

**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
(DISTRIBUTION OPEN ACCESS) REGULATIONS, 2016**

Electricity Act, 2003

No./MERC/Tech/Open Access Distribution/Regulations/2016/01742

In exercise of the powers conferred by sub-sections (1) and (2) of Section 181 read with sub-section (47) of Section 2, sub-clause (ii) of clause (d) of sub-section (2) of Section 39, sub-clause (ii) of clause (c) of Section 40 and sub-section (2), sub-section (3) and sub-section (4) of Section 42 of the Electricity Act, 2003 (36 of 2003), the Maharashtra Electricity Regulatory Commission hereby makes the following Regulations.

Part A: PRELIMINARY

1. Short Title, extent and commencement

- 1.1. These Regulations may be called the Maharashtra Electricity Regulatory Commission (Distribution Open Access) Regulations, 2016.
- 1.2. These Regulations shall apply for Open Access to and use of the Distribution System of Distribution Licensees in the State of Maharashtra, and where the network of the Distribution Licensee is not being used but supply to an Open Access Consumer is being provided within the distribution area of the Distribution Licensee.
- 1.3. These Regulations shall come into force from the date of their publication in the *Official Gazette*.

2. Definitions

- 2.1. In these Regulations unless the context otherwise requires:
 - (1) "Act" means the Electricity Act, 2003 (36 of 2003) as amended from time to time;

- (2) "Admissible Drawal" or "Allotted Capacity" means the power transfer in MW between the specified point(s) of injection and point(s) of drawal allowed to a Consumer or Generating Station or a Distribution Licensee on the Distribution System;
- (3) "Balancing and Settlement Code" means such Code as may be developed by the Maharashtra State Load Despatch Centre and approved by the Commission for the balancing of energy accounts and settlement of differences between energy scheduled and actual energy delivered among the users of the grid in the State of Maharashtra;
- (4) "Banking" means the surplus Renewable Energy injected in the grid and credited with the Distribution Licensee after set off with consumption in the same Time of Day slot as specified in Regulation 20;
- (5) "Bilateral transaction" means a transaction for exchange of energy between a specified buyer and specified seller(s), directly or through Trading Licensee or Power Exchange, for a fixed or varying quantum of power for any time period;
- (6) "Billing Demand", for the purpose of these regulations in respect of a Partial Open Access Consumer, will be the higher of the following:
 - (1) Actual Maximum Demand recorded less Open Access Demand availed by Partial Open Access Consumer in the month during 0600 hours to 2200 hrs;
 - (2) 50% of retained Contract Demand with the Licensee;
- (7) "Central Commission" or "CERC" means the Central Electricity Regulatory Commission;
- (8) "Change-over Consumer" means a Consumer who was taking supply from a Distribution Licensee through its distribution network and who has changed over to another Distribution Licensee for such supply but continues to be connected to the distribution network of the first Licensee for that purpose;

- (9) "Collective Transaction" means a set of transactions discovered in Power Exchange through anonymous, simultaneous competitive bidding by buyers and sellers;
- (10) "Commission" or "MERC" means the Maharashtra Electricity Regulatory Commission;
- (11) "Congestion" means a situation where the demand for distribution capacity exceeds the Available Transfer Capability;
- (12) "Connection" means the connection of the premises of a Consumer with the Distribution System of the Distribution Licensee so as to enable the transfer of electricity between such premises and Distribution System;
- (13) "Connection Agreement" means the agreement to be entered into on approval of grant of Connectivity between a Distribution Licensee and Generating Station or a captive generating plant or a Consumer or a Licensee, as the case may be;
- (14) "Connectivity" for a Generating Station, including a captive generating plant, or a Licensee means the state of getting connected to the Distribution System;
- (15) "Consumer" shall carry the same meaning as in the Act, but shall be restricted to such consumers within the State of Maharashtra;
- (16) "Consumer Grievance Redressal Forum" means the forum established by the Distribution Licensee in pursuance of the Regulations of the Commission governing redressal of consumer grievances;
- (17) "Contract Demand" means the demand in kilovolt ampere ('kVA') or Megavolt ampere ('MVA') as mutually agreed between the Distribution Licensee and the Consumer
- (i) in the agreement for supply of electricity; or

- (ii) through other written communication;

Provided that the unity power factor shall be considered for the purpose of unit conversion from MVA/kVA to MW/kW.

- (18) "Day" means the day starting at 00.00 hours and ending at 24.00 hours;
- (19) "Electricity Supply Code" means the Regulations specified by the Commission under clause (u), clause (v), clause (w), clause (x) and clause (zp) of sub-section (2) of section 181 read with Section 50 of the Act;
- (20) "Full Open Access Consumer" means an Open Access Consumer who maintains zero demand with the Distribution Licensee in whose area of supply he is located in order to cater to his load requirement;
- (21) "Indian Electricity Grid Code" means the Code specified by the Central Commission under clause (h) of sub-section (1) of Section 79 of the Act;
- (22) "Long-term Open Access or "LTOA" means the right to use the Distribution System for a period exceeding twelve years but not exceeding twenty-five years;
- (23) "Maximum Demand", in kilowatts or kilo-volt-amperes, shall have the same meaning as in the Electricity Supply Code;
- (24) "Medium-term Open Access" or 'MTOA' means the right to use the Distribution System for a period exceeding three months but not exceeding three years;
- (25) "Month" means a calendar month;
- (26) "Nodal Agency" means the agency specified in Regulation 8;

- (27) "Open Access" shall have the same meaning as in sub-section (47) of Section 2 of the Act;
- (28) "Open Access Agreement" means an agreement for use of the Distribution System of a Distribution Licensee for Medium and Long Term Open Access
- (i) entered into between the Distribution Licensee and a person whose premises are situated within its area of supply, where such person requires supply of electricity from a Generating Company or Licensee other than that Distribution Licensee; or
 - (ii) entered into between the Distribution Licensee and a Generating Company or another Licensee for the purpose of giving supply of electricity to such person as referred to in (i) above by using the Distribution System of the Distribution Licensee for wheeling of electricity; or
 - (iii) entered into between the Distribution Licensee and a person whose premises are situated within its area of supply, where such person requires supply of electricity from a Power Exchange, established under the relevant CERC Regulations;
- in accordance with these Regulations;
- (29) "Open Access Consumer" means a Consumer of a Distribution Licensee who has been granted Open Access;
- (30) "Partial Open Access Consumer" means an Open Access Consumer who maintains some demand with the Distribution Licensee in whose area of supply he is located in order to cater to his load requirement;
- (31) "Pooled Cost of Power Purchase" means the weighted average pooled price at which the Distribution Licensee has purchased electricity, including the cost of self-generation, if any, in the previous year from long-term and short-term energy suppliers, but excluding those based on Renewable Energy sources;

- (32) "Renewable Energy" means the grid quality electricity generated from Renewable Energy sources as may be defined in MERC orders or Regulations governing Renewable Energy;
- (33) "Short-term Open Access" or "STOA" means the right to use the Distribution System for a period not exceeding one month at a time;
- (34) "Maharashtra State Load Despatch Centre" or "MSLDC" means the State Load Despatch Centre established in the State of Maharashtra under sub-section (1) of Section 31 of the Act;
- (35) "Special Energy Meters" means meters installed in accordance with the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, as amended from time to time;
- (36) "State Grid Code" means the Code specified by the Commission under clause (h) of sub-section (1) of Section 86 of the Act;
- (37) "Supplier" means a Generating Company, Power Exchange or Licensee, as the case may be, giving supply of electricity to a Consumer or a person situated in the area of supply of another Distribution Licensee by using the Distribution System of such other Distribution Licensee pursuant to an Open Access Agreement, or giving supply through dedicated Transmission or Distribution lines;
- (38) "Supply Agreement" means the agreement for supply of electricity between Supplier(s) and Consumer(s) or person(s) on such terms and conditions (including tariff) as may be agreed between the parties;
- (39) "Time Block" means a period of fifteen minutes for which Special Energy Meters record specified electrical parameters and quantities, with the first such period starting at 00:00 hours;

- 2.2. Words and expressions used herein and not defined in these Regulations but defined in the Act or Indian Electricity Grid Code or the State Grid Code or the Electricity Supply Code or the Rules and other Regulations made under the Act, as the case may be, shall have the meaning assigned to them therein.

3. Eligibility to seek Open Access

- 3.1. Subject to the provisions of these Regulations,
- a Generating Company which owns or operates, or intends to own or operate a Generating Station in the State; or
 - a Consumer eligible for Open Access; or
 - a Distribution Licensee; or
 - a Trading Licensee
- may be an Applicant for Open Access.
- 3.2. Subject to the provisions of these Regulations, a Consumer having Contract Demand of 1 MW and above with a Distribution Licensee shall be eligible for Open Access for obtaining supply of electricity from one or more
- a) Generating Plants or Stations, including Captive Generating Plants;
 - b) Trading Licensees
 - c) Power Exchanges
 - d) Other Distribution Licensees
 - e) any other sources,
- or a combination thereof, and all collectively called 'Sources':

Provided that, for the purpose of unit conversion from MVA to MW, the unity power factor shall be considered;

Provided further that a Consumer located in the area of a Distribution Franchisee shall also be eligible for Open Access;

Provided also that a Distribution Franchisee shall not be eligible for Open Access, except in his capacity as a Consumer;

Provided also that the Maximum Demand of such Consumer or person in each financial year subsequent to his being granted Open Access shall be equal to or greater than seventy (70) percent of the threshold level at which he has become eligible for Open Access;

Provided also that, if the Consumer fails to achieve the Maximum Demand in three consecutive months, the Distribution Licensee shall be entitled to a penalty equal to two times the wheeling charges for the financial year or part thereof for which he the Consumer failed to achieve such Maximum Demand;

Provided also that, if such Consumer or person has not complied with the above proviso in 3 consecutive months, the Distribution Licensee may initiate the process of reassessment and reinstatement or reduction of Contract Demand.

4. Processing of Applications for Distribution Open Access and Connectivity

4.1. Application Formats, etc.

An application for Connectivity to the Distribution System of a Distribution Licensee shall be made to the Nodal Agency in the format at Annexure I of these Regulations, with the required particulars, documents and fees:

Provided that every Distribution Licensee shall provide on its internet website, within thirty days from the notification of these Regulations or within sixty days from the grant of Licence, whichever is applicable, the information requirements, procedures, application forms and fees, in downloadable format, necessary for applying for Connectivity or Open Access to its Distribution System;

Provided further that the application formats under the Maharashtra Electricity Regulatory Commission (Distribution Open Access) Regulations, 2014 shall continue to be used till such time as the application forms under these Regulations are issued or uploaded, and any inconsistency between them and the provisions of these Regulations shall be harmoniously construed for their purposive application.

4.2. Revision of Contract Demand

The Contract Demand of a Consumer availing LTOA or MTOA shall be governed by the provisions of the Electricity Supply Code and the Regulations of the Commission governing Standards of Performance:

Provided that a Consumer availing STOA shall not be eligible to revise his Contract Demand with the Distribution Licensee during the tenure of the STOA, but may do so at the time of applying for Open Access.

4.3. Completion of Works

Where the grant of Open Access is agreed to but requires the completion of works relating to extension or augmentation of lines, transformers, metering arrangements, etc., or the commissioning of new Sub-Stations, the Distribution Licensee shall complete such works within the time limits specified in the Regulations of the Commission governing Standards of Performance.

4.4. Meter Reading

The final meter reading of the Consumer shall be taken by the Distribution Licensee from the date of commencement of Open Access:

Provided that the final meter reading shall be taken in the presence of the Consumer or his representative, and the Generating Company or Licensee from whom the Consumer intends to obtain supply of electricity, after written intimation to them:

Provided that, if any of these entities are not present as scheduled, the Distribution Licensee may take the final reading and inform them accordingly.

4.5. **Settlement of Dues**

A Consumer applying for Open Access to the Distribution System shall settle all dues of the Distribution Licensee prior to applying for Open Access:

Provided that, where there is a dispute between the Distribution Licensee and the Consumer relating to any charge for electricity or some other charge for electricity, such consumer shall be allowed Open Access pending resolution of such dispute upon deposit of the disputed amount with the Distribution Licensee, in accordance with Section 56 of the Act;

Provided further that the Distribution Licensee shall pay interest at a rate equivalent to the Bank Rate of the Reserve Bank of India for the amount of deposit that is returned to the Consumer upon resolution of the dispute.

- 4.6. If the Distribution Licensee agrees to install equipment on behalf of a Consumer seeking Open Access, it may require the Open Access Applicant to make available suitable space in his premises for installation of electrical plant or equipment required to provide Connectivity.

Part B: CONNECTIVITY

5. Grant of Connectivity

- 5.1. A Generating Station, including a captive generating plant, having installed capacity less than 5 MW may apply for Connectivity to the Distribution System, unless already connected, in accordance with the provisions in this Regulation:

Provided that a Generating Station having installed capacity of 5 MW and above may be provided Connectivity to the Distribution System if such Connectivity is found to be technically feasible in accordance with Regulation 5.4.

- 5.2. A Generating Station seeking Connectivity to the Distribution System shall apply to the Nodal Agency in the Form specified in Annexure I.
- 5.3. The application for Connectivity shall be accompanied by a Demand Draft or proof of payment by electronic mode for a non-refundable fee of the following amount, or such other amount as may be stipulated by the Commission:

Application Type	Application Fee
All except Renewable Energy based Generators	Rupees Two Lakh
Renewable Energy based generators	Rupees One Lakh

- 5.4. Upon receipt of the application, the Distribution Licensee shall, in consultation with the State Transmission Utility (STU) if required, carry out the inter-connection study as specified in the relevant Regulations of the Central Electricity Authority governing technical standards for Connectivity to the Grid.
- 5.5. While granting Connectivity, the Distribution Licensee shall indicate the name of the sub-station or switchyard where Connectivity is to be granted; the design features, such as switchyard and interconnection facility upto the point of injection into its sub-station; and the period required to complete additional work, if any.
- 5.6. The cost of creation or augmentation of the required facilities shall be borne by the Generating Station;

Provided that the cost of creation or augmentation of infrastructure for a Renewable Energy Generating Station shall be borne by the Renewable Energy Generating Company or Distribution Licensee or STU, as the case may be, in accordance with the Regulations of the Commission governing the Tariff for Renewable Energy;

Provided further that the ownership of assets so created by the Generating Station shall remain with that Renewable Energy Generating Company.

- 5.7. The Applicant and the Distribution Licensee shall comply with the provisions of the relevant Regulations of the Central Electricity Authority governing the technical standards for Connectivity to the grid.
- 5.8. The Applicant and the Distribution Licensee shall enter into a Connection Agreement upon grant of Connectivity in the format provided in Annexure II:

Provided that the Distribution Licensee shall provide the format for such Agreement on its website within thirty days from the notification of these Regulations;

Provided further that, in case of a prospective Consumer of a Distribution Licensee, the Connectivity to the Distribution System shall be governed by the procedure specified in the Electricity Supply Code.

- 5.9. The grant of Connectivity shall not by itself entitle an Applicant to interchange any power through Open Access unless it obtains approval for Open Access in accordance with the provisions of these Regulations.

5.10. **Infirm Power**

5.10.1. A Generating Station which has been granted Connectivity to the Distribution System shall be permitted by the Distribution Licensee, subject to grid security considerations, to undertake testing, including full-load testing, by injecting infirm power into the grid before its commercial operation and prior to availing Open Access.

5.10.2. A Generating Station or Unit which has been granted Connectivity to the Distribution System shall be permitted by the Distribution Licensee to inject infirm power into the grid during testing, including full-load testing, before its commercial operation for a period not exceeding six months from the date of its first synchronization:

Provided that, for the purposes of these Regulations, the Distribution Licensee may allow extension of the period for testing, including full load test, and consequent injection of infirm power by the Station or Unit, beyond six months in exceptional circumstances on an application made by the Generating Company at least two months before the close of the initial period of six months.

5.10.3. The Generating Station shall provide such information as may be required to satisfy the Distribution Licensee that the injection of infirm power prior to commercial operation is solely for the purpose of testing and commissioning.

5.10.4. The commercial treatment of such infirm power from a Generating Station or Unit, other than one based on Renewable Energy sources, shall be as specified in the Regulations of the Commission governing multi-year tariff determination:

Provided that the power injected into the grid on account of such testing from a Generating Station for which tariff has not been determined by the Commission shall be the lower of the following:

- the rate for imbalance as arrived under the Intra-State Balancing and Settlement Code; or
- the average variable cost of long-term power purchase as approved by the Commission in the prevailing Tariff Order in respect of the Distribution Licensee to whom the Generating Station intends to sell power.

5.10.5. Before injecting infirm power, the Generating Station shall enter into an Agreement with the Distribution Licensee to supply such power:

Provided that, in case the Generating Station does not have an Agreement for sale of power with any Licensee, there shall be no charge for such infirm power injected into the grid, and it shall be credited to the Distribution Licensee to whom the Generating Station is connected.

- 5.11. A Generating Station already connected to the Distribution System or to whom Connectivity is already granted under an existing arrangement shall not be required to apply for Connectivity for the same capacity however, in case of augmentation of capacity of the Generating Station, a fresh application for modification to the Connectivity provisions shall be required in accordance with the provisions of these Regulations.
- 5.12. The Distribution Licensee shall convey its decision on grant of Connectivity within thirty days from the receipt of an application complete in all respects:

Provided that the Distribution Licensee may reject an application, giving reasons, after giving the Applicant an opportunity to represent against the proposed rejection.

Part C: GENERAL PROVISIONS FOR OPEN ACCESS

6. Open Access Agreement

- 6.1. An Open Access Agreement shall be entered into upon grant of Medium or Long Term Open Access in the format provided in Annexure V.
- 6.2. The Distribution Licensee shall provide the format of the Agreement on its internet website, in downloadable format, within thirty days from the notification of these Regulations or sixty days from the grant of Distribution Licence, as may be applicable.

6.3. The Distribution Licensee shall give the Applicant a notice of not less than ten days prior to signing of the Open Access Agreement, after confirmation of completion of all works and fulfilment of all requirements under the Act and these Regulations for grant of Open Access to such Consumer, regarding the

- (a) date and time of the final meter reading of the Consumer, if applicable, and
- (b) date and time of termination of the agreement of supply, if applicable, and commencement of the Open Access Agreement for MTOA and LTOA;

Provided that the Applicant shall enter into the Open Access Agreement within 30 days of such notice, failing which Open Access may be terminated by the Nodal Agency unless sufficient cause is shown for the delay.

7. Categories of Open Access

7.1. The application procedure, application fee and the time frame for processing applications for Open Access shall depend on the inter-se location of drawal and injection points, i.e. on whether

- (a) both are within the same Distribution System;
- (b) both are within the State but in different Distribution Systems;
- (c) both are in different States.

7.2. Duration of Open Access

The Open Access shall be categorised on the basis of its duration as follows:

Open Access Category	Duration
Long-term Open Access (LTOA)	Exceeding twelve years but not exceeding twenty-five years
Medium-term Open Access (MTOA)	Exceeding three months but not exceeding three years
Short-term Open Access (STOA)	Not exceeding one month

Provided that, for the period between three years and twelve years, the Applicant may seek multiple MTOA for a maximum period of three years at a time.

8. Nodal Agency and Application Procedure

- 8.1. An application for Open Access shall be made in the prescribed Form to the Nodal Agency along with application fees and any other charges as may be stipulated by the Commission from time to time:

Provided that the time periods specified in Regulations 9, 10 and 11 shall be applicable from the date of submission of an Application which is complete in all respects.

- 8.2. The Nodal Agency for Open Access and Connectivity to the Distribution System shall be the Distribution Licensee in whose area of supply the Consumer or Generator is located;

Provided that the Nodal Agency shall specify on its website the name, designation and contact details of the nodal officer who will be a single point contact for all Open Access and Connectivity related matters in accordance with these Regulations:

Provided further that, where the Consumer or Generating Station is connected or intends to connect to the network of a Transmission Licensee, then the Nodal Agency shall be as specified in the Regulations of the Commission governing Transmission Open Access or the relevant Regulations of the Central Commission, as the case may be.

- 8.3. **Application Procedure for Open Access involving Inter-State Transmission System**

Notwithstanding anything contained in Regulations 9, 10 and 11, the procedure for Inter-State Open Access shall be as per the Central Commission's Regulations:

Provided that, in case of a Consumer connected to a Distribution System seeking Inter-State Open Access, the MSLDC shall, before giving its consent to the Regional Load Despatch Centre ('RLDC') as required under the Central Commission's Regulations, obtain the consent of the Distribution Licensee concerned in accordance with these Regulations.

- 8.4. The Nodal Agency and the documents required to accompany the application seeking Distribution Open Access shall be as specified in the Table below:

Consumer or Generating Station or Distribution Licensee seeking Distribution Open Access					
S. No.	Period	Injection point	Drawal point	Nodal agency	Documents to accompany the application
1.	Short-term Open Access	Any Distribution System within Maharashtra	Any Distribution System within Maharashtra	Distribution Licensee on whose Distribution System the Consumer is connected	Supply Agreement, copy of latest electricity bill of the Consumer
2.		Intra-State Transmission System within Maharashtra	Any Distribution System within Maharashtra	Distribution Licensee on whose Distribution System the Consumer is connected	Supply Agreement, copy of latest electricity bill of the Consumer
3.		Other than Maharashtra	Any Distribution System within Maharashtra	As per Central Commission Regulations	Consent from concerned SLDCs and Distribution Licensees as applicable, Supply Agreement, copy of latest electricity bill in case the Applicant is a Consumer of Distribution Licensee
4.		At Distribution System within Maharashtra and selling power to Power Exchange	-	Distribution Licensee where the Generator is connected	Power Exchange-related documents

Consumer or Generating Station or Distribution Licensee seeking Distribution Open Access					
S. No.	Period	Injection point	Drawal point	Nodal agency	Documents to accompany the application
5.		-	Consumer connected at Distribution System within Maharashtra and opting to avail power supply from Power Exchange	Distribution Licensee on whose Distribution System the Consumer is connected	Power Exchange-related documents, copy of latest electricity bill of the Consumer
6.	Medium-Term Open Access OR Long Term Open Access	Any Distribution System within Maharashtra	Any Distribution System within Maharashtra	Distribution Licensee on whose Distribution System the Consumer is connected	Copy of Supply Agreement
7.		Intra-State Transmission System within Maharashtra	Any Distribution System within Maharashtra	Distribution Licensee on whose Distribution System the Consumer is connected	Copy of Supply Agreement
8.		Other than Maharashtra	Any Distribution System within Maharashtra	Central Transmission Utility	Copy of Supply Agreement, Consent from concerned SLDCs and Distribution Licensees as applicable

Provided that the fees shall be payable in accordance with the Schedule of Charges approved by the Commission from time to time.

8.5. The Application shall be accompanied by the following documents also, where applicable:

- Consent from Seller if Buyer is the Applicant, or consent from Buyer if Seller is the Applicant
- Copy of Supply Agreement
- Proof of payment of Application fee
- Copy of Trading Licence
- Copy of relevant documents from the Power Exchange if power is sought through a Power Exchange (Registration/ Membership details, Member-Client agreement, etc.)

- Copy of Memorandum of Association and Chartered Accountant's certificate of shareholding pattern, if power is sought under captive mode
 - SEM commissioning certificate, if already installed
- 8.6. The Distribution Licensee shall conduct testing of meter and associated equipment with the required specifications before commencement of Open Access.
- 8.7. In case of Open Access approved in respect of power from a Captive Generating Plant, the Consumer, Generating Station or Trading Licensee, as the case may be, shall inform the Nodal Agency, within ten days, of any change in the captive status resulting in levy of Cross-Subsidy Surcharge becoming applicable.
- 8.8. Where a Consumer connected to the Transmission System seeks Intra-State Transmission Open Access, any charges applicable and accruable to the concerned Distribution Licensee shall be payable by the Consumer to the Distribution Licensee in whose Licence area such Consumer is located.
- 8.9. The Supply Agreement to be furnished along with the Application shall also indicate the fixed and variable charge or composite charge for power supply so as to enable the MSLDC to run its Merit Order Dispatch.
- 8.10. The Nodal Agency shall grant Medium-term or Short-term Open Access if the resultant power flow can be accommodated in the existing Distribution System or the Distribution System under execution.
- 8.11. The Distribution Licenses shall provide the facility of on-line submission of Applications for Connectivity and Open Access Applications within ninety days from the notification of these Regulations.

9. Procedure for Long Term Open Access in the Distribution System(s) within Maharashtra

- 9.1. The procedure for Long term Open Access when the point(s) of injection or drawal are located in the same or different Distribution Systems in Maharashtra shall be in accordance with the provisions below.
- 9.2. The Application to the Nodal Agency for grant of Long-term Open Access shall be made in the form provided in Annexure-IV.
- 9.3. Where augmentation of the Distribution System(s) is likely to be required for the grant of Open Access but the quantum of power to be injected and drawn has not been finalized, the Applicant shall communicate the expected quantum of such power on an indicative basis:

Provided that the Applicant shall bear the cost of any augmentation of the Distribution System that may be required, even if the source of supply or off-take of power is not identified, where such cost is not recovered from the Generating Station as provided for in Regulation 5.6;

Provided further that the precise source of supply or destination of off-take, as the case may be, shall be intimated to the Distribution Licensee at least two years prior to the intended date of availing Long-term Open Access, or such other period as estimated by the Distribution Licensee to be required for augmentation of the Distribution System, whichever is lesser;

Provided also that, where augmentation of the Intra-State Transmission System is required, the precise source of supply or destination of off-take, as the case may be, shall be intimated to the Distribution Licensee at least three years prior to the intended date of availing Long-term Open Access, or such other period as estimated by the Distribution Licensee or the STU for augmentation of the distribution or Transmission System, whichever is lesser.

9.4. Where there is any change in location of either the drawal point or the injection point or an increase of more than ten percent in the quantum of power for Open Access using the Distribution System, a fresh Application shall be made.

9.5. Bank Guarantee:

(a) A Bank Guarantee, in favour of the Nodal Agency, for the following amounts, or such other amounts as may be stipulated by the Commission, shall accompany the Application. An additional Bank Guarantee will be required before the start of construction:

Application Type	Bank Guarantee Amount per MW of Open Access
All except Renewable Energy based transactions	Rs 10,000/- (Rupees Ten thousand)
Renewable Energy based transactions	Rs 5,000/- (Rupees Five thousand)

(b) The Bank Guarantee shall be kept valid and subsisting till

- the execution of the Long-term Open Access Agreement, where augmentation of the Distribution System is required; or
- till operationalization of Long-term Open Access, where augmentation of the Transmission System is not required.

(c) The Bank Guarantee will be returned to the Applicant within fifteen days

- of signing of the Long-term Open Access Agreement; or
- of rejection of such Application.

(d) The Bank Guarantee may be encashed by the Nodal Agency

- if the application for Open Access is withdrawn by the Applicant; or
- if the Long-term Open Access rights are relinquished prior to the operationalization of such rights, where augmentation of the Distribution System is not required;
- Upon failure to submit the additional Bank Guarantee by the Applicant before the construction phase, where augmentation of Distribution System is required to be undertaken by the Licensee.

9.6. On receipt of the Application for Open Access, the Nodal Agency shall obtain all the permissions and clearances from the Distribution Licensees, MSLDC, STU and other agencies, as may be required, for the Open Access transaction.

9.7. The Nodal Agency shall convey its decision on the grant of Long-term Open Access within 120 days if system augmentation is not required, or within 180 days otherwise:

Provided further that no Application shall be rejected by the Nodal Agency without communicating the reasons in writing, including by electronic means.

9.8. Based on the system study, the Distribution Licensee shall indicate the distribution arrangements, including the augmentation, that would be required to provide Long-term Open Access, and shall communicate to the Applicant the date from which such Open Access shall be granted and the applicable charges.

9.9. The Applicant and the Distribution Licensee shall thereafter enter into an Open Access Agreement in accordance with these Regulations.

9.10. Immediately after grant of Long-term Open Access, the Distribution Licensee shall inform the MSLDC so that it is taken into consideration while processing requests for scheduling of power received under an Open Access Agreement.

9.11. Upon expiry of the period of Long-term Open Access, the Consumer, Generating Company or Licensee, as the case may be, shall not be entitled to any priority or preference for renewal of the term.

10. Procedure for Medium Term Open Access in the Distribution System(s) within Maharashtra

10.1. The procedure for Medium-term Open Access when the point(s) of injection and/or the point of drawal are located in the same or different Distribution Systems within Maharashtra shall be in accordance with the provisions below.

- 10.2. The Application to the Nodal Agency for grant of Medium-term Open Access shall be made in the format provided in Annexure-IV.
- 10.3. The Application for grant of Medium-term Open Access shall be made to the Nodal Agency between 3 months to 12 months prior to the intended commencement of Open Access.

Illustration: Application for grant of MTOA commencing 1st August, 2016 shall be made between 1st August, 2015 and the last day of April, 2016.

- 10.4. On receipt of the Application for Open Access, the Nodal Agency shall obtain all the permissions and clearances from the Distribution Licensees, MSLDC, STU and other agencies, as may be required, for the Open Access transaction.
- 10.5. The Nodal Agency shall convey its decision to grant or refuse Medium-term Open Access within 60 days:

Provided that no Application shall be rejected by the Nodal Agency without communicating the reasons in writing, including by electronic means.

- 10.6. On being satisfied that the requirements specified under Regulation 8 are met, the Distribution Licensee shall grant Medium-term Open Access for the period stated in the Application:

Provided that, for reasons to be conveyed in writing, including by electronic means, the Distribution Licensee may grant Medium-term Open Access for a period less than that sought by the Applicant.

- 10.7. The Applicant and the Distribution Licensee shall thereafter enter into an Open Access Agreement in accordance with these Regulations.

- 10.8. Immediately after grant of Medium-term Open Access, the Distribution Licensee shall inform the MSLDC so that it is taken into consideration while processing requests for scheduling of power received under an Open Access Agreement.
- 10.9. Upon expiry of the period of Medium-term Open Access, the Consumer, Generating Company or Licensee, as the case, may be shall not be entitled to any priority or preference for renewal of the term.

11. Procedure for Short-term Open Access in the Distribution System(s) within Maharashtra

- 11.1. The procedure set out below shall apply to Short-term Open Access when the point(s) of injection and/or the point of drawal are located in the same or different Distribution Systems within Maharashtra.

11.2. Open Access in Advance, other than Day-Ahead Open Access

- (a) An Application seeking Short-term Open Access shall be made to the Nodal Agency, who shall send a copy, including by electronic means, immediately to MSLDC and the Distribution Licensee in whose area the Generation Station is situated.
- (b) The Application may be made up to four months prior to the month of Short-term Open Access, but not later than the tenth day of the preceding month.

Illustration: Application for Short-term Open Access in the month of August shall be submitted between 1st April and 10th July.

- (c) A separate Application shall be made for each month, and for each transaction in a month in case injection or drawal point(s) are different:

Provided that a Captive Generating Company may make a single Application with single injection and multiple drawal points.

- (d) All Applications received till the tenth day of the month shall be treated as having been received at the same time.
- (e) On receipt of the Application for Open Access, the Nodal Agency shall obtain all the permissions and clearances from the Distribution Licensees, MSLDC, STU and other agencies, as may be required, for the Open Access transaction.
- (f) The decision of the Nodal Agency in respect of any perceived congestion shall be final and binding.
- (g) In case the Nodal Agency anticipates congestion, it may invite electronic bids as per the Bidding Procedure for advance scheduling after the last date for submission of Applications.

(h) Bidding Procedure

- i. The Nodal Agency shall convey to the Applicants the details regarding such congestion and its decision to invite bids, indicating the floor price in the format provided in Annexure III [Format-ST3].
- ii. The Nodal Agency shall also display the bidding information on its internet website.
- iii. The floor price of Wheeling Charges determined on the basis of the relevant Orders of the Commission shall be indicated in the format provided in Annexure III [Format-ST3].
- iv. The Bids shall be accepted in the format [Format-ST4], provided at Annexure III, up to the closing time indicated in the bidding invitation Annexure III [Format-ST3].
- v. No modification to a Bid, once submitted, shall be entertained.
- vi. The Application of an Applicant who does not participate in the bidding process shall be deemed to have been withdrawn.
- vii. The Nodal Agency shall not entertain any request for extension of time for submission of Bids.

- viii. The bidders shall quote their price (rounded-off to a whole number) in the denomination in which the floor price has been determined.
- ix. The quoted prices shall be arranged serially in descending order, and the allocation of available capacities shall be accorded in such order until the capacities are exhausted.
- x. If the same price is quoted by two or more Applicants, the allocation from any residual available capacity as at (ix) above shall be made in proportion to the capacity being sought by them.
- xi. All Applicants in whose favour full capacities have been allotted shall pay the highest price obtained in the bidding process.
- xii. Applicants who are allotted capacity less than that applied for shall pay the price quoted by them in the bidding process.
- xiii. The Nodal Agency shall reject bids which are incomplete, vague or not in conformity with the bidding procedure.
- xiv. The successful Bidders in favour of whom the capacities have been allocated shall pay Wheeling Charges, as determined in the bidding process.
- (i) The Nodal Agency shall convey grant of Open Access or otherwise in the format provided at Annexure III [Format-ST2], along with the schedule of required payments, to the Applicant within ten working days.
- (j) The Application Form for grant of Short-term Open Access is provided at Annexure III [Format ST-1].
- (k) No Application shall be rejected without reasons to be communicated in writing, including by electronic means.

11.3. Day-Ahead Open Access

Day-Ahead Open Access of Distribution System(s) shall be permitted only if surplus capacity is available in the concerned Distribution Licensee's system.

- 11.4. The Application for grant of Day-Ahead Open Access shall be made to the Nodal Agency only one day prior to the date of scheduling, up to 12:00 Hours, and all such Applications shall be treated as having being received at the same time and shall have the same priority;

Illustration: An Application for Day-Ahead transaction on 15th August shall be received only on 14th August up to 12:00 hours.

Provided that any Application received after 12:00 hours of the day immediately preceding the date of scheduling or on the day of scheduling shall be considered in case of contingency of the Applicant, and the fee for such contingency Applications shall be five times the otherwise applicable Application fees.

- 11.5. The Nodal Agency shall check for congestion and convey grant of approval or otherwise in the format provided in Annexure III [Format-ST2] by 14:00 Hours of the day preceding the date of scheduling of the transaction.
- 11.6. All other provisions applicable to Short-term Open Access shall apply to Applications for Day-Ahead Open Access.
- 11.7. The capacity reserved by a Short-term Open Access Consumer, Generating Station or Licensee, as the case may be, shall not be transferable.
- 11.8. Upon expiry of the period of Short-term Open Access, the Consumer, Generating Station or Licensee, as the case may be, shall not be entitled to any priority for renewal of the term.

Non-utilisation of Short-term Open Access

- 11.9. If the Consumer, Generating Company or Licensee, as the case may be, is unable to utilize for more than four hours the full or a substantial part of its allocated capacity, it shall inform the Nodal Agency, and may surrender the use of such capacity but shall pay transmission and Wheeling Charges applicable to the original reserved capacity and period. If the Nodal Agency is able to re-allocate this capacity, the entity who has

surrendered the capacity shall be refunded transmission and wheeling charges based on the amount and period of the reallocated capacity by the Nodal Agency.

11.10. The Nodal Agency may cancel or reduce the capacity allocated, to the extent that it is under-utilised and after giving notice to the affected parties;

- a) when such capacity is under-utilised for more than three days, or
- b) when the Consumer, Generating Company or Licensee, as the case may be, fails to inform the Distribution Licensee of its inability to utilise the allocated capacity.

11.11. The surplus capacity becoming available as a result of such surrender or reduction or cancellation of capacity may be allocated to any other Short-term Open Access Applicant in the serial order of pending Applications.

12. Consent by Distribution Licensee for STOA

12.1. Before giving consent for Open Access, and subject to the other provisions of these Regulations, the Distribution Licensee(s) shall verify the availability of

- (i) infrastructure necessary for time-block-wise energy metering and accounting in accordance with the provisions of the State Grid Code, and
- (ii) capacity in the Distribution System.

12.2. Where the availability of necessary infrastructure and capacity in the Distribution System has been established, the Distribution Licensee(s) shall convey its consent to the MSLDC within five working days of receipt of the Application; and MSLDC shall, within three working days of receipt of consent from the Distribution Licensee(s), convey its decision on grant of Short-term Open Access to the Nodal Agency.

12.3. In case the MSLDC, or Distribution Licensee other than the Nodal Agency, finds that the Application is incomplete or otherwise deficient, it shall communicate the

deficiency to the Nodal Agency by e-mail or fax within three working days of receipt of the Application.

- 12.4. In case the Nodal Agency finds that the Application is incomplete or otherwise deficient, or any deficiency is communicated by MSLDC or the other Distribution Licensee, it shall communicate the deficiency to the Applicant by e-mail or fax within five working days of receipt of the Application.
- 12.5. In case the Application is found to be in order but the Nodal Agency refuses to give consent, such refusal shall be communicated, with reasons, to the Applicant within five working days from its receipt, by e-mail or fax.
- 12.6. Subject to the provisions of Regulation 3.1 and Regulation 11, the Distribution Licensee shall provide its consent for Day-Ahead Open Access on the same day if there are no claims pending from the Consumer.

13. Allotment Priority

- 13.1. Except in case of STOA, where capacity is available in the Distribution System, the Nodal Agency shall consider applications for Open Access on a 'first come, first served' basis.
- 13.2. Where two or more Applications are received on the same day, their priority shall be in accordance with the Table below:

Priority for grant of Open Access	Allotment
Priority 1 – Highest	Distribution Licensee (irrespective of whether Open Access sought is for Long-term, Medium-term or Short-term)
Priority 2	Other Long-term Open Access Applicants
Priority 3	Other Medium-term Open Access Applicants
Priority 4 – Lowest	Other Short-term Open Access Applicants

Provided that two or more Applications for the same duration of Open Access received on the same day shall be treated *pari passu* for allotment and, if the available capacity is insufficient to accommodate all Applications, the Applicants shall be allotted shares in the available capacity proportionate to the capacities applied for;

Provided further that, when the quantum of STOA applied for is more than the available capacity, the Nodal Agency shall follow the procedures specified in Regulation 11.

Part D: OPEN ACCESS CHARGES

14. Billing

14.1. The bill for use of the Distribution System for wheeling of electricity in its network shall be raised by the Distribution Licensee on the entity to whom the Open Access is granted, and shall indicate the following:

- (i) Wheeling Charges;
- (ii) Cross-Subsidy Surcharge;
- (iii) Additional Surcharge on the charges for wheeling;
- (iv) MSLDC fees and charges.

Provided that, if the Distribution Licensee schedules power for the Open Access Consumer, Generating Company or Licensee, as the case may be, the MSLDC fees and charges payable by the Licensee shall be shared by them in the ratio of scheduled demand of Open Access sought to the total demand of the Distribution Licensee on a pro-rata basis for Long-term and Medium-term Open Access;

Provided further that the scheduling and other operating charges, as may be applicable, shall be levied by the Distribution Licensee on the Short-term Open Access Consumer, Generating Station or Licensee at the rate approved for Short-term Open Access by the Commission in its Order determining MSLDC Fees and Charges;

Provided also that any specific methodology for charging MSLDC fees and charges as may be approved by the Commission from time to time through separate Order or other Regulations shall be applicable.

(v) Transmission Charges:

Provided that a Partial Open Access Consumer, Generating Station or Licensee, as the case may be, shall pay the Transmission Charges to the Distribution Licensee instead of the Transmission Licensee for using a transmission network;

(vi) Any other charges, surcharge or other sum recoverable from the Consumer under the Act or any Regulation or Orders of the Commission.

14.2. Where Open Access is sought through a Power Exchange, the bill shall be raised by the Distribution Licensee on the Open Access Consumer, Generating Station or Licensee, as the case may be.

14.3. In case a Generating Station or a Licensee has accessed the Distribution System for sale of power to a Consumer eligible for Open Access or a Licensee or on the Power Exchange in accordance with these Regulations, the bill for use of the Distribution System for wheeling of electricity shall be raised on such Generating Station or Licensee, and shall indicate the following:

- (i) Wheeling Charges, recovered or recoverable from Consumers;
- (ii) Cross-Subsidy Surcharge, in case it is not being recovered by the Distribution Licensee from such Consumer;
- (iii) Additional Surcharge on the charges of wheeling, in case it is not being recovered by the Distribution Licensee from such Consumer;
- (iv) Any other charge or other sum recoverable from the Generating Station or Licensee under the Act or these Regulations or Orders of the Commission.

14.4. The bills shall be issued monthly, and shall be payable within such period as may be specified in the Electricity Supply Code.

- 14.5. The Distribution Licensee shall pay the Transmission Licensee, MSLDC and any other entity all the charges collected on their behalf from the Open Access Consumer, Generating Station or Licensee within seven days:

Provided that, without prejudice to any other action under the Act or Regulations thereunder, a late payment surcharge as per the Regulations of the Commission governing Multi-Year Tariff shall be levied on the payment delayed by the Distribution Licensee.

14.6. Wheeling Charge

- a. An Open Access Consumer, Generating Station or Licensee, as the case may be, using a Distribution System shall pay to the Distribution Licensee such Wheeling Charges, on the basis of actual energy drawal at the consumption end, as may be determined under the Regulations of the Commission governing Multi-Year Tariff;
- b. Wheeling Charges shall not be applicable in case a Consumer or Generating Station is connected to the Transmission System directly or using dedicated lines owned by the Consumer or Generating Station.

14.7. Cross Subsidy Surcharge

- a. A Consumer of a Distribution Licensee who has been granted Open Access, or a Consumer situated within the area of supply of a Distribution Licensee and/or receiving supply from a Generating Company using a dedicated transmission line, shall be liable to pay such Cross-Subsidy Surcharge as may be determined by the Commission:

Provided that such Surcharge shall not be levied in case Open Access is provided to a person who has established a captive generating plant, in

respect of his own captive generation, for carrying the electricity to a destination of his own use.

- b. The Cross-Subsidy Surcharge determined on a per Unit basis shall be payable on a monthly basis by the Open Access Consumer on the actual energy drawn at the consumption end during the month through Open Access
- c. The amount of Cross-Subsidy Surcharge shall be paid to the Distribution Licensee to whose Distribution System the Consumer is connected:

Provided that, in case of two Distribution Licensees supplying in the same area, the Licensee from whom the Consumer was availing supply shall be paid the Cross-Subsidy Surcharge

- d. The Cross-Subsidy Surcharge payable to the Distribution Licensee by a Consumer shall be as determined by the Commission in the Tariff Order in respect of the Distribution Licensee or any other applicable Order:

Provided that, in case the Open Access Consumer or Licensee, as the case may be, purchases power from a Renewable Source of energy, the Cross-Subsidy Surcharge shall be as determined by the Commission.

14.8. Additional Surcharge

- a. An Open Access Consumer receiving supply of electricity from a person other than the Distribution Licensee of his area of supply shall pay to the Distribution Licensee an Additional Surcharge on the charges of wheeling and Cross-Subsidy Surcharge to meet the fixed cost of such Distribution Licensee arising out of its obligation to supply, as provided in sub-section (4) of Section 42 of the Act.
- b. The Additional Surcharge shall become applicable only when, due to the Open Access being granted or having been granted, the obligation of the

Distribution Licensee in terms of power purchase commitments has been and continues to be stranded, or there is an unavoidable obligation and incidence to bear fixed costs consequent to such commitments.

- c. The Distribution Licensee shall submit to the Commission, with its Petitions under the Commission's Regulations governing Multi-Year Tariff, detailed computations of the fixed cost which it is incurring towards its obligation to supply, and the actual expenses incurred vis-à-vis those approved by the Commission.
- d. The Commission shall determine the category-wise Additional Surcharge to be recovered by the Distribution Licensee from an Open Access Consumer, based on the following principles:
 - i. The cost must have been incurred by or be expected, with reasonable certainty, to be incurred by the Distribution Licensee on account of such Consumer; and
 - ii. The cost has not been or cannot be recovered from such Consumer, or from other Consumers who have been given supply from the same assets or facilities, through Wheeling Charges, stand-by charges or other charges approved by the Commission:

Provided that such Additional Surcharge shall be applicable to all Consumers who have availed Open Access to receive supply from a source other than the Distribution Licensee to which they are connected.

- e. The Additional Surcharge determined on a per Unit basis shall be payable monthly by the Open Access Consumer based on the actual energy drawn during the month through Open Access.
- f. The Additional Surcharge shall not be payable by a Generating Station, Trading Licensee or Power Exchange.

14.9. Additional Security for Wheeling

- a. The Distribution Licensee may require the Consumer, Generating Station or Licensee, as the case may be, to furnish an additional security deposit for wheeling equivalent to one month's billing for Wheeling Charge, Cross-Subsidy Surcharge and Additional Surcharge on the charges of wheeling, calculated in accordance with the terms and conditions of the Open Access Agreement:

Provided that, in case of Short-term Open Access, the Distribution Licensee shall collect an additional security deposit for wheeling commensurate with the duration of the Open Access instead of on the basis of one month's billing.

- b. Where the additional security deposit from the Consumer, Generating Station or the Licensee, as the case may be, is required at the commencement of the Open Access Agreement, it shall be calculated based on the anticipated use of the Distribution System for wheeling of electricity:

Provided that, where power is sought through a Power Exchange, the additional security deposit shall be provided by the Consumer;

Provided further that the amount of additional security deposit may be adjusted when the amount of additional security required or surplus security held exceeds ten per cent of the balance with the Distribution Licensee.

- c. The additional security deposit may, at the option of the person providing it, be by way of cash (including demand draft), irrevocable letter of credit or unconditional Bank Guarantee issued by a scheduled commercial bank;

Provided that, where the additional security deposit is in the form of cash, it shall earn interest at a rate equivalent to the Bank Rate of the Reserve Bank of India;

Provided further that the security shall be deposited within fifteen days from the receipt of notice from the Distribution Licensee.

15. Compliance with State Grid Code

Notwithstanding any other consequence to which it may be liable, failure of the Consumer or Supplier to comply with the provisions of the State Grid Code may render the Connection Agreement liable to revocation.

Part E: SCHEDULING, METERING, REVISION AND LOSSES

16. Scheduling

- 16.1. The scheduling of Inter-State Open Access transactions shall be in accordance with the provisions of the Indian Electricity Grid Code.
- 16.2. Intra-State Open Access transactions in respect of Full Open Access Consumers connected to Distribution System and all Generating Stations connected to Transmission System shall be scheduled by MSLDC in accordance with the provisions of the State Grid Code:

Provided that the Open Access Consumer, Generating Station or Licensee, as the case may be, shall also intimate its Day-Ahead schedule to the Distribution Licensee by 10:00 hours of the preceding day, for incorporation in the Distribution Licensee's schedule to be provided to the MSLDC;

Provided further that a Partial Open Access Consumer of a Distribution Licensee and Generating Stations connected to the Distribution System shall submit the schedule to such Distribution Licensee.

- 16.3. Renewable Energy generating plants identified as 'non-firm power' under the Commission's Regulations governing Renewable Energy Tariff shall be exempted from scheduling till such time as the Commission stipulates or specifies otherwise.

17. Metering and Communication

- 17.1. All Open Access Consumers and Generating Stations shall install Special Energy Meters ('SEM's):

Provided that any existing or prospective Consumer who has not sought Open Access but desiring it shall have the option to install such SEM at his premises.

- 17.2. Such Consumers or Generating Stations may procure the required SEM from any supplier in accordance with the standards and specifications stipulated in the Regulations of the Central Electricity Authority governing the installation and operation of meters.

- 17.3. The Consumer or Generating Station may also procure the required SEM from the Distribution Licensee;

Provided that, upon receipt of such request, the Distribution Licensee shall communicate the lead time for its procurement of such SEM in case it is not available with it so as to enable the Consumer or Generating Station to finalise its option for purchase:

Provided further that, if the Consumer or Generating Station chooses to purchase the SEM from it, the Distribution Licensee may require the payment of an advance not exceeding its price.

- 17.4. The Distribution Licensee shall test and install such SEM within sixty days from the receipt of a request from the Consumer or Generating Station, as the case may be.

- 17.5. The Distribution Licensee shall be responsible for reading the SEM at least once in every month:

Provided that the authorized representative of the Consumer, Generating Station or Licensee, as the case may be, shall be entitled to be present at the time of meter reading.

- 17.6. The SEM along with associated equipment shall be available for inspection by the Distribution Licensee at any time.

- 17.7. The metering points for provision of Open Access for the Consumer, Generating Station or Licensee, as the case may be, shall comply with the provisions of the State Grid Code.

- 17.8. All Full Open Access Consumers and Generating Stations connected to the Transmission System shall install, at their cost, Remote Terminal Units (RTU)-DC within six months from the notification of these Regulations, in accordance with specifications provided by the STU; and the MSLDC shall verify their installation for real-time monitoring:

Provided that the installed RTU-DCs shall be available for inspection by the Distribution Licensee or the MSLDC at any time:

Provided further that such Full Open Access Consumers and Generating Stations connected to Transmission Systems shall provide for or bear the cost of communication arrangements, the technical specifications of which shall be stipulated by the Distribution Licensee and/or MSLDC, for the purpose of real-time communication.

- 17.9. The Distribution Licensee to whom the Consumer or Generating Station is connected shall be responsible for providing the energy meter data to the MSLDC for the purpose of energy accounting.
- 17.10. If the Distribution Licensee establishes a distribution control centre similar to MSLDC, it may install communication and metering infrastructure at its own cost.

18. Energy Losses

18.1. Transmission losses:

18.1.1. Inter-State transmission losses:

The treatment of Inter-State transmission losses shall be as specified in the relevant Regulations of the Central Commission governing Open Access;

18.1.2. Intra-State transmission losses:

The buyer of electricity shall bear the approved Intra-State transmission losses as may be determined by the Commission from time to time:

Provided that the energy settlement shall be based on the normative loss in the Intra-State Transmission System.

18.2. Distribution System losses:

The buyer of electricity shall bear the approved wheeling losses of the Distribution System and not any part of the commercial losses as may be determined by the Commission from time to time.

Part F: IMBALANCE AND REACTIVE ENERGY CHARGES

19. Imbalance Charge

- 19.1. *Scheduling of transactions:* Scheduling of transactions pursuant to grant of Open Access shall be undertaken on Day-Ahead basis in accordance with the Indian

Electricity Grid Code in the case of Inter-State transactions, and in accordance with the State Grid Code or relevant Orders of the Commission in the case of Intra-State transactions:

Provided that, instead of the provisions of Regulation 19, the provisions regarding energy balancing and settlement contained in the Final Balancing and Settlement Mechanism or other such mechanism as may be stipulated by the Commission shall be applicable in the case of Open Access Consumers, Generating Stations and Licensees who are participants of the State Pool.

- 19.2. *Settlement of Energy at Drawal Point in respect of Open Access Consumer, or Trading Licensee on behalf of Open Access Consumer:* Deviations between the Contract Demand and the actual drawal in respect of an Open Access consumer shall be settled as follows:

19.2.1. Over-drawal:

Over-drawal by an Open Access Consumer shall be settled at the higher of the following:

- (i) the System Marginal Price ('SMP') plus other incidental charges (Net Unscheduled Interchange ('UI') charges, additional UI charges) or any other intra-State Availability-based Tariff ('ABT') settlement charges as identified under the mechanism operating in Maharashtra from time to time or,
- (ii) the Energy charge or Variable Charge of Temporary Tariff category, whichever is applicable, as determined by the Commission in respect of the Distribution Licensee:

Provided that the Consumer shall also be liable to payment of penalty for exceeding Contract Demand as provided in the Commission's Orders determining the retail tariff applicable to such Consumer.

19.2.2. Under-drawal:

In the event of under-drawal, the Open Access Consumer shall not be paid any charges by the Distribution Licensee:

Provided that penal charges, if any, applicable under the Inter-State Deviation Settlement Mechanism shall be recovered by the Distribution Licensee from the Open Access Consumer on a pro-rata basis.

- 19.3. *Settlement of deviations from schedule:* Deviations between the schedule and the actual injection in respect of Open Access taken by a Generating Company, or a Trading Licensee on behalf of a Generating Company, shall be settled as follows:

19.3.1. Over-injection

- a) In case injection exceeding that scheduled by the Generating Company results in benefit to the grid, such over injection shall be settled either at the UI charge applicable under the Inter-state ABT mechanism, or the SMP plus other incidental charges (Net UI charges, additional UI charges) or any other intra-State ABT settlement charges under the mechanism operating in Maharashtra, or at the weighted average cost of long-term power purchase sources including meeting Renewable Purchase Obligation, excluding liquid fuel-based generation, of the Distribution Licensee, whichever is lower.
- b) If such over-injection is detrimental to the grid, the Open Access Generating Company shall pay to the State Pool either the UI charge applicable under the Inter-state ABT mechanism or the SMP plus other Incidental charges (Net UI charges, additional UI charges), or any other intra-State ABT settlement charges under the mechanism operating in Maharashtra, whichever is higher:

Provided that the Distribution Licensee shall levy and collect such charge from the Open Access Generating Company and credit it to the State Pool account stipulated under the intra-State ABT mechanism.

19.3.2. Under-injection

Any injection below that schedule by the Open Access Generating Company shall be met from the grid and will be paid for by that entity to the Distribution Licensee at the UI charge applicable under the Inter-state ABT mechanism or the SMP plus other Incidental charges (Net UI charges, additional UI charges) or any other intra-State ABT settlement charges stipulated under the mechanism operating in Maharashtra, whichever is higher; and also any congestion charge stipulated by RLDC and/or MSLDC as payable to the Distribution Licensee to fulfil the obligations of the Open Access Generating Station:

Provided that the distribution loss shall not be loaded on any Generating Station if it is connected directly to the intra-State Transmission System;

Provided further that, if the under-injection persists for a continuous period of two days, the MSLDC shall give notice to the Generating Station to revise its schedule;

Provided also that, if the Generating Station fails to inject according to the Open Access schedule and does not immediately revise its schedule, it shall be liable to a penalty equivalent to two times the SMP plus other incidental charges (Net UI charges, additional UI charges) or any other intra-State ABT settlement charges stipulated under the intra-State ABT mechanism operating in Maharashtra; notwithstanding which it shall be liable to pay the Open Access charges for the full reserved capacity for the entire period.

19.3.3. In the event that a Generating Station in Maharashtra is declared as a State Pool Participant in the Intra-state ABT regime, the following would be applicable:

- a) Any generation up to 105% of the declared capacity in any time block of 15 minutes and averaging up to 101% of the declared capacity over a day shall not be construed as gaming, and the Generating Station shall be entitled to UI charges identified as the SMP plus other incidental charges (Net UI charges, additional UI charges) or any other intra-State ABT settlement

charges stipulated under the intra-State ABT mechanism operating in Maharashtra or the lowest variable cost of generation, whichever is lower, for such excess generation above the declared capacity of Scheduled Generation;

- b) The MSLDC shall investigate any generation beyond the prescribed limits; if gaming is found by MSLDC, the corresponding UI charges due to the Generating Station on account of such extra generation shall be reduced to zero and the amount shall be adjusted in the UI account of Beneficiaries in the ratio of their capacity share in the Generating Station:

Provided that this condition may be modified by the Commission by specific or general Order.

19.3.4. Where the Generating Station is connected to the Distribution System of a Distribution Licensee, the instruction to revise the schedule and power to investigate under Regulations 19.3.2 and 19.3.3 shall be with the Distribution Licensee to whom the Generating Station is connected.

- 19.4. The concerned constituents (including Licensees, Open Access Consumers or Generating Stations) shall pay the imbalance charges within seven days of the issue of the bill into a State Imbalance Pool account, operated by the MSLDC.
- 19.5. The person who has to receive the money on account of imbalance charges would be paid from the State Imbalance Pool account, within three working days.
- 19.6. If payment of imbalance charge is delayed by more than two days, i.e., beyond twelve days from the issue of the statement, the defaulting party shall be liable to pay simple interest @ 0.05% for each day of the delay.

Persistent payment defaults, if any, shall be reported by the Distribution Licensee to the Commission.

20. Banking of Renewable Energy generation

- 20.1. Regulation 19.3 shall not be applicable in case an Open Access Consumer obtains supply from a Renewable Energy Generating Station identified as 'non-firm power' by the Commission in its Regulations governing the Tariff for Renewable Energy.
- 20.2. The surplus energy from a 'non-firm' Renewable Energy Generating Station after set-off shall be banked with the Distribution Licensee.
- 20.3. The banking year shall be the financial year from April to March.
- 20.4. Banking of energy shall be permitted during all twelve months of the year:

Provided that the credit for banked energy shall not be permitted during the months of April, May, October and November, and the credit for energy banked in other months shall be as per the energy injected in the respective Time of Day ('TOD') slots determined by the Commission in its Orders determining the Tariffs of the Distribution Licensees;

Provided further that the energy banked during peak TOD slots may also be drawn during off-peak TOD slots, but the energy banked during off-peak TOD slots may not be drawn during peak TOD slots.

Illustration: Energy banked during:

- Night off-peak TOD slot (2200 hrs – 0600 hrs) may only be drawn in the same TOD slot
- Off-peak TOD slot (0600 hrs – 0900 hrs & 1200 hrs – 1800 hrs) may be drawn in the same TOD slot and also during Night off-peak TOD slot
(However, the energy banked during night off peak and off peak shall not be drawn during morning peak and evening peak)

- *Morning peak TOD slot (0900 hrs – 1200 hrs) may be drawn in the same TOD slot and also during Off-peak and Night off-peak TOD slots*
- *Evening peak TOD slot (1800 hrs – 2200 hrs) may be drawn in the same TOD slot and also during Off-peak and Night off-peak TOD slots*

20.5. Banking charges shall be adjusted in kind @ 2% of the energy banked.

20.6. The unutilised banked energy at the end of the financial year, limited to 10% of the actual total generation by such Renewable Energy generator in such financial year, shall be considered as deemed purchase by the Distribution Licensee at its Pooled Cost of Power Purchase for that year:

Provided that such deemed purchase shall not be counted towards the Renewable Purchase Obligation of the Distribution Licensee, and the Generating Station would be entitled to Renewable Energy Certificates to that extent.

21. Reactive Energy Charge

21.1. The methodology for payment for the reactive energy charges by an Open Access Consumer, Generating Station or Licensee with load of 5 MW or more shall be in accordance with the State Grid Code and the Regulations of the Commission governing Multi-Year Tariff or relevant orders of the Commission.

21.2. The reactive energy charges in respect of Open Access Consumers with load less than 5 MW shall be calculated on Power Factor basis as may be specified in relevant orders of the Commission.

21.3. The reactive energy charges in respect of Renewable Energy Generating Stations shall be in accordance with the charges approved by the Commission in its relevant Tariff Orders.

Part G: COMMERCIAL MATTERS

22. Billing, Collection and Disbursement

The charges payable under these Regulations shall be billed in accordance with the following procedure:

22.1. Inter-State transactions

(a) Short-term Open Access

- (i) Collection and disbursement of transmission charges for use of Central Transmission Utility ('CTU') and STU systems, and operating charges payable to RLDCs and SLDCs for Short-term Open Access shall be made by the nodal RLDC in accordance with the procedure specified by the Central Commission.
- (ii) The Short-term Open Access Consumer, Generating Station or Licensee, as the case may be, connected to the Distribution System of a Distribution Licensee shall pay charges to such Distribution Licensee in accordance with Regulation 14.1.

(b) Long-term and Medium-term Open Access

- (i) Billing, collection and disbursement of charges payable to the RLDC shall be in accordance with the procedure specified by the Central Commission.
- (ii) Bills towards the charges payable to MSLDC shall be raised by the MSLDC directly on the Open Access Consumer, Generating Station or Licensee, as the case may be, connected to the STU or to the Distribution System of the Distribution Licensee, before the 3rd working day of the succeeding calendar month.
- (iii) The Distribution Licensee shall raise the bill on the Open Access Consumer, Generating Station or Licensee, as the case may be, connected to it in accordance with Regulation 14.3 on receipt of the bill from MSLDC.
- (iv) The Open Access Consumer, Generating Station or Licensee, as the case may be, connected to the Distribution System shall pay the charges in accordance with Regulation 14.1; upon receipt of such payment, the

Distribution Licensee shall disburse the amounts payable to the STU or MSLDC monthly.

- (v) The Open Access Consumer, Generating Station or Licensee, as the case may be, connected to the STU shall pay the bills in accordance with Regulation 14.1.

22.2. Intra-State transactions

(a) *Short-term Open Access*

The Short-term Open Access Consumer, Generating Station or Licensee, as the case may be, connected to the Distribution System of a Distribution Licensee shall pay the charges specified in Regulation 14.1 to the Distribution Licensee in advance, within three days from the approval of Short-term Open Access or before commencement of the transaction, whichever is earlier.

(b) *Long-term and Medium-Term Open Access*

The MSLDC shall communicate to the Distribution Licensee the details of charges due to it by the 3rd day of the succeeding calendar month. The Distribution Licensee shall separately indicate these charges and raise the bill on the Open Access Consumer, Generating Station or Licensee, as the case may be, along with the charges receivable by it, if any, before the 5th day of the month, which shall pay the charges in accordance with Regulation 14.1. Upon receipt of payment, the Distribution Licensee shall disburse the charges payable to MSLDC monthly.

23. Late Payment Surcharge

In case the payment of any bill for charges payable under these Regulations is delayed by an Open Access Consumer, Generating Station or Licensee beyond the due date, and without prejudice to any other liability under the Act or other Regulations, a late payment surcharge as per the Regulations of the Commission governing Multi-year Tariff shall be payable.

24. Default in Payment

- 24.1. In the event of default in payment of any charge or sum of money payable under these Regulations, the Distribution Licensee may discontinue Open Access after giving the Consumer, Generating Station or Licensee, as the case may be, notice of fifteen days, without prejudice to its right to recover such charges in accordance with the provisions of the Act.
- 24.2. In the event of default in payment of charges due to it, the MSLDC may refuse to schedule power to the defaulting Open Access Consumer, Generating Station or Licensee, as the case may be, and direct the Distribution Licensee to disconnect such entity from the grid.

25. Payment Security Mechanism

The Applicant for Long-term or Medium-term Open Access shall open an irrevocable revolving Letter of Credit in favour of the Nodal Agency to the extent of the estimated amount of the various charges payable for a period of two months.

26. Change in points of Injection and Drawal

- 26.1. An existing Long-term or Medium Term Open Access Consumer, Generating Station or Licensee, as the case may be, shall have the option to change the point of injection and/or point of drawal twice in a year, subject to the results of system impact studies to be carried out by the concerned Distribution Licensee at the request of the Applicant:

Provided that any expense on a system impact study or additional expense required to be incurred by the Distribution Licensee on account of such change shall be borne by the Applicant;

Provided further that a Medium-term Open Access Consumer, Generating Station or Licensee shall be eligible for such change only if it is availing of Open Access exceeding one year.

- 26.2. The Distribution Licensee may allow a Short-term Open Access Consumer to change the point of injection in the event of any contingency arising from outage of generation or its associated network, provided it is technically feasible:

Provided that any additional expense required to be incurred by the Distribution Licensee on account of such change shall be borne by the Consumer.

- 26.3. In case of Long-term and Medium-term Open Access, the application for change in point of injection and/or drawal shall be made to the Distribution Licensee at least thirty days in advance:

Provided that a second change may be permitted only six months after the first change becoming effective.

Part H: INFORMATION SYSTEM

27. Information System

- 27.1. Every Distribution Licensee shall provide the following information on its internet web-site (in downloadable format) within 3 months of the notification of these Regulations, and update it regularly:

- (a) The form of application, the procedure and manner of making the application, and the fee required;
- (b) The form of the Open Access Agreement;
- (c) The form of the Connection Agreement;
- (d) The applicable Wheeling Charge and Cross-Subsidy Surcharge;
- (e) Details of current Open Access Consumers, Generating Stations and Licensees, indicating:
 - (i) Name;

- (ii) Period of Open Access granted (dates of commencement and termination);
- (iii) Extent of Open Access approved;
- (f) List of Open Access Applications,, with date of receipt, date of application admitted, action taken and status;
- (g) Details of rejected Open Access Applications, with reasons.

Part I: MISCELLANEOUS

28. Obligations of Transmission Licensee

Where the Consumer, Generating Station or Licensee, as the case may be, having been granted Open Access under these Regulations, obtains supply of electricity from a connection to the Intra-State Transmission System of a Transmission Licensee and the Distribution System of the Distribution Licensee is not used for such supply, the provisions of the Commission's Regulations governing Transmission Open Access shall be applicable:

Provided that Cross-Subsidy Surcharge and Additional Surcharge as may be applicable shall be payable if the Open Access Consumer is located within the area of supply of the Distribution Licensee.

29. Curtailment Priority

Subject to the provisions of the State Grid Code, if it becomes necessary to curtail the Open Access of the Consumer, Generating Station or Licensee in the event of technical constraints in the operation of the State grid, the MSLDC or the Distribution Licensee shall curtail the Open Access in the following order:

Curtailment order	Type of Transaction
First	Short-term Open Access
Second	Medium-term Open Access
Third	Long-term Open Access
Last	Short-term, Medium-term or Long-term Open-Access of Distribution Licensee, in this order.

Provided that, amongst Short-term Open Access transactions, the curtailment order as between bilateral transactions and collective transactions shall be as specified by the Central Commission.

30. Existing Open Access Contracts

Anything done or purported to have been done or taken, including any existing contract or document or instrument issued or executed prior to the notification of these Regulations and which relates to the use of the Distribution System, shall be deemed to be valid and binding only insofar as it is not inconsistent with the Act.

31. Open Access Monitoring and Review Committee

- 31.1. The STU shall constitute and be the Convener of an Open Access Monitoring and Review Committee comprising one member each of MSLDC, STU, the Distribution Licensees, a person nominated by the Commission from among its officers and a Consumer Representative nominated by the Commission, which shall monitor the progress of Open Access and shall meet at least once in 6 months:

Provided that the Committee constituted under the previous Regulations shall continue until such time as the Committee under these Regulations is constituted.

- 31.2. The Distribution Licensees shall provide information on the Open Access granted, the applications pending / rejected by them, and any other information required by the Committee.
- 31.3. The Committee shall furnish its observations and suggestions to the Commission on the operation of the Regulations or any related aspect pertaining to Open Access at least once in every six months.

32. Disputes

Save as otherwise provided, any dispute under these Regulations shall be adjudicated upon by the Commission.

33. Force Majeure

33.1. Nothing contained in these Regulations shall be taken as requiring a Distribution Licensee to grant Connectivity or consent for Open Access if it is prevented from so doing by the occurrence of any Force Majeure event. Force Majeure events are:

- (i) Natural phenomena, including but not limited to floods, cyclone, droughts, earthquake and epidemics.
- (ii) War (whether declared or undeclared), mutiny, invasion, armed conflict or act of a foreign enemy, in each case involving or directly affecting India, revolution, riot, insurrection or other civil commotion, act of terrorism or sabotage in each case within India.
- (iii) nuclear explosion, radioactive or chemical contamination or ionizing radiation directly affecting the Generating Station, captive generating plant or Consumer, Inter-State or Intra-State Transmission System or any facility or system that is integral to and substantial for the performance of obligations.
- (iv) any event or circumstances of a nature analogous to any events set forth above, within India.

Provided that the Distribution Licensee shall, within 15 days from the occurrence of a Force Majeure event, notify the Applicant or Open Access Consumer, Generating Station or Licensee, as the case may be.

33.2. Notwithstanding anything to the contrary in these Regulations, the Distribution Licensee shall not be liable for any loss or obligations due to the occurrence of Force Majeure events.

34. Exemption

- 34.1. Nothing contained in these Regulations shall apply to a Local Authority engaged in the business of distribution of electricity before the appointed date.
- 34.2. Changeover Consumers shall be governed by the relevant orders of the Commission.

35. Issue of Orders and Practice Directions

Subject to the provisions of the Act, the Commission may issue Orders and Practice Directions with regard to the implementation of these Regulations.

36. Power to Amend

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

37. Powers to Remove Difficulties

If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by general or specific order, make such provisions, not inconsistent with the provisions of the Act, as may appear to be necessary or expedient for the purpose of removing such difficulty.

38. Repeal and Savings

- 38.1. Save as otherwise provided in these Regulations, the Maharashtra Electricity Regulatory Commission (Distribution Open Access) Regulations, 2014, shall stand repealed from the date of notification of these Regulations.
- 38.2. Notwithstanding such repeal, anything done or purported to have been done under the repealed Regulations shall be deemed to have been done or purported to have been done under these Regulations.

- 38.3. Consumers, Generating Stations or Licensees, as the case may be, availing Open Access to the Distribution System in Maharashtra on the date of coming into force of these Regulations under an existing agreement or contract shall be entitled to continue to avail such access on the same terms and conditions as stipulated under such existing agreement or contract:

Provided that the provisions of these regulation relating to Banking under Regulation 20, the definition of Billing Demand, change in injection or drawal point under Regulation 26 and revision in Contract Demand under Regulation 4.2 shall be applicable to existing Open Access Agreements or contracts;

Provided further that a Consumer, Generating Station or Licensee who has applied for Open Access to the Distribution System in Maharashtra under the repealed Regulations and whose Application is under process on the date of coming into force of these Regulations, need not reapply, and such Applications will be processed under the provisions of these Regulations.

- 38.4. Nothing in these Regulations shall, expressly or impliedly, bar the Commission from dealing with any matter or exercising any power under the Act for which no Regulations have been framed.

Mumbai,
Date: 30 March, 2016

ASHWANI KUMAR
Secretary,
Maharashtra Electricity Regulatory Commission