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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

WEST BENGAL ELECTRICITY REGULATORY COMMISSION

NOTIFICATION

No. 35/WBERC

Dated 12.04.2007.

In exercise of the powers conferred by section 181 read with clause (d) of sub-section (2) of section 39, clause (c) of section 40, sub-sections (2), (3) and (4) of section 42 and section 66 of the Electricity Act, 2003 (36 of 2003) and all powers enabling on that behalf and in supersession of notifications No. 20/WBERC dated 30th June, 2005 and No. 21/WBERC dated 21st September, 2005 published in the *Kolkata Gazette, Extraordinary* on 30th June, 2005 and 21st September, 2005 respectively, the West Bengal Electricity Regulatory Commission hereby makes the following regulations:—

1. Short title and commencement:

- (a) These regulations may be called the West Bengal Electricity Regulatory Commission (Open Access) Regulations, 2007.
- (b) They shall come into force on the date of their publication in the *Official Gazette*.

2. Definitions:

2.1 In these regulations, unless the context otherwise requires,—

- (a) “Act” means the Electricity Act, 2003;
- (b) “ABT” means the Availability Based Tariff as specified in the Tariff Regulations;
- (c) “Area Load Despatch Centre” or “ALDC” has the same meaning as assigned to it in the State Grid Code;

- (d) "Backup Power" means the power supplied to an Open Access Customer, other than a Licensee or a generating company excluding a Captive Generating Plant, out of the available power of the Connected Licensee when power from open access source is not available to the Open Access Customer or as and when required;
- (e) "Bulk Power Transmission Agreement" means the open access agreement under regulation 12.1(a) between the Open Access Customer and the Transmission Licensee for transmission or wheeling of power through the Transmission Licensee's transmission lines/system;
- (f) "Bulk Power Wheeling Agreement" means the open access agreement under regulation 12.1(a) between the Open Access Customer and the Distribution Licensee for wheeling of power through the Distribution Licensee's distribution system and associated facilities;
- (g) "Capacity Charges" means the capacity charges as specified in the Tariff Regulations;
- (h) "Captive Generating Plant" means the Captive Generating Plant as defined in the Tariff Regulations;
- (i) "Commission" means the West Bengal Electricity Regulatory Commission;
- (j) "Connected Licensee" means a Licensee or any person who is engaged in the business of supplying electricity to the public under the Act or any other law for the time being in force and whose works are connected with the premises of any person including an Open Access Customer;
- (k) "Distribution Licensee" means a Distribution Licensee as defined in the Tariff Regulations;
- (l) "Distribution System Network" means the distribution system of a Distribution Licensee in his area of supply;
- (m) "emergency requirement" means the requirement of supply of Start-up Power or survival power for generating stations in case of total power failure and/or power for failure in supply of power from open access source of an Open Access Customer for which there may be threat to public safety;
- (n) "Energy Charge" means the energy charge as specified in the Tariff Regulations;
- (o) "Force Majeure Event" means the Force Majeure Event as defined in the Tariff Regulations;
- (p) "Incidental Power" means the power supplied by a Connected Licensee to an Open Access Customer, other than a Licensee or a generating company excluding a Captive Generating Plant, by virtue of connectivity with the grid and incidental due to stoppage of power from open access source till receipt of intimation by the Open Access Customer at the drawal point that power from his open access source is not available;
- (q) "Intending Distribution System User" means the person who, being eligible for open access in distribution system, has applied for allocation of or increase in allocated capacity rights for the purpose of wheeling and has agreed to the carrying out of works on obtaining such access;
- (r) "Intending Transmission System User" means the person who, being eligible for open access in transmission, has applied for allocation of or increase in allocated capacity rights for the purpose of transmission and has agreed to the carrying out of works for obtaining such access;
- (s) "Licensee" means the holder of a licence granted by the Commission including a deemed Licensee under 1st to 5th proviso to section 14 of the Act, persons exempted under section 13 or 8th proviso to section 14 of the Act and the holder of a licence granted by the Central Electricity Regulatory Commission;
- (t) "Long Term Customer" means an Open Access Customer availing Long Term Open Access;
- (u) "Long Term Open Access" means a period of 15 years or more for which Open Access Customer has availed or intended to avail open access;

- (v) "Nodal Agency" means the Nodal Agency as specified in regulation 9;
- (w) "Open Access Customer" means a person using or intending to use the transmission system or the distribution system of any Licensee(s) or any person engaged in the business of supplying electricity to the public under the Act or any other law for the time being in force in the State for transmission and wheeling of electricity and includes a person who has availed or intends to avail open access under section 42 of the Act;
- (x) "open access source" means a generating station or any person holding appropriate licence for distribution or trading of electricity from which/whom the power can be accessed by an Open Access Customer;
- (y) "Ownership" of a generating station or Captive Generating Plant shall have the meaning as has been prescribed in the Electricity Rules, 2005;
- (z) "Regulations" means the regulations made under the Act;
- (aa) "RLDC" means the RLDC as defined in the State Grid Code;
- (bb) "Rules" means the rules made under the Act;
- (cc) "Safe Capacity" means continuous current carrying capacity considering outage of the largest element in such transmission and associated system or as stipulated in the planning criteria by the appropriate authority;
- (dd) "Short Term Customer" means an Open Access Customer availing Short Term Open Access;
- (ee) "Short Term Open Access" means a period not exceeding four months at a stretch for which an Open Access Customer has availed or intends to avail open access;
- (ff) "SLDC" means the SLDC as defined in the Tariff Regulations;
- (gg) "Standby Power" means power supplied to an Open Access Customer, other than a Licensee or a generating company excluding a Captive Generating Plant, by the Connected Licensee against booking of a reserved generation capacity by such Open Access Customer or reserved allocation for such Open Access Customer when power from open access source is not available to the Open Access Customer or as and when required but subject to Force Majeure Event;
- (hh) "Start-up Power" means the power required by any generating station or Captive Generating Plant for black start-up or cold start-up of the generating station within the State;
- (ii) "State" means the State of West Bengal;
- (jj) "STU" means the STU as defined in the Tariff Regulations;
- (kk) "Tariff Regulations" mean the regulations specified by the Commission under section 61 of the Act;
- (ll) "Transmission Licensee" means the Transmission Licensee as defined in the Tariff Regulations;
- (mm) "Transmission System" means the Transmission System as defined in the Tariff Regulations.

2.2 Words or expressions used and not defined in these regulations but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Extent of Application:

3.1 These regulations shall apply to open access for use of intra-State transmission lines and/or distribution systems and associated facilities with such lines or systems of the Licensee(s) under the purview of the Commission including any such lines and/or systems as are used in conjunction with inter-State transmission lines.

3.2 These regulations shall apply to all Open Access Customers who are at present availing open access by orders of the Commission or had been granted open access by the Commission and notwithstanding anything to the contrary contained in earlier Regulations or orders of the Commission, these regulations shall have overriding effect.

4. Eligibility for open access:

- 4.1 *Transmission:* Subject to the provisions of these regulations, a Licensee or a generating company or a Captive Generating Plant or a consumer or any person engaged in the business of supplying electricity to the public under the Act or any other law for the time being in force or any other person shall be eligible for open access to the intra-State transmission lines or associated facilities of the STU or any Transmission Licensee on payment of the charges, as may be specified by the Commission, for using the transmission system of the Transmission Licensee.
- 4.2 *Distribution:* Subject to the provisions of these regulations and the regulations made under fifth proviso to sub-section (2) of section 42 of the Act, a Licensee or a generating company or a Captive Generating Plant or a consumer or any person engaged in the business of supplying electricity to the public under the Act or any other law for the time being in force or any other person shall be eligible for open access to the distribution system and associated facilities of a Distribution Licensee on payment of charges, as may be specified by the Commission, for using the distribution system and the associated facilities of the Distribution Licensee.
- 4.3 A Short Term Customer shall be eligible and also re-eligible to obtain fresh reservation of capacity for open access after expiry of his term, subject to the provisions of these regulations.
- 4.4 A person having been declared insolvent or bankrupt shall not be eligible for open access.
- 4.5 A person having outstanding dues of any Transmission Licensee or Distribution Licensee, against billing, for two months or more shall become eligible for open access only after clearing his outstanding dues.
- 4.6 If an applicant for open access has already been charged for having committed any offence under the Act, his application for open access shall be considered only after a competent court of law clears him of the charges.
- 4.7 An Open Access Customer, after expiry of his open access term, will not have any priority for getting open access under any new application for open access by virtue of his earlier status of Open Access Customer.

5. Special Provisions for Existing Distribution Licensees:

A Distribution Licensee using intra-State transmission lines and/or the distribution systems and associated facilities with such lines and systems in the State on the date of coming into force of these regulations under an existing agreement shall be entitled to continue to avail open access on such transmission and distribution systems along with the associated facilities on the same terms and conditions of the existing agreement and on payment of transmission charges and wheeling charges as may be determined by the Commission from time to time.

However, where the Distribution Licensee is using such facilities not under an existing agreement but through an informal arrangement then a formal agreement shall be signed by the Distribution Licensee on such terms and conditions which are otherwise in line with the existing arrangement for a period of 2 years and on payment of such transmission charges and wheeling charges as may be determined by the Commission from time to time.

6. Allotment Priority:

- 6.1 The priority for allowing open access to the following categories of Open Access Customers shall be as per the following descending order of priority:
- (a) A Distribution Licensee to the extent of its requirement for its consumers within the State and for supplying power to other Licensees.
 - (b) Power fully based on cogeneration within the State.

- (c) Power fully based on wind.
- (d) Power fully based on hydro.
- (e) Power fully based on renewable sources other than hydro and wind.
- (f) Power from captive generation based on gas.
- (g) Power from captive generation based on coal.
- (h) Power from captive generation based on oil.
- (i) Other sources, if any, not covered under (a) to (h).

6.2 (a) The inter se priority within each category of Open Access Customers as mentioned in regulation 6.1 shall be decided on first come first served basis.

(b) The Long Term Customers shall have priority over Short Term Customers within each category.

(c) In case of intra-State transmission and/or wheeling through a network of any Licensee, the SLDC may reduce or cancel transmission and/or wheeling capacity reserved for an Open Access Customer, if any problem arises for congestion subsequent to granting and/or starting of such open access operation. Such reduction/cancellation by the SLDC shall be in the reverse order of allotment priority mentioned in regulation 6.1. The decision of the SLDC to reduce or cancel transmission and/or wheeling capacity temporarily or permanently shall be intimated by the SLDC to the Open Access Customer as soon as possible.

6.3 Notwithstanding anything contained in regulations 6.1 and 6.2, the Commission may, by order, change the priority of allotment of open access to enable flow of adequate power to consumers providing essential services including public pumping station, medical care, mass transportation, dairy, airport, underground mines, etc. or when unforeseen natural calamities or other emergencies seriously disrupt public life.

6.4 Notwithstanding anything contained in regulations 6.1, 6.2 and 6.3, the open access for emergency requirement shall have the highest priority.

6.5 The Open Access Customers will have to indicate in their applications for open access the potential hazards concerning public safety in line with the Environment (Protection) Act, 1986 and any other law as applicable. On the basis of such declaration and subject to approval by the Commission after due consideration of such declaration the Open Access Customer will be listed for open access from different sources for emergency requirement.

6.6 The trial run requirement for assessing technical feasibility of power flow from one point to another point is to be decided by the Transmission Licensee or the Distribution Licensee, as the case may be, and accordingly scheduling is to be done with due consultation with the SLDC.

7. Criteria for allowing open access:

The capacity available for open access shall be considered after taking into account the following factors:

7.1 Transmission lines and Associated Systems:

(a) In respect of transmission lines and associated systems forming part of evacuation system of a generating station, load flows anticipated on line at assessed output from the generating station with outage of any one of the single or double circuit line emanating from the generating station.

(b) (i) Maximum load on such transmission and associated system recorded during the previous year vis-à-vis Safe Capacity of such system;

(ii) The appropriate load growth potential on such transmission and associated system;

(iii) Additional investment planning on new lines or improvement in lines/systems;

- (iv) The capacity already allotted for open access for the relevant period;
 - (v) Requirement, if any, of the State Grid Code, RLDC, SLDC;
 - (vi) Evacuation network from on-going generating projects;
 - (vii) Network augmentations / reorganization plan to provide reliability in supply; and
 - (viii) Other factors, which are essential and may be required to be considered to ensure safe and economic operations of the system or safety of the grid.
- (c) The open access for Long Term Customer shall be allowed in accordance with the transmission planning criteria specified in the State Grid Code.

7.2 *Distribution and Associated Systems:*

- (a) (i) Maximum load on distribution and associated systems recorded during previous year vis-à-vis Safe Capacity of the systems;
 - (ii) Appropriate load growth potential on such systems;
 - (iii) Additional investment planning on new or such distribution systems or impact of improvement in the distribution systems;
 - (iv) Capacity already allotted for open access for the relevant period;
 - (v) Requirement, if any, of the State Grid Code or SLDC;
 - (vi) Future availability of power;
 - (vii) Load flow anticipated on network with outage of any one circuit running in parallel;
 - (viii) Sensitivity of load;
 - (ix) Network augmentation/reorganization plan to provide reliability in supply; and
 - (x) Other factors, which are essential and may be required to be considered to ensure safe and economic operation of the systems and safety of grid or in the interest of the consumer, if any.
- (b) For Long Term Customer, access for such wheeling shall be allowed if the capacity of the distribution system concerned supports such wheeling in accordance with the different technical guidelines on sub-transmission and distribution network declared by the Authority.

8. Provision for open access source and drawal point within the area of same Licensee:

Notwithstanding anything laid down hereinbefore, if the injection point of an open access source and open access drawal point are within the area of a single Distribution Licensee without involving any other distribution system of any other Distribution Licensee or transmission system of any other Transmission Licensee, such Open Access Customer shall pay the charges specified under regulations 14.3.5 and 14.3.6 to the Nodal Agency instead of the person as specified in the regulations concerned. Other applicable charges, however, shall be paid as per these regulations.

9. Nodal Agency:

9.1 The Nodal Agency for arranging the Long Term Open Access within the State shall be the STU if its system is used. Otherwise, the Nodal Agency shall be the Transmission or the Distribution Licensee in whose system the point of drawal of electricity is located.

9.2 The Nodal Agency for Short Term Open Access and open access for emergency requirement and trial run within the State shall be the SLDC.

10. Procedure for Granting open access:

- 10.1 (a) An Open Access Customer shall, in all other cases except the cases falling under clause (b), file an application, in the Format – 1, together with all relevant information to the Nodal Agency along with relevant details with copies to SLDC (if different from the Nodal Agency), the Transmission Licensee (if different from the Nodal Agency and who owns the transmission lines through which power is to be transmitted) and the Distribution Licensee (if different from the Nodal Agency and in whose Distribution System Network the point of drawal of power is located). Such application shall be filed along with the non-refundable applicable fees as given below:

Application Fees

(Non-Refundable for Open Access Customer)

Location of open access Drawal Point	Location of open access source	Nature of open access source for Supply/Time of Supply	Application Fees for different categories of Open Access Customers	
			Long Term	Short Term
Within West Bengal other than Hydro Pumped Storage Plant	Within West Bengal	Co-generation & Renewable	50,000.00	5,000.00
		Hydro Pumped Storage Plant	10,000.00	2,500.00
		CCGT – Combined Cycle Gas Turbine CCT* – Cleaner Coal Technology	60,000.00	7,500.00
		Others	1,00,000.00	10,000.00
	Outside West Bengal	Power for Peak Hours	5,000.00	2,500.00
		Power round the Clock	35,000.00	20,000.00
		Power for Normal Hours	15,000.00	7,500.00
		Power for Off-peak Hours	40,000.00	20,000.00
Outside West Bengal	Within West Bengal	Renewable and Co-generation	50,000.00	5,000.00
		Hydro Pumped Storage Plant	10,000.00	2,500.00
		Others	1,00,000.00	20,000.00
Power drawal by Pumped Storage Plant within West Bengal	Anywhere	Any Type	5,000.00	1,000.00

*Note: Cleaner Coal Technology means super critical pulverized coal fired thermal power technology, fluidized bed combustion, integrated coal gasification combined cycle thermal power technology, etc.

- (b) A Licensee, for using the intervening transmission facility of any other Licensee, shall apply, in Format 1, to the Commission under section 35 of the Act and the fee for such application shall be as per the application fees for respective categories as mentioned in the table in clause (a) and shall be payable to the Commission.
- (c) Any application for open access and grant of such open access is case specific in terms of capacity allotted, the injection point, drawal point and period for such open access.
- (d) Any other information/details that may be required by the concerned Transmission Licensee(s)/STU/SLDC/Distribution Licensee(s)/Commission shall be provided promptly by the applicant.

10.2 The Nodal Agency shall decide on the availability of transmission and/or wheeling capacity for open access.

10.3 *Long Term Open Access:*

- (a) The Nodal Agency shall, in consultation with the SLDC, the Transmission Licensee(s) and/or the Distribution Licensee(s) concerned, and based on system studies of the Licensee(s) concerned, if required, assess the capacity available and communicate the decision, either in Format – 2 or in Format – 2A, to the applicant within 30 days from the date of receipt of the application.
- (b) In case open access can be provided without any further system strengthening, the Nodal Agency shall give consent in the Format – 2 for Long Term Open Access to the applicant within 30 days from the date of receipt of the application.
- (c) If in the opinion of the Transmission Licensee(s) and/or the Distribution Licensee(s) further system strengthening is essential before providing Long Term Open Access, the applicant may request the Transmission Licensee(s) and/or the Distribution Licensee(s) concerned, as the case may be, to carry out system studies and preliminary investigation for the purpose of arriving at cost estimates and completion schedule for system strengthening plan. The Transmission Licensee(s) and/or the Distribution Licensee(s) concerned shall, on receipt of such request, intimate estimated expenditure for carrying out such study within thirty days from the date of receipt of such request from the applicant.
- (d) The Transmission Licensee(s) and/or the Distribution Licensee(s), as the case may be, shall carry out the studies as mentioned in clause (c) immediately on deposit of estimated expenditure by the applicant and intimate the results of the studies to the Nodal Agency, SLDC (if different from Nodal Agency), applicant, STU (if different from Nodal Agency) and Commission within 90 days from the date of deposit of amount of the estimated expenditure by the applicant.
- (e) The applicant shall bear the actual expenditure incurred by the Transmission Licensee(s) and/or the Distribution Licensee(s), as the case may be, in this respect within the limit of cost estimate intimated by the Licensee concerned. Actual expenditure shall be subject to the scrutiny of the Commission. Adjustments, if any, will be made accordingly within the ceiling of 105% of the cost estimate.
- (f) In case the system requires strengthening, subject to approval of such strengthening by the SLDC (if different from Nodal Agency) and the STU (if different from Nodal Agency), the cost for such strengthening shall initially be paid by the applicant to the concerned Licensee(s) as an advance, if it is for exclusive use of the applicant and the advance shall be refunded by the licensee(s) concerned to the Open Access Customer in seventy two equal monthly instalments. Any such extension or augmentation of the network will become the property of the Licensee(s).
- (g) In case any strengthening is required in inter-State transmission system to absorb/evacuate power beyond intra-State transmission system, the applicant shall co-ordinate with the STU and CTU concerned as deemed necessary.

10.4 **Short Term open access:**

- (a) For Short Term Open Access there will be no provision for system strengthening except the cases where the Licensee(s) concerned and the applicant mutually agree and execute necessary agreement in this regard.
- (b) The application for grant of Short Term Open Access shall be processed only if such Short Term Open Access is commencing in the first to fourth month and such open access is not ending beyond the fourth month, taking the month in which the application is made as the first month.
- (c) The application for grant of Short Term Open Access received in a month for open access in the month in which the application is made or received after the nineteenth day of a month for open access commencing and terminating in the following month shall be treated on first-come-first-served basis, and Short Term Open Access shall be granted subject to availability of the transmission and/or wheeling capacity.
- (d) All applications for Short Term Open Access, other than applications for Short Term Open Access to be processed on first-come-first-served basis in accordance with regulation 10.4(c), received up to the nineteenth day of a month, shall be considered together on the twentieth day of a month for advance reservation and shall be processed in the manner given hereunder, namely: —
 - (i) The application shall be analysed by the Nodal Agency to check for congestion on any of the transmission and/or distribution system considered to be used for such Short Term Open Access for which application is made as also for examining other technical feasibilities as deemed fit.
 - (ii) In case the Nodal Agency does not anticipate any congestion or technical limitations on any of the transmission and/or distribution system involved, the applicant shall be granted such Short Term Open Access for which application is made for the quantum and duration sought for, latest by the twenty-fifth day of the month.
 - (iii) If in the opinion of the Nodal Agency, grant of Short Term Open Access to all the applicants is likely to lead to congestion in transmission and/or distribution system to be used for Short Term Open Access for any duration, it shall inform the applicants of its opinion accordingly and the reasons therefor on or before the twenty-third day of the month.
 - (iv) On receipt of intimation in accordance with sub-clause (iii), an applicant may reduce its requirement of transmission capacity during the period of congestion or opt for Short Term Open Access only for the duration when no congestion is anticipated and in such a situation, he shall inform the Nodal Agency accordingly by the twenty-fifth day of the month.
 - (v) If the Nodal Agency still anticipates congestion in one or more of the transmission and/or distribution system to be used for Short Term Open Access, it shall invite bids through its website for reservations of transmission and/or distribution system capacity of the congested transmission and/or distribution system in accordance with regulation 10.5 on the twenty-sixth day of the month. Non-participation of an applicant in the bidding process shall be construed that such applicant is no longer interested in open access and the application of such applicant shall not be processed.

10.5 **Bidding Process for Short Term Open Access:**

- (a) The floor price for bidding for reservation of transmission or wheeling capacity shall be the charges for Short Term Open Access related to transmission or wheeling, as the case may be, as determined in accordance with regulations 14.3.1 or 14.3.2.
- (b) The bidders shall quote price in terms of the floor price.
- (c) No bidder shall be allowed to quote price, which is more than eight times the floor price in case of intra-State transmission system.
- (d) Reservation of transmission or wheeling capacity shall be made in decreasing order of the price quoted.
- (e) In case of equal price quoted by two or more bidders, the reservation of transmission or wheeling capacity shall be made *pro rata* to the transmission or wheeling capacity sought to be reserved.

- (f) The Short Term Customer getting reservation for capacity less than the capacity sought by him and the Short Term Customers getting transmission or wheeling capacity reservation equal to the capacity sought to be reserved, shall pay the charges quoted by him.

10.6 (a) **Time Schedule for Processing Application:**

In addition to the time schedule specified under regulations 10.3 and 10.4 for processing applications for advance reservation, as far as practicable, the following time schedule shall be adhered to by the Nodal Agency for processing the application for grant of open access, namely:—

Sl. No.	Type of Service/Activity	Maximum Processing Time
1.	Short term Service (for the period to be treated on first-come-first-served basis)	
	Up to one week	2 days
	More than a week	3 days

(b) Day ahead transaction:

- (i) The advance payment of transmission and wheeling charges, operating charge and application fee shall not be insisted upon if such an applicant has provided a bank guarantee valid upto the date of payment and no previous dues are there on account of any charges to the SLDC. These payments can be made within 3 working days from the date of filing the application.
- (ii) A composite request for open access and scheduling shall be sent to the SLDC through the ALDC latest by 3.00 p.m. The SLDC shall take steps to incorporate the request for open access in the schedules to be issued by the SLDC, if the request can be accommodated without causing congestion.
- (iii) A composite request for open access and scheduling to utilize surpluses known after issuance of the first despatch schedule by the SLDC at 5.00 p.m., must be submitted to the SLDC latest by 10.00 p.m. or preferably earlier. The SLDC shall endeavour to incorporate the same in the revised despatch schedule to be issued by the SLDC, if the request can be accommodated without causing congestion.

(c) Same Day Transactions:

- (i) The advance payment of transmission and wheeling charges, operating charge and application fee shall not be insisted upon. These payments can be made within 3 working days from the date of filing the application.
- (ii) In the event of emergency, the beneficiaries/buying utility may locate a source of power to meet short term emergency requirement on the same day and forward request for open access to the SLDC through the ALDC. The SLDC shall endeavour to accommodate such requests for emergency requirement as soon as and to the extent practically feasible. Open access for emergency requirement will be decided by the SLDC on requisition from Open Access Customer or generating station depending on the grid condition and State Grid Code.

(d) Open Access for Trial Run: In case of open access for trial run purpose the period shall not be more than 15 days.

10.7 In the event of a reserved transmission/wheeling capacity subsequently becoming fully or partly vacant for certain duration in a month, the SLDC shall display this information in public domain on its website along with invitations for utilization of such spare capacity through 24-hour notice period.

- 10.8 Once open access has been granted, such open access shall not be replaced by any other person on account of a subsequent request received from such other person.
- 10.9 The SLDC shall lay down a detailed procedure for reservation of transmission and/or wheeling capacity to the Short Term Customers after obtaining prior approval of the Commission, which shall include the detailed procedure for inviting bids, advance reservation, reservation on first-come-first-served basis, usage of alternative route, if any. Any further revision of the procedure shall be carried out only after obtaining prior approval of the Commission.
- 10.10 (a) While providing open access, the Nodal Agency shall not compromise with the margin of different parameters of distribution systems and/or transmission lines/systems as has been provided in the State Grid Code taking into consideration of the following aspects:
- (i) Inherent design margins,
 - (ii) Margins available due to variation in power flows and unutilized capacity, if any,
 - (iii) Margins available due to in-built spare capacity in transmission and/or distribution systems created to take care to further load growth.

Provided that, subject to regulation 28, the decision of the Nodal Agency to utilize inherent design margins for Short Term Open Access will be final.

- (b) Notwithstanding anything contained in clause (a), while providing open access, the Nodal Agency shall ensure the grid security to its satisfaction.

11. Adjudication of dispute on capacity availability:

In case of any dispute regarding availability of transmission and/or wheeling capacity for open access between the applicant/Open Access Customer and the Licensee or between Licensees or between a Licensee and the STU and/or the SLDC, as the case may be, the aggrieved party may file a petition along with all necessary documents before the Commission for adjudication / settlement of the dispute within 60 days from cause of action.

12. Agreements to be undertaken:

12.1 (a) *Open Access Agreement:*

An Open Access Customer who has been allowed open access shall enter into commercial agreements with the Transmission and/or Distribution Licensee(s), generating companies, electricity traders and others as are applicable to him. In case of open access by a consumer whose open access source is a Captive Generating Plant of which the Open Access Customer is the sole owner, no agreement between the Open Access Customer and the owner of the open access source is required. The agreements shall to the extent applicable, inter alia, provide for the eventuality of pre-mature termination of the agreement and its consequences on the contracting parties, duration of the agreement, the maximum power to be wheeled, the point of injection, the point of drawal, duration and hours of availing open access, the time slabs, payment of wheeling charges, transmission charges and other charges, mode of payment, security deposit/advance payment including manner of payment of charges, metering of injection of energy and drawal of energy, manner of meter reading and its accounting, penalty and the charges for non-compliance of the direction of the SLDC, compliance mechanism of Grid Code and State Grid Code, billing system and payment thereof.

- (b) ***Agreement with Connected Licensee or any person:*** Any person, who has been allowed open access under section 42 of the Act, shall enter into an agreement with the Connected Licensee for the purpose of getting supply of electricity (including Back-up Power, Standby Power, Incidental Power and Start-up Power) on such terms and conditions (including tariff) as may be agreed upon by them. Such agreement shall include the mode of payment to and from the Open Access Customer for mismatch of energy in drawal mode at drawal point or injection at injection point for various time slabs of the schedule, where applicable, and shall comply with the relevant provisions of different Regulations of the Commission. While agreeing to a tariff, a Distribution Licensee shall not show any undue preference to any person or class of persons or discriminate any person or class of persons:

Provided that no separate arrangement for Incidental Power is required to be made in the agreement where the unscheduled interchange charge at drawal point is applicable to the Open Access Customer as per the Tariff Regulations:

Provided further that the Distribution Licensee shall not pass any losses, arising out of such agreement, to its other consumers or other Licensees:

Provided further that such agreement needs to be consistent with the State Grid Code:

Provided further that in case of constraints for shortage of power or outage of transmission line or distribution facilities at that time when power from Connected Licensee is drawn by the Open Access Customer, the Connected Licensee may treat the Open Access Customer like other consumers for the purpose of distribution of electricity subject to the terms and conditions of the above agreement:

Provided also that any direction or order given by the Commission or the Appropriate Government as mentioned in the regulation 25 shall have overriding effect over such agreement.

(c) **Standby Power:**

In case the Open Access Customer wants Stand-by Power, the agreement mentioned in clause (b) shall provide for the arrangement of capacity charge recovery from the Open Access Customer executing such agreement against the reserved capacity on the basis of advance payment of the proportionate capacity charges of such reserved capacity for the Open Access Customer only to the extent stipulated and agreed to in the agreement in order to avail such power:

Provided that no part of such capacity charge of the reserved capacity shall be recoverable from other Open Access Customers and/or other consumers of the Licensee:

Provided further that in addition to such capacity charge, the Open Access Customer is required to pay energy charge at a tariff agreed to by the Open Access Customer and the Licensee in the agreement for the purchase of quantum of energy from such Stand-by Power source:

Provided further that no part of such energy charge for supply of energy to the said Open Access Customer from that reserved capacity shall be recovered from other Open Access Customers and/or other consumers of the Licensee.

Provided further that when generation from such stand-by capacity is not required by the Open Access Customer, the Distribution Licensee can sell the generation from such capacity to any person without affecting the right of the Open Access Customer for drawing power from such generation, as and when required, in pursuance of the agreement in order to reduce the portion of the annual aggregate revenue requirement that is to be recovered from the core-business of the Licensee and on account of consumers in his area of supply only:

Provided also that the Licensee shall have no obligation under section 43 of the Act to supply Stand-by Power:

12.2 After the agreements have been entered into, copies of the same shall be furnished to the SLDC. The SLDC shall, within 3 days from the date of receipt of the copies of the agreements, inform the Open Access Customer as also all Licensee(s) concerned the date from which the open access will be available.

12.3 The power flow under the open access allocation shall not be effected unless the agreements as per regulation 12.1 are executed and the process under regulation 12.2 is completed.

12.4 (a) If an Open Access Customer, who has been permitted to avail open access under regulation 10 or regulation 11, does not execute the open access agreements, as mentioned in regulation 12.1, within 45 days from the date of such permission, the permission to avail open access shall be deemed to have been cancelled immediately without any further notice. Once allotment of open access is cancelled, the Open Access Customer shall have to apply as a new applicant for grant of open access, if required, at a later stage.

- (b) If the period for execution of such agreements requires any further time extension on any reasonable ground, the Open Access Customer shall take prior approval from the Commission through a petition seeking extension of time, mentioning the reasons for such extensions:

Provided that such extension of time shall not be more than 90 days from the date of granting of open access.

Provided also that such extension will be allowed only if there is no other person seeking open access using the same capacity, which has been granted for allotment.

13. Non-Utilisation/Under-Utilisation of Open Access Capacity

13.1 In case an Open Access Customer is unable to utilize, full or substantial part of the capacity allotted to him, he shall inform the concerned Licensee, STU and SLDC giving reasons for his inability to utilize the capacity in full or in part, as the case may be, and may surrender the capacity allotted to him.

13.2 (a) The SLDC may reduce/cancel the allotted capacity of an Open Access Customer who is frequently under-utilizing the capacity allotted to him or not utilizing the same and if the customer is not able to give sufficient reasons within a reasonable time for such non/under-utilization.

(b) The capacity, which remains unutilized out of the allotted capacity of an Open Access Customer, cannot be transferred in favour of another person by the Open Access Customer. Grant of all open access shall be person and case specific as mentioned in regulation 10.1(c).

(c) However, if any Open Access Customer does not use his allotted open access capacity within 40 days from the date of execution of the agreements as mentioned in regulation 12, the grant of open access under regulation 10 or regulation 11 shall be deemed to have been cancelled automatically and the relevant open access agreements as per regulation 12 shall be deemed to have been terminated forthwith. Once allotment of open access is cancelled, the Open Access Customer shall have to apply as a new applicant for availing open access, if required, at a later stage.

13.3 The transmission and/or wheeling capacity becoming available as a result of surrender by the Open Access Customer under regulation 13.1 or as a result of reduction or cancellation of the reserved transmission and/or wheeling capacity by the SLDC/Nodal Agency, may be reserved for any other Open Access Customer in accordance with these regulations.

13.4 An Open Access Customer, whose capacity has been reduced or cancelled, shall, in addition to discharging his contractual obligations, pay full charge for scheduling and system operation, as has been fixed by the Commission from time to time on full open access capacity allotted to him for the remaining period of the allocation. However, if the unutilized capacity is being used by any other Open Access Customer or any Licensee, proportional charges are to be borne by the original Open Access Customer to the extent of under-utilisation.

13.5 Notwithstanding any allocation for open access, it shall be lawful for the Distribution Licensee to utilize for the purpose of effecting supply for other purposes (except providing open access to any other Open Access Customer), at any point of time, any portion of allotted capacity, if and to the extent found underutilized by the Open Access Customer.

13.6 The Open Access Customer, the Licensee(s), the generating company(ies) and the electricity trader(s) shall be liable / responsible to follow the instructions of the SLDC from time to time in regard to optimum scheduling in despatch of electricity, safe and secured grid operation, keeping records for energy accounting, grid discipline, economic operation of the relevant grid in accordance with the Grid Code and State Grid Code. The Open Access Customer, the generating company(ies), the Licensee(s) and the electricity trader(s) shall follow the provision of the Act, applicable Rules, Regulations and Codes. Flow of power between point of injection and drawal should be on real time basis.

13.7 The relinquishment of rights and obligations by a Long Term Customer shall be subject to payment under regulation 13.4 and/or payment of fixed/capacity charges applicable, if any, of the Licensee concerned for the rest of the period, as may be determined by the Commission.

14. Charges for open access:

14.1 Different charges for use of the facilities of a Transmission Licensee or a Distribution Licensee shall be regulated as under:

14.2 In case intra-State transmission system and/or distribution system within the State is used by an Open Access Customer in addition to inter-State transmission system, separate charges shall be payable for the power being conveyed on intra-State transmission system and/or distribution system in addition to payment of transmission and other charges for inter-State system. The Open Access Customer shall directly pay the charges to the respective agencies providing open access as specified/determined by the Commission.

14.3 For the purpose of these regulations, the charges for intra-State transmission system and distribution system shall mean charges and expenses on account of the following heads:

14.3.1 *Transmission Charges:*

(a) Transmission charges will represent charges for conveyance of electricity through transmission lines and associated system of a Transmission Licensee and will be determined by the Commission from time to time as per the Tariff Regulations.

(b) Transmission charges for all Open Access Customers shall be calculated according to the Tariff Regulations. The same shall be expressed in Rs/MW/month for Long Term Customers and in Rs/MW/day for Short Term Customers on the basis of MW served by the system.

(c) The Annual Transmission Service Charges (TSC) payable to the Transmission Licensee in the year of publication of these regulations shall be such as decided by the Commission on the basis of available data or as per tariff order in this respect, if any, in accordance with the Tariff Regulations.

(d) For subsequent years the TSC shall be shown in the transmission tariff order as determined under the Tariff Regulations.

(e) The Transmission Service Charges payable by a Short Term Customer shall be calculated in accordance with the following methodology:

$$ST_RATE = 0.25 \times [TSC / Av_CAP] / 365$$

Where:

- (i) ST_RATE is the rate for Short Term Customer in Rs. per MW per day;
- (ii) ST_RATE shall be calculated and applied for transmission system of the STU or any other Transmission Licensee forming part of intra-State transmission system.;
- (iii) "TSC" means the Annual Transmission Service Charges as specified in the Tariff Regulations.
- (iv) "Av_CAP" means the average capacity that is actually transmitted for Long Term Customer in MW as will be decided by the Commission or as will be determined in the relevant transmission tariff order, if any, by the Commission in accordance with the Tariff Regulations.

- (f) The transmission charges payable by a Short Term Customer in case of uncongested transmission network shall be levied as under, namely:

<u>Hours of open access per day</u>	<u>Proportion of Transmission charge</u>
(i) Up to 6 hours in a day in one block	1/4th of transmission charge of relevant Short Term Customer.
(ii) More than 6 hours and up to 12 hours in a day in one block	1/2 of transmission charge of relevant Short Term Customer
(iii) More than 12 hours and up to 24 hours in a day in one block	Equal to transmission charge of relevant Short Term Customer :

Provided that the above rates are not applicable to those Short Term Customers who have their drawal point within the State and injection point outside the State:

Provided also that the transmission charges payable by a Short Term Customer where capacity has been reserved through bidding process shall be as per regulation 10.5.

- (g) For using intervening transmission facility the transmission charges shall also be applicable for respective categories of Open Access Customers.

14.3.2 Wheeling Charges:

- (a) The wheeling charges will represent the charges for the use of the distribution system and associated facilities of a Distribution Licensee for conveyance of electricity through such distribution system and associated facilities and will be determined by the Commission from time to time in accordance with the Tariff Regulations.
- (b) Wheeling charges payable to the Distribution Licensee in the year of publication of these regulations shall be such as decided by the Commission on the basis of available data or as per tariff order in this respect, if any.
- (c) For subsequent years the wheeling charges for the Distribution Licensee shall be shown in the wheeling tariff order as determined under the Tariff Regulations. The wheeling charge (WC) applicable for different Open Access Customers shall be declared in the relevant wheeling tariff order including following types of Open Access Customers:

Location of open access Drawal Point	Location of open access source	Nature of open access source for Supply/Time of Supply
Within West Bengal other than Hydro Pumped Storage Plant	Within West Bengal	Co-generation & Renewable
		Hydro Pumped Storage Plant
		CCGT* – Combined Cycle Gas Turbine CCT* – Cleaner Coal Technology
		Others
	Outside West Bengal	Power for Peak Hours
		Power round the Clock
		Power for Normal Hours
		Power for Off-peak Hours
Outside West Bengal	Within West Bengal	Non-conventional, Renewable, Co-generation
		Hydro Pumped Storage Plant
		Others
Power drawal by Pumped Storage Plant within West Bengal	Anywhere	Any Type

*Note: Cleaner Coal Technology means super critical pulverized coal fired thermal power technology, fluidized bed combustion, integrated coal gasification combined cycle thermal power technology, etc.

- (d) For Short Term Customer, the wheeling charge shall be 80% of the wheeling charge of the Long Term Customer of respective category:

Provided that such wheeling charge shall be as per regulation 10.5 where the capacity has been reserved through bidding process.

14.3.3 Reactive Energy charges:

Reactive energy charges shall be such as given in the Schedule.

14.3.4 Meter reading and other related charges:

Meter reading and other related charges shall be such as given in the Schedule.

14.3.5 Handling and Service charges:

The Handling & Service charges shall be such as given in the Schedule.

14.3.6 Fee and charges payable to SLDC:

The fee and charges payable to SLDC under sub-section (3) of section 32 of the Act shall be such as may be specified by the Commission from time to time.

14.3.7 Un-scheduled Interchange charges in drawal/injecting energy:

(a) A twenty-hour day-ahead schedule shall be submitted by the Open Access Customer for both drawal and injection of active power on 15-minute time block basis to the SLDC as specified in the Tariff Regulations. Un-scheduled interchange charges for deviation from the Schedule shall be paid at such rates as specified in the Tariff Regulations.

(b) Notwithstanding anything specified hereinbefore, if the injection point of an open access source and open access drawal point are within the area of a single Distribution Licensee without involving any other distribution system of any other Distribution Licensee or transmission lines of any other Transmission Licensee, such Open Access Customer shall pay un-scheduled interchange charges for deviation from the Schedule to the Distribution Licensee at a suitable rate as agreed under any agreement between the Distribution Licensee and the Open Access Customer:

Provided that the Distribution Licensee shall not pass any losses, arising out of such agreement, to its other consumers or other Licensees.

14.3.8 Transmission Access Charges:

Any Intending Transmission System User is entitled to obtain access to the intra-State transmission system in accordance with these regulations subsequent to payment of Transmission System Access Charges (TSAC) to the Transmission Licensee concerned as agreed to in Bulk Power Transmission Agreement when such TSAC consists of the following expenditure:

(a) Where the access of the Intending Transmission System User to the intra-State transmission system entails works of transmission lines or other transmission assets exclusive to such user, the said Transmission Licensee shall be entitled to recover, through the Transmission System Access Charges, all expenses reasonably incurred on such works for providing access to such Intending Transmission System User.

(b) Where the access of the Intending Transmission System User entails other works not covered under these regulations, relating to the intra-State transmission system, the said Transmission Licensee shall recover the expenses relating to such works through TSAC in accordance with these regulations.

14.3.9 Distribution Access Charges:

Any Intending Distribution System User is entitled to obtain access to the distribution system in accordance with these regulations subsequent to payment of distribution System Access Charges (DSAC) to the Distribution Licensee concerned as agreed to in Bulk Power Wheeling Agreement when such DSAC consists of the following expenditure:

(a) Where the access of the Intending Distribution System User to the distribution system entails works of distribution lines or other distribution assets exclusive to such user, the said Distribution Licensee shall be entitled to recover, through the Distribution System Access Charges, all expenses reasonably incurred on such works for providing access to such Intending Distribution System User.

(b) Where the access of the Intending Distribution System User entails other works not covered under these regulations, relating to the distribution system, the said Distribution Licensee shall recover the expenses relating to such works through DSAC in accordance with these regulations.

14.3.10 *Cross-subsidy surcharge (if applicable):*

- (a) An Open Access Customer shall pay cross-subsidy surcharge, as may be determined by the Commission, in addition to charges for using the transmission and/or distribution systems.
- (b) Cross-subsidy surcharge shall be the difference between tariff applicable for the category of consumers being allowed open access and the cost avoided (per unit) by the Licensee in this regard.

Explanation: For the purpose of these regulations, avoided cost shall be computed as under:

$$\frac{\text{Weighted average of unit cost of pooled power purchase variable cost* and own generation fuel cost (against sent out energy), if any per unit}}{(100 - T \& D \text{ Loss in percentage as allocable for the relevant open access case}) \times 0.01} + \text{Wheeling charges per unit as applicable to the relevant open access case}$$

*Where the power purchase cost is in single part the separation of capacity cost and variable cost will be as per the decision of the Commission.

- (c) The amount of such surcharge shall be reduced and eliminated in the same manner as may be specified for reduction and elimination of cross subsidies.
- (d) The amount of such surcharge shall be fixed by the Commission from time to time keeping in view the projected admitted cost of the Licensee for the relevant period.
- (e) No surcharge shall be levied in case open access is provided to a person for carrying the electricity produced in a Captive Generating Plant to the destination of his own use. Exemption of cross subsidy surcharge shall be allowed only to the extent of the owner's consumption of power from such Captive Generating Plant, but limited to each such user's proportional equity holding in such plant.

14.3.11 *Additional Surcharge (if applicable):*

- (a) A consumer availing open access and receiving supply of electricity from a person other than a Distribution Licensee of his area of supply, shall pay the Distribution Licensee an additional surcharge in addition to any other charges including distribution wheeling charges and surcharge(s) to meet the fixed cost of such Distribution Licensee arising out of his obligation to supply in accordance with sub-section (4) of section 42 of the Act.
- (b) The Commission shall fix the amount of additional surcharge through individual orders in a case specific manner keeping in view the amount of fixed/capacity cost as has been allowed by the Commission to such Distribution Licensee from year to year basis.
- (c) The additional surcharge shall be decided and leviable for such period as the Commission may determine, keeping in view, inter-alia, sales growth.

14.3.12 On an application by any Licensee, the Commission may, by order, require any other Licensee owning or operating intervening transmission facilities to provide the use of such facilities to the extent of surplus capacity available with such Licensee at rates, charges and terms and conditions as may be mutually agreed upon:

Provided that any losses incurred for such agreement shall not be allowed to be recovered through the tariff from other consumers or Licensees.

Provided also that if the rates, charges and terms and conditions cannot be mutually agreed upon by the Licensees, the rates, charges and terms and conditions as specified in these regulations shall apply.

14.3.13 *Charges through Rule:*

Any other charges prescribed under any Rule is to be borne by the Open Access Customer if it is applicable to him.

14.4 For the purpose of these regulations:

- (a) The surcharge(s) to be recovered from the Open Access Customers shall be such as will be fixed by the Commission from time to time in line with these regulations.
- (b) The Open Access Customers within the State who are exclusively availing inter-State transmission system shall also pay applicable surcharge (s), to the extent applicable.
- (c) The surcharge(s) shall be payable to the Distribution Licensee concerned of the area of supply where the Open Access Customer's point of drawal of power is situated / located. In case multiple Licensees exist within the same area, the surcharge(s) shall be payable to the Distribution Licensee of whom the Open Access Customer is a consumer or was a consumer just before availing the open access.

14.5 **Technical Loss Allocable:**

The technical loss for transmission and distribution system for different voltage level will be as under for the purpose of these regulations:

- EHV — 4% of the energy at the point of injection at this voltage level.
HV — 8% of the energy at the point of injection at this voltage level.
LV&MV — As will be determined by the Commission from time to time.

14.6 **Energy Accounting:** Energy accounting will be as per Balancing and Settlement Code as specified in the Tariff Regulations.

15. **Mode of payment of fees and charges:**

- 15.1 Non-refundable application fees shall be submitted by an Open Access Customer to the Nodal Agency along with the application for open access in terms of regulation 10.1(a).
- 15.2 Advance payment for full amount of MW booked for a calendar month towards transmission charges, meter rent, meter reading and related charges shall be made by an Open Access Customer to the respective Licensees.
- 15.3 Wheeling charges, unscheduled interchange charges, reactive energy charges, cross subsidy surcharge and additional surcharge, if any, shall be paid by an Open Access Customer on monthly basis as per the weekly accounts prepared by SLDC and shall be paid to the respective Licensees within fifteen days from the date of presentation of the bill.
- 15.4 Handling & Service charges shall be paid by an Open Access Customer on monthly basis on the basis of accounts prepared by SLDC for the month within seven days from the date of issue of monthly accounts.
- 15.5 Late Payment Surcharge, as determined by the Commission through the latest relevant Tariff Order, shall be payable by an Open Access Customer for any payment after the due date.
- 15.6 Any default in advance payment of relevant charges may cause discontinuation of open access facility.

16. Formats for application and grant of open access:

- 16.1 The application format for grant of open access is given as Format-1 in Annexure-1
- 16.2 The format for providing consent for open access is given as Format-2 in Annexure-2. The format for communicating decision on open access, where immediate open access cannot be granted is given as Format 2A in Annexure-2.

17. Metering and Accounting:

- 17.1 The Connected Licensee(s) contracting to effect supply, shall provide the main meters, which must be ABT compliant and shall be as per direction of the Nodal Agency for such customer based on voltage, period of supply, and other relevant factors. The meters shall be provided at the point of injection and at the point of drawal and, if required, at any inter-connecting point. The cost of meters is to be borne by the concerned Open Access Customer.
- 17.2 The Connected Licensee(s)/Transmission Licensee(s) contracting to effect supply to an Open Access Customer shall also provide main meters at interconnecting points as may be directed by the Nodal Agency to facilitate energy accounting of, *inter alia*, RLDC concerned and SLDC. The cost of meters is to be borne by the Open Access Customer concerned.
- 17.3 The arrangements for communication equipment, as may be necessary, shall also be made available by the Open Access Customer as per the direction of the SLDC.
- 17.4 The Connected Licensee(s)/Transmission Licensee(s) shall also provide check meters at the cost of the Open Access Customer concerned of the same specification as of main meters at or around the same locations subject to due intimation to the Open Access Customer and the SLDC.
- 17.5 The main and check meters shall be periodically tested and calibrated by the Licensee concerned in the presence of other parties involved. The main and check meters shall be sealed by both the parties. The defective meters shall be replaced immediately at the cost of the party concerned.
- 17.6 Reading of main and check meters shall be taken periodically by the authorised representative of the Licensee concerned and the Open Access Customer or his representative, if present. Meter reading shall be communicated to the SLDC, Open Access Customer, STU, relevant generating company, electricity trader, Connected Licensee, Distribution Licensee and Transmission Licensee, as the case may be, by the Licensee concerned within 48 hours. Check meter readings shall be considered when main meters are found to be defective or stopped.
- 17.7 Main and check meters shall have facility to communicate its reading to the SLDC on real time basis or otherwise as may be directed by the SLDC.
- 17.8 The term meter shall include current transformers, voltage/potential transformers wiring between them and meter box/panel.

18. Communication Facility:

- 18.1 An Open Access Customer shall provide for all actual costs towards the equipment for communication upto the nearest grid sub-station or the SLDC, as the case may be, for two communication channels for communicating the meter reading on real time basis. In case there is more than one Open Access Customer for such point of area of meter reading, then they will share such cost. An Open Access Customer shall also provide facilities for communication with the control room of the Connected Licensee concerned.
- 18.2 An Open Access Customer shall set up a round-the-clock control room to take instructions from the SLDC and/or communication with the Licensee and others through telephone, mobile phone, fax, e-mail, etc.

19. Other Commercial Conditions:

- 19.1 The security deposit equivalent to the total transmission charges, wheeling charges and all other charge(s) and surcharge(s) as may be applicable, shall be kept with the concerned Licensee/connected Licensee and shall be equal to average energy billing including surcharge, additional surcharge and other charges for at least 3 months. The security deposit shall be in the form and the manner as has been specified by the Commission in its relevant Regulations.
- 19.2 The bills would be raised on monthly basis and shall be paid by the Open Access Customer concerned within 10 days of the presentation of the bill, failing which late payment surcharge shall be levied as determined by the Commission through the latest relevant tariff order and action to disconnect the arrangement shall be taken by the Licensee concerned under due intimation to the SLDC, Transmission Licensee and other concerned parties.
- 19.3 The surcharge and additional surcharge to the extent fixed by the Commission shall be paid to the concerned Distribution Licensee on monthly basis through the monthly bill raised for transmission/wheeling of energy.

20. Compliance with Grid Discipline:

- 20.1 (a) The Open Access Customer and other authorities connected with such open access, shall abide by the Grid Code and State Grid Code and the instructions given by the SLDC and other relevant authorities, if any, as applicable from time to time as per the provisions of the Act, Rules and the Regulations. Open Access Customer shall abide by all other applicable Codes/Regulations/Rules.
- (b) The Open Access Customer shall be guided by the factors as mentioned in regulation 25.
- 20.2 The Open Access Customer shall also abide by the Act, Rules, Regulations, directions, guidelines and orders of the Commission from time to time.
- 20.3 Subject to the provisions of regulation 13, any person, granted open access before these regulations came into force, shall continue to be an Open Access Customer till expiry of the period for which such open access has been granted to him.

21. Curtailment Priority:

- 21.1 When because of constraints or otherwise, it becomes necessary to curtail open access services of the Open Access Customer, curtailment shall be made in the reverse order of allotment priority as has been specified in these regulations.
- 21.2 When because of transmission and/or wheeling constraints or otherwise, it becomes necessary to curtail the transmission and/or wheeling service of the Open Access Customers, such service to the Short Term Customers shall be curtailed first followed by the Long Term Customers:

Provided that within a category, all Open Access Customers shall have same curtailment priority and shall be curtailed pro rata to the allotted transmission and/or wheeling capacity in the case of Long Term Customers and the reserved transmission and/or wheeling capacity in the case of Short Term Customers:

Provided also that during emergency requirement, as decided by the SLDC or the ALDC, the curtailment may be as per decisions of the ALDC and/or the SLDC.

22. Transmission and Wheeling charges for Short Term Customers in case of Curtailment:

- 22.1 In case of curtailment of more than 50% of the reserved transmission capacity by the SLDC on any particular day on account of transmission constraints, the transmission charges for that day shall be payable by the Short Term Customers on pro rata basis in accordance with the transmission capacity actually provided.

22.2 In case of curtailment of more than 50% of the reserved wheeling capacity by the ALDC on any particular day on account of wheeling constraints, the wheeling charges for that day shall be payable by the Short Term Customers on pro rata basis in accordance with the wheeling capacity actually provided.

23. Other Obligations of the Licensees:

23.1 It is the obligation of the Licensee to adequately maintain and provide open access to the Open Access Customers without any discrimination subject to the provisions of the Act and the Regulations and maintain the transmission and distribution systems in proper manner.

23.2 The Licensee shall be deemed to have failed to provide the requisite services, if it is not able to provide atleast – (a) in case of transmission and necessary facilities – 95% of the time in a year ending 31st March and (b) in case of distribution system – 90% of the time in a year ending 31st March. The Commission may provide for charges, which the Licensee has to pay to the Open Access Customers if the target network availability is not met. However, the same shall not include non-availability due to outages or failure of upstream transmission system and/or generating stations, which are not assets of the Licensee concerned or any Force Majeure Event.

24. Information System:

The SLDC, STU and Licensee concerned shall post the information as may be directed by the Commission from time to time on its website in a separate page titled “Open Access Information” and shall issue a quarterly report containing such information.

Every Transmission Licensee shall declare the existing Long Term Customers using its transmission system (including self use) on its website or the website of the State Load Despatch Centre concerned latest by 1. 4. 2008.

25. Obligation under Sections 11 and 23 of the Electricity Act, 2003:

(i) In pursuance to section 11 of the Act, any part of generation of any generating station dedicated for supply under open access agreement for either own use or for any consumer of a Licensee or for any other person, may have to withdraw or reduce such supply in extraordinary circumstances for any period as may be directed by the Appropriate Government.

(ii) In pursuance of section 23 of the Act or any Regulations for maintaining the efficient supply, securing the equitable distribution of electricity and promoting competition, the Open Access Customer shall abide by the order of the Commission for regulating supply, distribution and consumption or use thereof issued upon him directly or as a consequence to any order of the Commission on the Distribution Licensee of whom he is a consumer or from whom he is drawing power as an open access source.

26. Power to Intervene:

In case of any unethical practice or gaming by any person including an Open Access Customer, through power injection or drawal or change of status, the Commission may, by order, issue necessary directions which shall be binding on all parties concerned.

27. Powers to Remove Difficulties:

If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, direct the STU, SLDC, Licensees, electricity traders, generating companies and Open Access Customers to take such action, not inconsistent with the Act, as may appear to the Commission to be necessary or expedient for the purpose of removal of the difficulty.

28. Dispute Resolution:

28.1 In the event of any dispute on any or all of the following, the same shall be referred to the Commission for decision:

- (a) Available capacity of the system,
- (b) Operational constraints,
- (c) Charges to be recovered,
- (d) Eligibility for open access,
- (e) Allotment/Curtailment priority, etc.

28.2 The Commission, while deciding any dispute under these regulations or otherwise, by a general or special order made from time to time, may lay down, if required, the conditions to be complied with by the Licensees concerned, STU, SLDC and Open Access Customer in regard to operation constraints and the open access shall be allowed only subject to the due satisfaction of such conditions.

29. Power to Amend:

29.1 The Commission, at any point of time, at its own discretion, may vary, alter, modify, add or amend any provisions of these regulations.

29.2 The Commission may, at any time and at its discretion, modify the Schedule through notification.

29.3 Nothing in these regulations shall be deemed to limit or otherwise affect the inherent powers of the Commission to make such orders as may be necessary for meeting ends of justice or to prevent the abuse of the process of the Commission.

30. Repeal:

30.1 The West Bengal Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2005 issued under Notification No. 20/WBERC dated 30th June 2005 and published in the *Kolkata Gazette, Extraordinary*, on 30th June 2005 and The West Bengal Electricity Regulatory Commission (Terms and Conditions for Open Access – Schedule of Charges, Fees & Formats for Open Access) Regulations, 2005 issued under Notification No. 21/WBERC dated 21st September 2005 and published in the *Kolkata Gazette, Extraordinary*, on 21st September 2005 are hereby repealed.

30.2 Notwithstanding such repeal, anything done or any action already taken under the repealed Regulations, shall in so far as it is not inconsistent with the West Bengal Electricity Regulatory Commission (Open Access) Regulations, 2007, be deemed to have been done or taken under the corresponding provisions of the West Bengal Electricity Regulatory Commission (Open Access) Regulations, 2007.

SCHEDULE

(See regulations 14.3.3, 14.3.4 and 14.3.5)

A. Reactive energy charges:

If the voltage at the point of drawal is below 97% of the normal voltage, the Open Access Customer shall pay @ 6 paise/kvarh to the concerned Licensee for drawal of reactive energy at the drawal point. If at the injection point the voltage is higher than 103% of normal voltage, the Open Access Customer shall pay @ 6 paise/kvarh to the concerned Licensee for injection of reactive energy at the point of injection. Both drawal and injection of reactive energy shall be measured at 15 minutes time block along with voltage.

B. Meter reading and other related charges:

Charges for meter reading and other related charges including the charge for communicating the meter reading to SLDC shall be paid by the Open Access customers @ Rs. 2,000.00 per month for each meter and shall be paid to the Licensee, who is rendering such services, on monthly basis.

C. Handling and Service charges:

- (i) Handling and Service charges @ 1.5% on the sum of transmission charges and wheeling charges shall be payable to SLDC on monthly basis by an Open Access Customer having any open access source other than a cogeneration and non-conventional/renewable energy source.
- (ii) Handling and Service charges @ 0.5% on the sum of transmission charges and wheeling charges shall be payable to SLDC on monthly basis by an Open Access Customer having a co-generation and non-conventional/renewable energy source as his open access source.

Format - 1

**APPLICATION FOR GRANT OF OPEN ACCESS
(To be submitted by Open Access Customer)**

[See regulations 10.1 (a) &(b) and 16.1]

- 1. Application No. Date:
- 2. Name of the Applicant :
- 3. Address for Correspondence
Phone No. (Off): (Fax)
Email id: :
- 4. Category of Applicant (Please mark as appropriate) : Long Terms Open Access
Short Term Open Access
- 5. Nature (In case of overlapping, please fill in all the relevant items)—

- (a) Distribution Licensee :
- (b) Power fully based on co-generation within the State :
- (c) Power fully based on wind :
- (d) Power fully based on hydro and wind :
- (e) Power fully based on non-conventional/renewable sources of energy other than hydro and wind :
- (f) Power from captive generation based on gas :
- (g) Power from captive generation based on coal :
- (h) Power from captive generation based on oil :
- (i) Other sources, if any not covered under (a) to (g) :

(Licensees to submit licences valid under the Act. Others to submit documentary evidence in support of above.)

6. Coordinator Details – Applicant

- Name :
- Designation :
- Phone Numbers (Off): (Res):
(Fax): (Mobile):
e-mail id :

7. Capacity Applied—

Period		Time Period		Capacity needed / Max. power to be conveyed
From (Date)	To (Date)	From (Hrs.)	To (Hrs.)	(MW)

8. Injecting Agency Details:

- Name :
- Point of Injection :
- Name of concerned SLDC :

ANNEXURE – I
(Continued)

9. Drawee Agency Details:

Name :
 Point of Drawal :
 Name of concerned SLDC :

10. Name and details of other agencies involved, if any :

11. Non-Refundable Application Fee in terms of regulation (3)

(Please mark as appropriate)

Long Term Open Access :

Short Term Open Access :

Bank Draft/Pay Order No. :

Dated:

In favour of :

Payable at :

12. Short notes may be attached covering the following (to the extent relevant):

- (a) Generation planned.
- (b) Power purchase contracted.
- (c) Power factor.
- (d) Potential hazards concerning public safety in line with the Environment (Protection) Act, 1986 and other applicable laws.
- (e) Reactive compensation programme.
- (f) Harmonic distortion.
- (g) Peak load.
- (h) Average load.
- (i) Periods with time slab in line with concerned Grid Code(s).
- (j) Any other information as may be required.

13. (a) It is hereby certified that all agencies (including buyer, seller, trader etc.) to the transaction shall abide by the provisions of the "West Bengal Electricity Regulatory Commission (Open Access) Regulations, 2007".

(b) The applicant hereby agrees to keep the concerned SLDC, STU, Transmission Licensee and Distribution Licensee indemnified at all times and undertakes to indemnify, defend and save the concerned SLDC, STU, Transmission Licensee and Distribution Licensee harmless from any and all damages, losses, claims and actions relating to injury to or death of any person or damage to property, demands, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the transactions under this Approval.

ANNEXURE – 1
(Concluded)

- (c) Any other information/details that may be required by the concerned Transmission Licensee(s)/STU/SLDC/Distribution Licensee shall be provided promptly by the applicant.

Signature:

Name:

Designation:

Seal of the office of the Applicant:

Place:

Dated:

Enclosures:

1. Copy of Agreements/MOUs.
2. Bank draft/Pay Order.
3. Copy of Licence/supporting documents, as applicable.
4. Notes (Please see Item 12).

Copy:

- (a) SLDC (if different from the Nodal Agency).
- (b) Transmission Licensee (if different from the Nodal Agency and who owns the transmission line through which power is to be transmitted).
- (c) Distribution Licensee (if different from the Nodal Agency and in whose distribution network the point of drawal of power is located).

Note: In the event the application is made under regulation 10.1(b), full particulars relating to the intervening transmission facility are to be provided in the application.

Date & Time of Receipt of Application	(To be filled in by Nodal Agency)
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ANNEXURE - 2

Format - 2**CONSENT FOR OPEN ACCESS**

(To be issued by Nodal Agency/SLDC)

[See regulations 10.3 (a) & (b) and 16.2]

1. Consent No. _____ Date: _____

2. Name of the Customer _____ :

3. Name of Injecting Agency _____ :

4. Name of Drawee Agency _____ :

5. Name of other Agencies involved, if any _____ :

6. Open Access Capacity Applied _____ :

Period

Time Period

Capacity needed / Max. power
to be conveyed (MW)

From (Date) To (Date)

From (Hrs.) To (Hrs.)

7. Open Access Capacity Approved _____

Period

Time Period

Capacity needed / Max. power
to be conveyed (MW)

From (Date) To (Date)

From (Hrs.) To (Hrs.)

8. Point of Injection _____

9. Point of Drawal _____

10. Name of concerned SLDC _____

11. Name of concerned ALDC _____

12. This approval is subject to full payment of requisite charges made by applicant on or before the due date as specified by the West Bengal Electricity Regulatory Commission.

13. This approval is subject to—

(a) The Licensee holding a licence valid under the Act.

(b) The West Bengal Electricity Regulatory Commission (Open Access) Regulations, 2007.

(c) The responsibility of ensuring compliances with the provisions of the Electricity Act, 2003, applicable Rules and Regulations/Codes shall lie with the Applicant/Open Access Customer.

(d) Signing of an Agreement/MOU and furnishing of following information:

Agreement/MOU Details (needs to fill up only relevant agreement details)

With	No.	Date	Valid up to	Max. MW	Capacity already Utilized earlier	Balance MW

Signature: _____

Name: _____

Designation: _____

Seal of the office of the Nodal Agency/SLDC

Place: _____

Dated: _____

To: _____

(Applicant)

Copy:

(a) SLDC (if different from the Nodal Agency).

(b) Transmission Licensee (if different from the Nodal Agency and who own the transmission line through which power is/are to be transmitted).

(c) Distribution Licensee (if different from the Nodal Agency and in whose distribution network the point of drawal of power is located).

ANNEXURE - 2

Format - 2A**DECISION ON OPEN ACCESS, WHERE IMMEDIATE****OPEN ACCESS CANNOT BE GRANTED**

(To be issued by Nodal Agency / SLDC)

[See regulations 10.3 (a) & (b) and 16.2]

- | | | | | | |
|--|---|-------------|-------------|---|-----------|
| 1. Name of the Customer | : | | | | |
| 2. Name of Injecting Agency | : | | | | |
| 3. Name of Drawee Agency | : | | | | |
| 4. Name of other Agencies involved, if any | : | | | | |
| 5. Open Access Capacity Applied | : | | | | |
| | | Period | Time Period | Capacity needed / Max. power
to be conveyed (MW) | |
| | | From (Date) | To (Date) | From (Hrs.) | To (Hrs.) |

6. Open Access cannot be granted immediately due to the following reasons:
(Attached sheets, if required, including extracts of relevant correspondence with appropriate Licensees)

Signature:

Place:

Name:

Dated:

Designation:

Seal of the office of the Nodal Agency/SLDC

To:

(Applicant)

Copy:

- SLDC (if different from the Nodal Agency);
- Transmission Licensee (if different from the Nodal Agency and who own the transmission line through which power is/are to be transmitted).
- Distribution Licensee (if different from the Nodal Agency and in whose distribution network the point of drawal of power is located).

By Order of the Commission,

Place: Kolkata

Date: 12.04.2007

K. L. BISWAS,
Secretary of the Commission.