

ORISSA ELECTRICITY REGULATORY COMMISSION

BIDYUT NIYAMAK BHAWAN
UNIT-VIII, BHUBANESWAR-751 012

NOTIFICATION

Dated, the _____, 2005

No.OERC-JD(EA)_____ /2005 – In exercise of the powers conferred under sub-sections (2) and (4) of Section 42 read with Sections 39, 40, 86 and 181 of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in that behalf, the Orissa Electricity Regulatory Commission hereby makes the following Regulations for Determination of Charges for Open Access consumers in the intra-state transmission and distribution systems in the State of Orissa.

1. Short Title, Commencement and Interpretation :-

- (i) These Regulations shall be called the Orissa Electricity Regulatory Commission (Determination of Open Access Charges) Regulation, 2005.
- (ii) These Regulations extend to the whole of the State of Orissa.
- (iii) These Regulations shall come into force on the date of their publication in the Official Gazette.

2. Definitions:-

In these Regulations, unless the context otherwise requires –

- a) "Act" means the Electricity Act, 2003 (36 of 2003);
- b) "Applicant" means a person who makes an application to the Nodal Agency for open access and includes any person engaged in generation, a licensee or any consumer eligible for open access under these Regulations;
- c) "Commission" means the Orissa Electricity Regulatory Commission being the Commission for the State of Orissa in terms of the first proviso to sub-section (1) of Section 82 of the Act;
- d) "Day" means a day starting at 00 hours and ending at 24.00 hours;
- e) "Direct customer" means a person directly connected to the transmission/distribution system owned and/or operated by the State Transmission Utility/Transmission licensee;
- f) "Embedded customer" means a person who is not a direct customer;
- g) "Existing Customer" means a person already availing open access to the transmission system and/or distribution system of a licensee in the State under an existing agreement on the date of coming into force of these Regulations;

- h) **“Month”** means a calendar month as per British Calendar;
- i) **“Nodal Agency”** means the nodal agency defined in Regulation 7 of OERC (Terms & Conditions of Open Access) Regulation, 2005;
- j) **“Open Access Customer”** means any person permitted by the State Commission to receive supply of electricity from a person other than distribution licensee of his area of supply, and open access shall be construed accordingly. The expression Open Access Customer includes a generating company and/or a licensee, who has availed of or intends to avail of open access;
- k) **“State”** means the state of Orissa;
- l) **“SLDC”** means the State Load Dispatch Centre established under sub-section (1) of section 31 of the Act;
- m) **“State Transmission Utility”** means a Government company specified as such by the State Government under sub-section (1) of section 39 of the Act;
- n) **“Transmission Customer”** means any person, including open access customer using transmission lines and associated facilities of State Transmission Utility and/or a transmission licensee;
- o) **“Year”** means twelve (12) calendar months.

Words and expressions used and not defined in these Regulations but defined in the Act shall have the meanings as assigned to them in the Act, or in absence thereof, shall have the same meaning as commonly understood in the electricity supply industry.

3. Extent of Application:-

These Regulations shall apply to open access consumers for use of intra-state transmission and distribution systems in the State within the meaning of the term defined in clause (37) & (19) respectively of Section 2 of the Act.

4. Open Access Charges:-

Open Access Customers shall pay the following charges for the use of the intra-state transmission/distribution system which shall be regulated as follows:

4.1 Transmission/Wheeling Charges

- (i) Open access customers connected to the intra-state transmission/distribution systems shall pay the transmission and wheeling charges to the appropriate licensees, as the Commission may determine from time to time.
- (ii) The Commission shall determine transmission charges payable to State Transmission Utility (STU)/Transmission Licensee and wheeling charges payable to Distribution Licensee(s) by open access customers on full cost basis as part of tariff under Sections 61, 62 and 86 of the Act.

- (iii) This full cost shall be calculated for the relevant voltage level considering the actual energy wheeled/transmitted in the system. The per unit cost of transmission and wheeling shall be determined using the postage stamp method taking into consideration the quantum of energy handled in the appropriate system.
- (iv) Where a dedicated transmission system or a distribution system used for open access has been constructed by the licensee for exclusive use of an open access customer, such a dedicated system shall also be treated as a part of the integrated system. The licensee shall work out the transmission charges or wheeling charges for such dedicated system. The Commission based on the estimation of efforts required by the licensee to maintain the system and other statutory charges, if any, shall determine such charges under Section 46 of the Act, which shall be borne entirely by such open access customer till such time the surplus capacity is allotted and used for by other persons or purposes.
- (v) If network augmentation is required for providing access to an applicant, the licensee shall carry out such augmentation either by investing own funds which shall be recovered along with the required return within reasonable time or by requesting the open access customer(s) to provide debt capital towards such network augmentation.
- (vi) In case inter-state transmission system is used by an open access customer in addition to distribution system, transmission charges for inter-state transmission shall be payable by the customer in accordance with CERC Regulation in addition to wheeling charges as approved by the Commission.
- (vii) The annual transmission charges payable by a long-term customer for use of the intra-state transmission system shall be determined after deducting the adjustable revenue received from the short-term customers as well as inter-state customers. The long-term customers shall share these charges. The transmission charges payable by long-term customers in terms of Rs./MW/Day in case of uncongested transmission corridor shall be worked out as follows:

$$LT_RATE = \left\{ \frac{\text{Total Approved Transmission Cost (ARR)}}{\text{Average_Demand in the State (in MW)}} \right\} / 365$$

- (viii) The transmission charges payable by short-term customers in terms of Rs./MW/Day in case of uncongested transmission corridor shall be calculated in accordance with the following methodology, namely:-

$$ST_RATE = 0.25 \times [ARR / \text{Average_Demand in MW}] / 365$$

where ST_RATE is the rate for short-term customer in Rs per MW per day, "ARR" means the annual transmission charges or annual revenue requirement on account of the transmission system for the previous financial year as determined by the Commission. "Av_DEMAND" means the average capacity in MW served by the intra-state transmission system of the transmission licensee in the previous financial year.

- (ix) The transmission charges payable by a very very short-term customer using the system for fraction of a day in case of uncongested transmission corridor shall be levied as under, namely :-
 - (a) Up to 6 hours in a day in one block : 1/4th of ST_RATE
 - (b) More than 6 hours and up to 12 hours in a day in one block : ½ of ST_RATE
 - (c) More than 12 hours and upto 24 hours in a day in one block : equal to ST_RATE
- (x) The transmission charges payable by a short-term customer shall be for one day and in multiples of whole number of days.
- (xi) 25% of the charges collected from the short-term customers shall be retained by the transmission licensee and the balance 75% shall be adjusted towards reduction in the transmission charges payable by the long-term customers.
- (xii) Every transmission licensee shall declare the approved LT_RATE and ST_RATE in Rs./MW per day calculated in accordance with clause (vi) and (vii) above, which shall remain fixed for a period of one year.
- (xiii) Wheeling charges shall be determined on the basis of same principles as laid down for intra-state transmission charges and in addition would include average loss compensation of the relevant voltage level.
- (xiv) Transmission/Wheeling charges should be filed in accordance with Section 64 of the Act.

4.2 Energy Losses

The transmission/distribution customers shall bear average technical losses in the transmission/distribution systems respectively as estimated by the SLDC. The energy losses in the transmission/distribution systems shall be compensated by additional injection at the injection point(s). The distribution loss as approved by the Commission for the previous financial year alongwith the information regarding average energy losses for the previous 52 weeks shall be posted on the website of the SLDC.

4.3 Surcharge:

- (i) Surcharge to be levied on open access customers under Section 42(2) of the Act, shall be determined by the Commission keeping in view the loss of cross-subsidy from these customers opting to take supply from a person other than the incumbent distribution licensee.
- (ii) Cross-subsidy surcharge shall be computed by the licensee as the difference between (1) the tariff applicable to relevant category of consumers and (2) the cost of the distribution licensee to supply electricity to the consumers of the applicable class, and the same shall be submitted for necessary approval of the Commission.

- (iii) Avoided cost method shall be used to determine the cost of distribution licensee to supply electricity to consumers of the applicable class.
- (iv) The methodology for computing such cost is as follows:
 - (a) As a first step, the projected capacity that is likely to move away due to open access will be estimated.
 - (b) Since, it will avoid purchase of power from marginal sources of supply, the weighted marginal cost of power purchase (fixed plus variable costs) from such sources would be considered as avoided cost of power purchase.
 - (c) To that avoided cost, other charges viz. applicable transmission and wheeling charges will be added to arrive at the cost of supply.
- (v) The amount of such surcharge shall be utilised to meet the current level of cross-subsidy paid by the category of consumers applicable to electricity supply of open access customers and shall be paid to the distribution licensee of area of supply where the premises of the customer availing open access is located.
- (vi) The surcharge and cross-subsidy shall be reduced and eliminated in the manner as the Commission may lay down for reduction and elimination of cross-subsidies in its regulations or revised tariff order issued from time to time keeping in view the Long Term Tariff Strategy and the Business Plan as already approved by the Commission.
- (vii) Open access customers availing exclusively inter-state transmission system shall pay the same amount of surcharge as determined under these regulations.
- (viii) Surcharge should be calculated by the licensees and approved by the Commission.

4.4 Additional Surcharge

- (i) The open access customer shall also be liable to pay additional surcharge on charges of wheeling, in addition to wheeling charges and surcharge, in case open access is sought for receiving supply from a source other than the distribution licensee of such consumer's area of supply, to meet the fixed cost of the distribution licensee arising out of his obligation to supply as provided under sub-section (4) of section 42 of the Act.
- (ii) The distribution licensee whose consumer intends to avail of open access shall submit to the Commission within fifteen days of receipt of application, an account of fixed cost, which the licensee is incurring towards his obligation to supply.
- (iii) The additional surcharge for obligation to supply as per Section 42(4) of the Act should become applicable only if it is conclusively demonstrated that, that obligation of a 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 a contract. The fixed costs related to network assets should be chargeable only when the same is not recovered through wheeling charges.

- (iv) The Commission shall scrutinize the statement of accounts submitted by the licensee as per sub clause (ii) above and obtain objections, if deemed necessary of the open access consumer and determine the amount of surcharge and additional surcharge payable by the open access consumer to the licensee.
- (v) The additional surcharge shall be leviable for such period as the Commission may determine from time to time.
- (vi) Additional surcharge should be calculated by the licensees and approved by the Commission.

4.5 Scheduling & System Operation Charges

- (i) Scheduling and Operation charges include fees for scheduling and system operation, fees for affecting revision in the schedule on bonafide grounds, and collection and disbursement charges.
- (ii) Short-term customers shall pay scheduling and system operation charges to be notified by the Commission after determination of ARR.
- (iii) Until such time a sum of Rs.1000.00 per day or part thereof shall be payable by a short-term customer for each transaction towards these charges.
- (iv) Scheduling and system operation charges shall also be payable by a generating company or a licensee when allowed accesses under these regulations.

4.6 Reactive Energy Charges

- (i) The Commission shall separately determine charges for KVARH consumption from the grid in terms of paise/unit and the open access customers shall pay the same.
- (ii) The payment for the reactive energy charges for the direct customers on account of open access shall be calculated in accordance with the scheme applicable to transactions involving intra-state transmission or distribution approved by the Commission in the tariff order.
- (iii) Reactive energy charges shall be based on requirements to be met by the direct customers with regard to reactive power generation/drawl, as stipulated in the State Grid Code/Distribution Code/Supply Code, as the case may be.
- (iv) The reactive energy charges payable to or receivable by the STU shall be paid to or received from the pool by the STU concerned and shall not be apportioned to the embedded customers.
- (v) The reactive energy drawls and injections by the embedded customers shall be governed by the regulations applicable within the State.

4.7 Point of Supply

The point of supply to an Open Access customer shall be at a single point at the outgoing terminal of the licensee i.e. the control switch gear or circuit breaker or high tension fuses that may be installed in the licensee's or consumer's premises as mutually agreed in the case of high tension or extra high tension consumers subject to provisions of OERC Distribution (Conditions of Supply) Code, 2004.

4.8 Bidding during Congestion

In case of customers for short-term access with transactions required to be accommodated through congested corridors of the network, the nodal agency shall invite bids by fax/e-mail with floor price equal to the un-congested price for the short-term customers. The bidders shall quote percentage points above the floor price. The reservation of capacity shall be done in decreasing order of the price quoted. In case of quotes involving equal prices, the reservation of capacity shall be done, if required, pro rata to the capacity sought. The customer getting reservation of capacity less than the capacity sought by him shall pay charges as per the price quoted by him. All other applicants getting capacity reservation equal to the capacity sought by them shall pay charges as per the price quoted by the last applicant getting full reservation of the capacity sought.

4.9 Unscheduled Interchange Charges (UI Charges)

- (i) The mismatch between the scheduled and the actual drawl at the points of drawl and scheduled and the actual injection at injection point(s) may be met from the grid, which shall be governed by UI pricing mechanism. However the tariff payable by the open access customers to the licensee shall not be less than those for the appropriate class of consumers.
- (ii) A composite UI bill for the State as a whole shall be issued by the ERLDC, the segregation of which shall be done at the state level by the SLDC for the UI charges payable by the open access customers.
- (iii) With regard to quality, continuity and reliability of power supply to the premises of an open access customer, the distribution licensee shall be bound by the provisions of OERC (Licensees' Standard of Performance) Regulations, 2004 and Orissa Grid Code as applicable to embedded customers.

4.10 Miscellaneous Charges

- (i) Penal charges, if any, for wrongful use of the transmission and/or distribution systems that adversely affect the power system, shall be decided by the Nodal Agency and borne by the open access customers.
- (ii) Meter rent as applicable to EHT/HT consumers shall be payable by the open access customers.

4.11 Payment Terms and Conditions

- (i) In case of long-term customers, the concerned distribution licensee may invoice a customer in respect of the open access charges as set out in OERC (Terms & Conditions for Open Access) Regulations, 2005. The open access customer must pay those charges in accordance with the procedures set out in the access agreement between the licensees and the customer:

Provided that the distribution licensee shall have appropriate back-to-back arrangements in place with the transmission licensee(s) in order to pass on the transmission charges so collected from the customer to the concerned transmission licensee.

- (ii) In case of short-term customers, the SLDC shall invoice the customer on behalf of the concerned licensee(s) and the customer shall pay the charges to the concerned licensee(s) directly.
- (iii) All open access customers shall pay the charges payable from the date of commencement of open access regardless of whether or not such open access is used on and from that date, except if the failure to use such access services is due to the default of the concerned licensee(s) whose networks are being used.
- (iv) All open access customers shall institute an appropriate security mechanism in the agreement to cover charges for a maximum period of one month.
- (v) In case a short-term customer is unable to utilise full or substantial part of the reserved capacity reserved, he shall inform the SLDC along with reasons for his inability to utilise the reserved capacity and may surrender the reserved capacity.
- (vi) The SLDC may reduce or cancel the reserved capacity of a short-term customer when such a customer frequently under-utilises the reserved capacity.
- (vii) The short-term customer who has surrendered the reserved capacity or whose reserved capacity has been reduced or cancelled, shall bear full transmission or distribution charges as the case may be in addition to the scheduling and system operation charges based on original reserved capacity and the period for which the capacity was reserved.

4.12 Special Provision for Existing Open Access Customers

The persons availing open access to the intra-state transmission and distribution systems in the State under an existing agreement or arrangement shall be entitled to continue to avail the open access on the terms and conditions applicable to them as before for the period of the existing agreement or arrangement subject to the payment of the transmission charges, the wheeling charges, applicable surcharges and other charges as may be specified in this Regulation and determined by the Commission from time to time.

4.13 Issue of Orders and Practice Directions

Subject to the provisions of the Electricity Act, 2003 and these Regulations, the Commission may from time to time issue orders and practice directions in regard to the implementation of these Regulations and procedure to be followed on various matters, which the Commission has been empowered by these Regulations to specify and direct, and matters incidental or ancillary thereto.

4.14 Savings

- (i) Nothing in these Regulations shall be deemed to limit or otherwise affect the power of the Commission to make such orders as may be necessary to meet the ends of justice.
- (ii) Nothing in these Regulations shall bar the Commission from adopting in conformity with provisions of the Act, a procedure which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or a class of matters, deems it just or expedient for deciding such matter or class of matters.
- (iii) Nothing in these Regulations shall, expressly or impliedly, bar the Commission dealing with any matter or exercising any power under the Act for which no regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner, as it considers just and appropriate.

4.15 Powers to Remove Difficulties

In case of any difficulty in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, direct the open access customers, generators, the STU, the SLDC and the licensees to take suitable action, not being inconsistent with the provisions of Electricity Act, 2003, which appears to the Commission to be necessary or expedient for the purpose of removing the difficulty. The Open Access customers, generators, the STU, the SLDC and the licensees may make an application to the Commission and seek suitable orders to remove any difficulty that may arise in implementation of these Regulations.

4.16 Power to Amend

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

By order of the Commission

(M.R. HAZRA)
SECRETARY