

KARNATAKA ELECTRICITY REGULATORY COMMISSION

Bangalore-560 001

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Karnataka Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2004.

Preamble

In exercise of the powers conferred on it by Section 181 read with Sections 39(2)(d), 40(c), 42(2,3), 86(1)(c) of the Electricity Act, 2003 and all other powers enabling in this behalf, the Karnataka Electricity Regulatory Commission, makes the following Regulations, namely:

1. Short Title and Commencement

- (i) These regulations shall be called the Karnataka Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2004.
- (ii) These regulations shall come into force from the date of publication in the Official Gazette of Karnataka.
- (iii) These regulations shall apply to the open access customers for use of intra-state transmission system/s and/or distribution system/s of licensee/s in the State, including such system/s, which are incidental to inter-state transmission of electricity.

2. Definitions

In these regulations, unless the context otherwise requires -

- (a) "**Act**" means the Electricity Act, 2003 (36 of 2003)
- (b) "**Commission**" means the Karnataka Electricity Regulatory Commission.
- (c) "**Consumer**" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under 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;

- (d) **“Existing Customer”** means a person already availing open access to the transmission system and/or distribution system of a licensee in the state under an existing agreement or GoK policy on the date of coming into force of these Regulations.
- (e) **“ 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.
- (f) **“KER Act”** means Karnataka Electricity Reforms Act, 1999.
- (g) **“SLDC”** means the State Load Dispatch Centre established under sub-section (1) of section 31 of the Act.
- (h) **“Nodal agency”** means the nodal agency defined in regulation 8 of these regulations.
- (i) **“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 Appropriate Commission.
- (j) **“Open Access Customer”** means a consumer permitted by the Commission to receive supply of electricity from a person other than 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.
- (k) **“Person”** shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;
- (l) **“Premises”** includes any land, building or structure;
- (m) **“State Transmission Utility”** means the Board or the Government company specified as such by the State Government under sub-section (1) of section 39 of the Act;
- (n) **“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;

Words and expressions used and not defined in these Regulations but defined in the Act or the KER Act, shall have the meanings assigned to them in the said Acts. In case of any inconsistency in words and expressions between the Act and the KER Act, the provisions of the Act shall prevail.

3. Criteria for allowing Open Access

- (1) The long-term open access shall be allowed in accordance with the transmission planning criteria and distribution planning code stipulated in the State Grid Code.
- (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 variation in power flows and
 - c. Margins available due to in-built spare transmission system capacity and distribution system capacity created to cater to future load growth.

4. Eligibility for Open Access and Phasing:

- (1) Subject to the provisions of these regulations, the open access customers shall be eligible for open access to the intra-state transmission system of the State Transmission utility or any transmission licensee/s and distribution system/s of the distribution Licensee/s within the State.
- (2) Such open access shall be available for use by open access customer on payment of such charges as may be determined by the Commission from time to time.
- (3) Every person, who has constructed 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 in the following phases:

Phase-1	All HT installations with Contract Demand of 15 MW and above and with voltage level of 66 kV and above	From 10 th June 2005
Phase-2	All HT Installations with Contract Demand of 5MW & above and with voltage level 33 kV and above	From 1 st April 2006
Phase-3	All HT Installations with Contract Demand of 3 MW & above and with voltage level 11 kV and above	From 1 st April 2007
Phase-4	All HT Installations with Contract Demand of 1 MW & above	From 1 st April 2008

- (5) Based on the implementation of Phase-1, the Commission may revise the above schedule for allowing open access in subsequent phases as may be necessary.
- (6) The Commission may allow Open Access to Consumers other than those specified in clause 4(4) above at such time as it may consider feasible.

5. Provision for existing entities:

(1) Existing distribution licensees:

The existing distribution licensee/s shall be deemed to be the long term open access customer/s to the intra State transmission system/s and/or the distribution system/s for the term specified under the existing agreement/s or arrangement 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 these Regulations, furnish details of their use of intra-state transmission system/s and/or distribution system/s to the STU, SLDC and the Commission.

(2) Existing Customers excluding existing distribution licensees:

The existing customer/s may continue to avail the open access as per the existing agreements or government policy for the period specified in those agreements or policies, to the extent they are not inconsistent with the Act.

Provided further that the Existing Customers shall pay the applicable surcharge and other charges as may be specified by the Commission from time to time.

Provided that open access for the subsequent period in respect of such customer shall be governed by provisions of these regulations.

Provided that if any additional capacity is sought by such existing customer/s in addition to the capacity already contracted under open access, shall be treated as new application for open access to the extent of additional capacity sought.

6. Categorization of Open Access Customers

- (1) The open access customers shall be classified into the following categories based on the duration of use of the intra- state transmission and/or distribution system:

- (a) Short-term Open Access customer- persons availing or intending to avail the open access for a period of less than five years.
- (b) Long-term Open Access customer- persons availing or intending to avail the open access for a period equal to or more than five years.
- (3) Short-term open access customer shall be eligible to obtain fresh open access after the expiry of the term and shall be treated as a new applicant for capacity allocation.

7. Allotment Priority

- (1) The priority for allowing open access shall be decided on the following criteria:
 - (a) Distribution licensee for long term
 - (b) Other Open access customers for long term
 - (c) Distribution licensee for short term
 - (d) Other open access customers for short term.
- (2) Among the open access customers within a category, the person applying for open access for a longer duration shall have preference over the person applying for shorter duration at any given time.
- (3) Subject to the above clauses, the decision for allowing the open access shall be on the basis of first come first served.
- (4) In case short-term open access is to be accommodated through congested corridors of the network, the Nodal Agency shall invite bids by Fax/e-mail with floor price equal to the un-congested price for short term users. The allotment shall be done on the basis of decreasing order of price quoted. In case the quoted prices are equal, the allotment shall be done on prorata basis of capacity sought. The user getting allotment of capacity less than the capacity sought shall pay the price quoted by him. All other applicants shall pay charges as per the price quoted by the last applicant getting full allotment of capacity sought.

8. Nodal Agency

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

- (3) The transmission Licensee/s, distribution licensee/s and the SLDC shall ensure proper coordination while arranging for open access.

9. Procedure for applying for Open Access

- (1) An application for open access shall be filed to the respective nodal agency by the intending open access customer, with a copy marked to the distribution licensee of the area. ,
- (2) The application shall contain such details as capacity needed, point of injection, point of drawal, voltage level, phase arrangement, duration of availing open access, peak load/time, average load and any other additional information that may be specified by the nodal agency.
- (3) The Nodal Agency shall host on its website the details of application received and the status of application on a continuous basis which shall be made available to the public.
- (4) The nodal agency shall issue necessary guidelines, procedure and application forms within 30 days of publication of these regulations in the official gazette.
- (5) The application shall be accompanied by a non-refundable processing fee of Rs 5,000/- for long-term customers and Rs. 1000/- for short-term customers.
- (6) The nodal agency, based on the system studies by the concerned licensee or otherwise assess the capacity available and communicate the same to the applicant within the time schedule indicated below:
 - a. Short term open access – Within 7 days from the date of receipt of application
 - b. Long term open access – within 30 days from the date of receipt of application.
- (7) Where the nodal agency is of the opinion that open access cannot be allowed without system strengthening, it shall identify the scope of work for system strengthening and the probable date from which the open access can be allowed and the applicant shall be informed accordingly within 30 days.
- (8) An open access customer shall enter into commercial agreements with transmission and distribution licensees, generators, traders, consumers and others, as applicable to him. Such agreements shall include a clause pertaining to payment security mechanism.
- (9) The nodal agency shall prepare the standard agreement formats within 30 days of publication of these regulations and after obtaining due approval of the Commission make the standard agreement formats

available to the public. The agreement formats shall be hosted on the website of the nodal agency.

- (10) After agreements have been entered into and copies furnished to the nodal agency, the nodal agency shall inform the open access customer the date from which open access will be available, within three days from the date of furnishing agreements.
- (11) STU/Distribution Licensees shall conduct the System Studies annually or as often as directed by the Commission to provide open access to long-term customers. The System data including the additional loading capacity of lines shall be updated on a continuous basis and shall be made available to the public. Such data shall also be hosted on the licensees' website.

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

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

- (1) In the event of inability of the short-term open access customer to utilize for more than four hours, full or substantial part of the capacity allocated to him, such a short-term open access customer shall inform the respective SLDC of his inability to utilise the capacity, along with reasons therefor and may surrender the use of capacity allocated to him. However, such short-term customer shall bear full transmission and /or wheeling charges based on the original reserved capacity and the period for which such capacity was reserved.
- (2) A long-term customer shall not relinquish or transfer his rights and obligations specified in the open access agreement without prior approval of the nodal agency. The relinquishment or transfer of such rights and obligations by a long-term customer shall be subject to payment of compensation, as per the terms of the open access agreement.
- (3) The SLDC may cancel or reduce the capacity allocated to a short-term open access customer to the extent it is underutilized, when such a short-term open access customer under-utilizes the allocated capacity more than 2 times in a month with duration of underutilization exceeding 2 hours each time or fails to inform the distribution licensee of his inability to utilise the allocated capacity. Such cancellation shall be resorted to after giving due notice to the affected parties.
- (4) The surplus capacity available as a result of its surrender by the short-term open access customer under clause (1) above or reduction or cancellation of capacity by the SLDC under clause (3) above, may be

allocated to any other short-term open access customer in the order of pending applications based on the point of injection and drawal.

11. Open Access Charges

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

- (i) Where open access is availed from a transmission licensee (including STU) under section 39(2)(d)(ii) and section 40(c)(ii) of the Act, transmission charges as determined by the Commission under section 62(1)(b) of the Act shall be applicable from time to time. The Commission would follow the postage stamp method for determination of transmission tariff for the present.
- (ii) Where open access is availed from a distribution licensee under section 42(2) of the Act, wheeling charges as determined by the Commission under section 62(1)(c) of the Act shall be applicable from time to time, in addition to transmission charges payable under sub-clause (i) above. The wheeling charges as determined by the Commission in its Tariff Order 2003 shall be applicable till such time wheeling charges are determined by the Commission afresh.
- (iii) In case intra-state transmission system or distribution system is used by an open access customer in addition to inter-state transmission system, transmission charges and wheeling charges shall be payable for use of intra state system in addition to payment of inter-state transmission charges.
- (iv) According to section 42(2) proviso 1 of the Act, surcharge to meet the current level of cross subsidy is payable if open access is availed. The open access customer shall be liable to pay the surcharge so determined by the Commission from time to time. The Commission would determine the surcharge based on cost of supply of electricity to various categories of consumers.
- (v) Where a dedicated transmission system or distribution system used for open access has been constructed for exclusive use of an open access customer, the transmission charges or wheeling charges for such dedicated system shall be borne entirely by such open access customer till such time the surplus capacity is allotted and used for by other persons or purposes.
- (vi) The charges incurred for strengthening the system in order to provide open access for the exclusive use of an open access customer shall be borne by that open access customer.
- (vii) According to section 42(4) of the Act, additional surcharge as may be specified by the Commission on charges of wheeling are

payable by the consumer seeking open access for receiving supply from a source other than the distribution licensee of his area of supply to meet the fixed cost of the distribution licensee arising out of his obligation to supply. The open access customer shall be liable to pay such additional surcharge as may be determined by the Commission from time to time. However, in the case of a new open access customer (i.e. if the open access customer was not a consumer of the licensee), no such additional surcharge is payable. The additional surcharge would be determined on a case-to-case basis.

- (viii) Charges for arranging backup supply from the grid shall be payable by the open access customer in the event of failure of contracted supply to cover the risk. The amount of back up charges shall be mutually agreed between the parties.
- (ix) If the open access customer draws power in variance with the agreed schedule for drawal under the open access arrangement, the customer shall pay the UI charges applicable under Intra-State ABT to the extent of variation from the agreed schedule. Until such time the Intra-State ABT is introduced, the UI charges as per Inter-State ABT shall be applicable.
- (x) Scheduling and system operation charges shall be payable by all open access customers who are under scheduling by SLDC. Such charges shall be governed by the relevant regulations issued by the Commission.
- (xi) Grid support charges and any other charges as may be specified by the Commission shall be payable by the open access customer.
- (xii) An open access consumer shall pay 2 months' charges as security deposit to the concerned Nodal agency, as applicable, to secure the nodal agency against default in payments.
- (xiii) Reactive Power Charges shall be paid by the Open access Customers who draw reactive power from the grid as may be determined by the Commission from time to time.
- (xiii) Transaction charges: Monthly transaction charges for meter reading and maintaining the transaction details shall be payable by an Open Access Customer to the Nodal Agency who maintains such transactions.

12. Curtailment Priority

In case due to transmission/distribution system constraints or otherwise, it is necessary to curtail the service, the short-term open access customers shall be curtailed first followed by long-term open access customers.

Provided that within a category, the open access customers shall have equal curtailment priority and shall be curtailed on pro-rata basis. The nodal agency shall coordinate in this regard.

13. Information System:

1. SLDC shall post the following information in a separate web page titled "Open Access Information" and also issue a monthly and annual report containing such information;
 - a. A status report on long term customers
 - b. A status report on short term customers
 - c. Floor rate for bidding in case of congestion
 - d. Peak load flows on EHV and HV lines
 - e. Information regarding average loss in the transmission system and distribution system as determined by the licensee/s on a monthly basis.
2. The information shall be updated upon every change in status.
3. All previous reports shall be available in the web-archives.
4. The SLDC shall host the above information on its website latest by April 2005 and keep updating on a continuous basis.

14. Dispute Resolution

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

15. Special Energy Meters

1. Tri-vector meters with Time of the Day (TOD) facility shall be installed by the open access customers.
2. The meters shall be capable of time-differentiated measurements (15 minutes) of necessary parameters. These meters shall always be maintained in good condition and shall be open for inspection by any person authorized by the nodal agency.
3. The meter shall include CTs, PTs and associated accessories and shall be tested and calibrated at least once in a year.

4. The meters shall be sealed by the distribution licensee in whose area the Consumer is situated.
5. In case the meter is provided by the transmission/distribution licensee, the open access customer shall pay for its rent and also provide security deposit.
6. The meter shall be capable of communicating its reading to SLDC on real time basis.
7. The metering code prevailing in the state shall be applicable to the open access customers also.

16 Energy losses

Energy losses of the transmission and distribution system shall be calculated in accordance with the methodology specified by the Commission from time to time. The losses as determined in Tariff Order 2003 shall be applicable for the present.

17. Compliance of Grid Code/Distribution Code

The Open Access Customer shall abide by the State Grid Code, Distribution Code and all other Codes and Standards, as applicable from time to time.

18. Collection and Disbursement of charges

The charges in respect of open access customers shall be payable directly to respective nodal agency. The Nodal Agency shall specify the terms and conditions of payment.

19. Reports

The distribution licensee shall submit a report along with the ERC or as often requested to the Commission in the following format:

SCHEDULE

Sl. No.	Name and address of the open access customer	Point of injection	Point of drawal	Capacity allowed (MW)	Period of open access allowed	Actual utilization in MU

20. Miscellaneous

(1) Communication facility

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

(2) Issue of orders and practice directions

Subject to the provisions of the Electricity Act, 2003 and these regulations, the Commission may, from time to time, issue orders and practice directions with regard to the implementation of the regulations and procedures to be followed.

(3) Power to remove difficulties

(i) 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.

(ii) The Open Access Customers, generators and the licensees may make an application to the Commission and seek suitable orders to remove any difficulties that may arise in implementation of these regulations.

(4) Power to amend:

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

By Order of the Commission
Sd/-

Secretary