

- (8) The Nodal Agency shall communicate to the applicant by e-mail or fax, in addition to any other usually recognized mode of communication, the grant of open access or otherwise, within three working days following the day of receipt of the concurrence or otherwise from all the licensees concerned and in the absence of any such communication to the applicant from the Nodal Agency within five working days from the date of filing the application in the case of short-term open access and fifteen working days from the date of filing the application in the case of long-term/Medium-term open access, the open access applied for shall be deemed to have been granted, subject to system availability.

Provided that in case of deemed approval, where the Nodal Agency is of the opinion that open access cannot be allowed without system strengthening, it shall identify the scope of the work for system strengthening and the probable date from which the open access can be allowed shall be informed in writing accordingly within five working days from the date of receipt of agreement for wheeling of electricity.

Provided further that during the pendency of application for grant of open access, the applicant shall not inject any energy to the licensee's network and the licensee shall not be liable to pay any charges for the energy injected during such period.

Provided also that for any energy injected into the licensee's network from the date of grant of open access till the date of receipt of agreement for wheeling by the Nodal Agency, the applicant shall be entitled for payment of energy charges at lower of the charges specified below:

- i) Average Pooled Power Purchase cost [APPC] rate or
 - ii) at 75% of Generic Tariff applicable to the relevant category of Renewable source, for the relevant year.
- (9) The open access customer shall execute the agreement for wheeling of electricity in triplicate and submit the same to the Nodal Agency and also to the concerned licensees namely, the ESCOM where the power is injected and the KPTCL, within five working days following the day of receipt of the communication of grant of open access or from

the deemed date of grant of such open access, as the case may be, failing which the open access granted or deemed to have been granted shall stand cancelled.

[Note: Regulation 9(8) of extant Regulations now renumbered as 9(9)]

Provided that in the case of deemed grant of open access, along with the agreement for wheeling of electricity, the applicant shall submit in writing, an undertaking to the nodal agency, duly notarized, stating that the Nodal Agency has failed to communicate approval for open access or otherwise within the time specified in the Regulations and enclose a copy of the acknowledgement, if any, given by the Nodal Agency or any other evidence in support of application having been delivered to the Nodal Agency.

- (10) On receipt of the aforesaid agreement, the licensee(s) concerned namely, the ESCOM where the power is injected and the KPTCL, shall execute the agreement for wheeling of electricity by signing his copy of the agreement and forward it to the Nodal Agency within seven working days following the day of receipt of such agreement.
- (11) The effective date for commencement of operation of wheeling of electricity by the applicant shall be the date of receipt of agreement for wheeling specified at Regulation (9) above by the Nodal Agency, irrespective of date of execution of the Agreement.

Provided that the above effective date shall also be applicable for banking, if any, in the case of solar, wind and Mini-Hydel projects.

- (12) New generating plant(s) or generating Unit(s) seeking long –term open access and entering into agreement for wheeling, shall commission such plant(s) or unit(s) within twelve months from the effective date of commencement of the operation of wheeling, failing which the open access granted shall be deemed to have been cancelled.
- (13) An open access customer shall enter into commercial agreements with generators, traders, consumers and others, as applicable, and such agreements shall include provisions pertaining to payment security mechanism.

- (14) The Nodal Agency shall host on its website the details of every application received under clause (1) above and the status of such application on a continuous basis, which shall be made available to the public.
- (15) The Nodal Agency shall prepare the modified standard agreement formats for wheeling of electricity and obtain due approval of the Commission and make the standard agreement formats available to the public and shall host the agreement formats on the website of the Nodal Agency.

Provided that the Nodal Agency shall submit the standard agreements for approval of the Commission within fifteen days from the date of notification of these Regulations, in case any modifications are required under these Regulations to the extant WBA.

Provided further that the current agreement formats approved by the Commission, not inconsistent with these Regulations, shall be in force until amended by the Nodal Agency and approved by the Commission.

- (16) State Transmission Utility (STU) or Distribution Licensee(s) shall conduct System Studies annually or as often as required or as directed by the Commission and the System data including the available additional loading capacity of lines shall be updated on a continuous basis and shall be made available to the public and such data shall also be hosted on the licensee(s)'s website.

Provided that where any person makes a request for such studies, the STU/ Distribution licensee shall carry out the system studies by collecting reasonable charges and such studies shall be completed within ninety days from the date of receipt of charges towards the studies and a detailed report in writing shall be provided to such person.

(9-A). Procedure for applying for Day Ahead Transactions. -

- (i) An application for grant of day ahead open access shall be submitted to the Nodal Agency within three days prior to the date of scheduling but not later than 13:00 Hours of the day immediately preceding the day of scheduling for day-ahead transaction.

For example, an application for day-ahead transaction on 25th day of July shall be submitted on 22nd day or 23rd day or up to 13:00 hours on 24th day of that month.

- (ii) The application to the Nodal Agency shall contain details such as the capacity needed, generation planned or power purchase contracted, point of injection, point of drawal, duration of availing open access, peak load and average load and also an undertaking that there is no subsisting PPA for the capacity sought under open access and such other additional information as may be required by the Nodal Agency.
 - (iii) The application shall be accompanied by receipt / voucher for having paid a non-refundable application fee of one thousand rupees for each transaction, in cash or by way of a demand draft or through electronic transfer in favor of the Nodal Agency.
 - (iv) The Nodal Agency shall check for congestion in the system and convey grant of approval or otherwise to the applicant through e-mail or fax or any other mode of communication, not later than 15:00 Hours of the day immediately preceding the day of scheduling for day-ahead transaction.
- Provided that the actual operationalization of open access shall be effected subject to payment by the applicant of the charges as specified in these Regulations and orders passed by the Commission from time to time, before 17:00 hours of the day immediately preceding the day of scheduling for day-ahead transaction.
- (v) Where open access is denied, the Nodal Agency shall furnish reasons thereof to the applicant.

6. Substitution of Regulation 10(2).-

For Regulation 10 (2) of the Principal Regulations, as amended from time to time, the following shall be substituted, namely, -

10 (2) A long-term / medium-term customer shall not relinquish or transfer his rights and obligations specified in the open access agreement without prior approval of the nodal agency. The relinquishment or transfer of such rights and obligations by a long-term /

medium-term customer shall be subject to payment of compensation, which shall be equal to three-months open access charges

7. Substitution of Regulation 11(v).-

For Regulation 11 (v) of the Principal Regulations, as amended from time to time, the following shall be substituted, namely, -

11 (v) In case, where a dedicated transmission/ distribution system used for open access has been constructed for exclusive use of an open access customer by the licensee, the transmission/ wheeling charges for such dedicated system shall be worked out by STU or the transmission licensee or the distribution licensee, as the case may be, for their respective system/s and get the same approved by the Commission. The charges shall be borne entirely by such open access customers till such time the surplus capacity is allotted and used for by other persons or purposes.

Provided that, if a dedicated line has been constructed by any open access customer at his cost, for his own exclusive use, no transmission / wheeling charges shall be paid by such consumer for such lines.

8. Substitution of Regulation 11(viii).-

For Regulation 11 (viii) of the Principal Regulations, as amended from time to time, the following shall be substituted, namely, -

11(viii) In case of outages of generators supplying to a consumer on open access, standby arrangements should be provided by the licensee on payment of 125% of energy charges applicable to that consumer category as determined by the Commission in its tariff orders.

9. Substitution of Regulation 11(xiv).-

For Regulation 11 (xiv) of the Principal Regulations, as amended from time to time, the following shall be substituted, namely, -

“ (xiv). The Open Access Customer shall pay the monthly Transaction charges of two thousand rupees for maintaining the transaction details, to the Nodal Agency and meter reading charges of one thousand rupees to the concerned licensee(s) who carries or carry out such meter reading. No meter reading charges shall be collected, in case AMR meters having

remote meter reading facilities are being installed by the Generator at injection point and by the consumer(s) at drawal point(s).”

10. Substitution of Regulation 13 (1).-

For Regulation 13 (1) of the Principal Regulations, as amended from time to time, the following shall be substituted, namely, -

13 (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;

- a. A status report on long term customers
- b. A status report on medium term customers
- c. A status report on short term customers
- d. Floor rate for bidding in case of congestion
- e. Peak load flows on EHV and HV lines
- f. Information regarding average loss in the transmission system and distribution system as determined by the licensee / s on a monthly basis.

11. Substitution of Regulation 14 (2).-

For Regulation 14 (2) of the Principal Regulations, as amended from time to time, the following shall be substituted, namely, -

14 (2) If the SLDC is unable to redress the grievance, it may be referred to the Commission for resolution, within a period of thirty-days from the date of receipt of order from the nodal agency.

12. Substitution of Regulation 15 (1) and 15 (4).-

For Regulation 15 (1) and 15 (4) of the Principal Regulations, as amended from time to time, the following shall be substituted, namely, -

15 (1) Metering shall be done in accordance with the provisions of CEA (Installation and Operation of Meters) Regulations, 2006 as amended from time to time.

15 (4) The meters shall be sealed by the distribution licensee in whose area the Generator / Consumer is situated.

13. Substitution of Regulation 16.-

For Regulation 16 of the Principal Regulations, as amended from time to time, the following shall be substituted, namely, -

16 Energy Losses –Energy losses of the transmission and distribution system shall be applicable to the open access customers as determined by the Commission in its tariff orders issued from time to time.

14. Substitution of Regulation 20 (1).-

For Regulation 20 (1) of the Principal Regulations, as amended from time to time, the following shall be substituted, namely, -

20(1) The Open Access Customer shall have the requisite communication system in place to facilitate seamless communication of data/orders/information to/from the Nodal Agency.

15. The following shall be added after Regulation 20(4) of the Principal Regulations:

“20(5). Interpretation:

The decision of the Commission regarding the interpretation of these Regulations shall be final and binding”

Approved by the Commission

SECRETARY

PD-55