining the capacity available for open access transactions, capacity commitments to all existing users of the network and the system reliability margin shall be deducted.

14.2 The Licensees shall keep updating the data on available capacity, taking into account the contracts with open access users, the impact of such transactions on the capacity of system

elements, the increase/decrease in native load, changes in consumption pattern, network strengthening programs actually carried out and those projected, etc.

14.3 In order to decide the availability of sufficient spare capacity in the T&D networks so as to permit an open access transaction applied for, the Nodal Agency may also carry out load flow studies to simulate the impact of power flows associated with such open access transaction on the network and thus determine whether capacity is available to permit such open access transaction (in conformity with technical standards according to Grid Code and/or Distribution Code and/or Indian Electricity Rules , as the case may be) or there is a need to carry out system-strengthening works to ensure availability of sufficient capacity. The Nodal Agency may have to carry out this exercise on a case-to-case basis as and when an open access application is received.

14.4 The licensees shall carry out information exchange among themselves and keep one another and the Nodal Agency informed of the transactions on their respective networks.

14.5 The Nodal Agencies and Transmission / Distribution Licensees shall post details of available capacity on their respective websites, including the details of open access transactions permitted on different Licensees' networks with their respective entry and exit points, etc. on a daily basis

15. Underutilization

15.1 In the event a user expects to underutilize the capacity contracted under open access, the user may surrender a part of the capacity subject, however, to an advance notice as set out in the

terms of the open access agreement, along with an explanation for such underutilization.

15.2 In the event of underutilization of the capacity contracted by the open access user, which, if made available, could be used to meet requirements of other applicant(s), the concerned licensee may file an application with the Nodal Agency to reduce or cancel the capacity allocated to the open access user:

Provided that the Licensee shall not so approach the Nodal Agency without first issuing a notice to the concerned user as set out in the open access agreement:

Provided further that the Nodal Agency shall not reduce or cancel the capacity allotted without giving a notice of at least 15 days, in advance, to enable the concerned open access user to file his objections if any in writing.

15.3 In the event of user's surrender of whole or part of contracted capacity as per clause 15.1, or reduction/cancellation of the capacity allotted to the user as per clause 15.2, the user shall pay compensatory charges to the licensees concerned as follows:

- (a) An amount equivalent to 50% of current application fee for Long-Term or Short-Term users, as the case may be, if all the capacity surrendered or reduced/cancelled is fully re-allotted to other applicants within the notice period so given by the user or the licensee, as the case may be.
- (b) If the capacity surrendered or reduced/cancelled could not be fully re-allotted to other applicants within the notice period, then –

- (i) In case of Long-Term users, the user shall, as a one-time exit fee, pay 25% of the transmission charges and/or wheeling charges as the case may be, and the scheduling and system operation charges in force at that point in time, applied on the capacity that could not be re-allotted for the remaining term of the agreement; and
- (ii) In case of Short-Term users, the user shall bear the full transmission charges and/or wheeling charges, as the case may be, and the scheduling and system operation charges in force at that point in time, applied on the capacity that could not be re-allotted for the remaining term of the agreement.

16. Flexibility to change entry and exit points

16.1 The Long-Term users shall have the flexibility to change entry and/or exit points twice a year subject to the results of system impact studies to be carried out by the concerned Licensees at the behest of such users. All expenses incurred by the Licensees to carry out such studies shall be reimbursed in full by such users.

16.2 A Short-Term user availing of open access for one full year may also change entry and/or exit points twice, subject to feasibility.

17. Open Access charges

17.1 The charges for the use of the transmission and / or distribution system by an open access user shall be regulated as under:

- (i) Open Access users connected to the transmission/distribution system shall pay the transmission charges and/or wheeling charges and any other applicable charges as determined by the Commission from time to time, and notified in the

relevant Tariff Order or otherwise, and as per the conditions stipulated therein:

Provided that the wheeling charges so payable shall be subject to a minimum level, as fixed by the Commission in the relevant Tariff Order or otherwise.

*[Provided further that the Transmission and Wheeling charges shall be exempted for wheeling of power generated from such Solar and Wind Power Projects and for such operative periods as mentioned in G.O.Ms.No.8, Dated 12-02-2015 and G.O.Ms.No.9, Dated 13-02-2015 respectively for only captive use / third party sale within the State.]

*[Provided also that the Distribution losses shall be exempted for such Solar Power Projects and for such operative period as mentioned in G.O.Ms.No.8, Dated 12-02-2015 injecting at 33 kV or below irrespective of voltage-level of the delivery point within the Discom for such projects.]

- (ii) In case of utilization of inter-state transmission system in addition to the intra-state transmission system and/or distribution system by an open access user, the transmission charges and/or wheeling charges shall be payable for the use of intra-state system in addition to the charges for utilization of the inter-state transmission system.
- (iii) The Open access users of the Transmission and/or Distribution System where such open access is for delivery of electricity to the consumer's premises in the area of supply

of a distribution licensee, shall pay to the distribution licensee the (cross-subsidy) surcharge as determined by the Commission from time to time under Section 42 (2) of the Act :

Provided that no (cross-subsidy) surcharge shall be payable if the open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.

* [Provided further that the Cross Subsidy Surcharge and additional surcharge shall be exempted for third party sale if the source of power is from such Solar Power Projects set up within the State as mentioned in G.O.Ms.No.8, Dated 12-02-2015 for a period of five (5) years from the date of commissioning of such projects.]

- (iv) The Open Access user shall also be liable to pay additional surcharge on charges of wheeling as may be specified by the Commission from time to time under section 42(4) of the Act, in case open access is sought for receiving supply from a person other than the distribution licensee of such consumer's area of supply, to meet the fixed cost of the distribution licensee arising out of his obligation to supply.
- (v) Where an electrical plant or electrical line is to be constructed by the Licensee in order to extend power supply to an open access user, the Licensee may recover such expenditure as per the Andhra Pradesh Electricity Regulatory Commission (Licensee's Duty for Supply of Electricity on Request)

Regulation, 2004(Regulation No.3 of 2004).

- (vi) If network augmentation is required for providing access to an applicant, the Licensee shall carry out such augmentation only if (a) the Licensee can recover within a reasonable time the costs, the capital investment and a reasonable rate of return on the capital investment in respect of the augmentation, and (b) the Licensee has the ability to raise funds to finance such capital expenditure:

Provided that the Licensee may require the open access user to make a capital contribution towards such network augmentation.

- (vii) Scheduling and system operation charges shall be payable by all open access users under scheduling by SLDC. Such charges shall be governed by the relevant Regulations issued by the Commission.

18 Payment terms and conditions

18.1 In case of Long-Term users, the concerned Distribution Licensee may invoice a user in respect of the open access charges as set out in clause 17 of this Regulation and the open access user must pay those charges, in accordance with the procedures set out in the open access agreement between the Licensees and the user:

Provided that the Distribution Licensee shall have appropriate back-to-back arrangements in place with the Transmission Licensee(s) in order to pass on the transmission charges so collected from the user to the concerned Transmission Licensee.

18.2 In case of short-term users, the Distribution Licensee(s) may invoice the user and the user shall pay the charges to the

concerned Licensee(s) directly. The SLDC shall assist / advise the Distribution Licensee in the matter of energy accounting and allocation.

18.3 All open access users shall pay the charges payable under the open access agreement from the date of commencement of open access specified in the open access agreement, regardless of whether or not such open access is used on and from that date, except if the failure to use such open access is due to the default of the concerned licensee(s) whose networks are being used.

18.4 In case of underutilization leading to surrender or cancellation of contracted capacity, the user shall pay such charges and in such manner as set out in clause 15 above.

18.5 Meter readings and Billing in respect of open access for supply to consumers:

The Distribution Licensee in whose area the consumer is located shall take the meter readings at the exit point. The billing shall be done by the respective Licensees as per the open access agreement under clause 12 read with the provisions of clauses 17 and 20 of this Regulation.

18.6 For the purpose of clause 18.5 above, a consumer using the Transmission and/or Distribution systems for his total power requirements without any contracted maximum demand (CMD) from the Distribution licensee shall be deemed to be a consumer of the distribution licensee in whose area the consumer is located.

19. Other matters

19.1 Coordination among licensees and SLDC: For the success of open access implementation, the licensees and the State Load

Dispatch Centre shall carry out information exchange among themselves on a daily basis to determine the level of open access transactions in their respective areas of supply, energy flows, loading of transmission and distribution lines and equipment to determine system stability, available capacity, congestions in the networks, etc.

19.2 Information requirements: The licensees and the State Load Dispatch Centre shall maintain the following information on their websites in order to ensure transparency and carry out information exchange among themselves required to process open access applications:

- (i) Transmission and/or wheeling charges, as the case may be, for open access users located within the State; and
- (ii) A status report on the current long-term users indicating name of user, period of the access granted (start date and end date), point(s) of injection and point(s) of drawal, capacity contracted and applicable charges. This report shall be updated as and when the status changes; and
- (iii) Information regarding usage of the inter-regional links as well as interface between the Central Transmission Utility and State systems and inter-state links indicating time of updating, name of the link, total transmission capacity of the link, scheduled capacity use and current capacity of the link in use. This information shall be updated at least on hourly basis and wherever feasible on 15-minute basis.

19.3 Quality of supply: The licensee(s) shall ensure compliance with Grid Code wherever applicable. The Distribution Licensees shall

also comply with the quality of supply standards as prescribed under the Andhra Pradesh Electricity Regulatory Commission (Licensees' Standards of Performance) Regulation, 2004 (Regulation No.7 of 2004) in respect of all open access users of its network.

19.4 Energy and Demand Balancing: All open access users, and the users covered under clause 7.2, shall make reasonable endeavor to ensure that their actual demand or actual sent-out capacity, as the case may be, at an inter-connection does not exceed the Contracted Maximum Demand or allocated sent-out capacity for that inter-connection:

Provided that for carrying out balancing and settlement of energy and demand at all entry and exit points relating to open access agreements, the licensee shall strictly adhere to the Balancing and Settlement Code to be approved by the Commission, from time to time.

19.5 Curtailment due to constraints: The licensee, based on directions from SLDC, may curtail power to any open access user or users, whether long-term or short-term, in an event of emergency threatening grid security and stability. As far as practicable, the priority in curtailment shall be as prescribed hereunder:

- (a) Short-term open access users of the network shall be curtailed in the first step, followed by
- (b) All other consumers including long-term access users, but excluding distribution licensees, in ascending order of contract period, followed by

(c) Distribution licensees.

20. General Terms and Conditions of Supply

With regard to matters not contained herein, including but not limited to the following, and wherever the context so requires, the conditions set forth in the General Terms and Conditions of Supply shall generally be applicable:

- (a) Voltage of supply vis-à-vis total Contracted Demand;
- (b) Security Deposit;
- (c) Disconnection for non-payment of charges;
- (d) Transfer to successor entity; and
- (e) Levy and collection of Customer Charges

21. Dispute resolution

All disputes and complaint shall be referred to the Nodal Agency for resolution:

Provided that when the Nodal Agency is itself a party to the dispute, the dispute shall be referred for resolution to the Forum for Redressal of Consumer grievances set up under Regulation No.1 of 2004:

Provided further that in case of wheeling of power from the captive generating plants, any disputes regarding the availability of transmission facility shall be adjudicated upon by the Commission.

22. Force Majeure

22.1 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 open access agreement shall constitute force majeure events for the purpose of this Regulation.

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

23. Issue of orders and practice directions

Subject to the provisions of the Electricity Act, 2003, the A.P. Electricity Reform Act, 1998, and this Regulation, the Commission may, from time to time, issue orders and practice directions in regard to the implementation of this Regulation, the procedure to be followed and other matters, which the Commission has been empowered by this Regulation to specify or direct.

24. Power to remove difficulties

24.1 In case of any difficulty in giving effect to any of the provisions of this Regulation, the Commission may by general or special order, direct the Open Access users, generators and the licensees to take suitable action, not being inconsistent with the provisions of the Act, which appears to the Commission to be necessary or expedient for the purpose of removing the difficulty.

- 24.2** The Open Access users, 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 this Regulation.
- 25. Saving:** Nothing contained in this Regulation shall affect the rights and privileges of the users under any other law for the time being in force, including the Consumer Protection Act, 1986 (68 of 1986).
- 26. Power to amend:** The Commission may from time to time add, vary, alter, modify or amend any provisions of this Regulation.

Annexure-1:

Suggested contents of Open Access Application

- (a) (i) Name and address of the applicant
- (ii) Details of applicant's installation
- (iii) Nature of wheeling i.e., whether it is for captive use or third party sale.
- (iv) Name and address of consumers to whom the power is to be wheeled
 - (a) Type of open access required, whether long-term, or short-term
 - (b) Capacity in KW or MW required for open access in respect of each consumer
 - (c) Point(s) of Entry
 - (d) Point(s) of Exit
 - (e) Period for which open access is required
 - (f) Details of metering arrangements at the entry points and exit points as required under the Metering Code (part of the Grid Code or the Distribution Code, as the case may be) as amended from time to time
 - (g) Information whether the recipients of power are already consumers of Distribution licensee of their area. If so, furnish the Contracted Maximum Demand (CMD) of each of them with the Distribution Licensee concerned
Any other information reasonably required by the licensee / Nodal Agency.

Annexure-2:

Suggested essential features of Open Access Agreement

- (a) The Entry and Exit points
- (b) Allotted capacity (in kW or MW) for open access in the Transmission and/or Distribution system
- (c) The rates and charges for providing various access services, such as:
 - (i) Transmission and/or Wheeling charges as the case may be;
 - (ii) Transmission losses and/or wheeling losses to be deducted;
 - (iii) Cross-subsidy Surcharge;
 - (iv) Additional surcharge;
 - (v) SLDC charges;
 - (vi) Reactive energy charges, if applicable; and
 - (vii) Any other charges
- (d) A requirement that the applicant's equipment/installations at all times for the entire duration of the contract complies with the provisions of the Grid Code and/or the Distribution Code, as the case may be
- (e) The date of commencement of Open Access
- (f) The manner of accounting of energy and demand balancing procedures, as per the Balancing and Settlement Code to be approved by the Commission, from time to time
- (g) The billing cycle and the payment terms and conditions;
- (h) The Agreement period and its termination/deration conditions
- (i) Other terms and conditions including powers of the Nodal Agency on surrender of capacity, premature termination of open

access agreement, penalty for under-utilisation of allotted capacity, etc.

- (j) Provision for renewal of open access Agreement in applicable cases

Any other information as considered reasonable by the Licensee.

Annexure – 3:

Duties, rights and obligations of parties, inter-alia, in case of Tripartite Open Access Agreements referred to in clause 12.2 of the Regulation

Exit Points location on 132 KV and above (Transmission System):

- (a) Concerned Transmission Licensee's obligation to provide transmission capacity – User's right on transmission capacity contracted:
- (b) Duties of Distribution Licensee of that area of supply where such exit point is located for meter reading and billing (for transmission charges, surcharges, out-of-balance payments, etc.);
- (c) User's duty to pay the charges, as billed for; and
- (d) Distribution Licensee's obligation to pass on the transmission charges so collected from the user to the concerned Transmission Licensee.

Exit Points location on 33 KV and below (Distribution System):

- (a) Concerned Transmission Licensee's obligation to provide Transmission capacity – User's right on Transmission capacity contracted;
- (b) Concerned Distribution Licensee's obligation to provide Distribution system capacity – User's right on Distribution capacity contracted;

- (c) Distribution Licensee's duties for meter reading and billing (for Transmission charges, Wheeling charges, applicable surcharges, out-of-balance payments, etc.);
- (d) User's duty to pay for charges as billed for; and
- (e) Distribution Licensee's obligation to pass on the transmission charges collected from the user to the concerned Transmission Licensee

(BY ORDER OF THE COMMISSION)

Hyderabad

S.SURYAPRAKASA RAO

Date:30.06.2005

SECRETARY