

HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION
SHIMLA

Dated: Shimla 2nd May, 2010

NOTIFICATION

No.HPERC/418.- In exercise of the powers conferred by section 181, read with sections 39, 40, 42 and 86 of the Electricity Act, 2003 (36 of 2003), and all other powers enabling it in this behalf, the Himachal Pradesh Electricity Regulatory Commission, after previous publication, hereby makes the following regulation :-

REGULATIONS

CHAPTER-1 - PRELIMINARY

1.Short title, commencement and extent. - (1) These regulations shall be called the Himachal Pradesh Electricity Regulatory Commission (Short Term Open Access) Regulations, 2010.

(2) These regulations shall come into force on the date of their publication in the Rajpatra, Himachal Pradesh.

(3) These regulations shall apply to the applications made for grant of short term open access for energy transfer schedules for use of intra-State transmission system and/or distribution system of the licensees in the State of Himachal Pradesh, including when such system is used in conjunction with the inter-State transmission system.

2. Definitions.- In these regulations, unless the context otherwise requires, –

(1) "Act" means the Electricity Act, 2003 (36 of 2003);

(2) “applicant” means a person who makes an application for availing short term open access to any transmission and/or distribution system within the State in accordance with these regulations;

(3) “captive generating customer” means a person who has constructed a captive generating plant and maintains and operates such plant and requires short term open access for the purpose of carrying electricity from his captive generating plant to the destination of his use;

(4) "Commission" means the Himachal Pradesh Electricity Regulatory Commission;

(5)“day” means a day starting at 00.00 hours and ending at 24.00 hours.

- (6) “detailed procedure” means the procedure issued under regulation 5;
- (7) “Grid Code” means the State Grid Code specified by the Commission under clause (h) of sub-section (1) of section 86 of the Act;
- (8) “intra-State entity” means a person whose metering and energy accounting is done by the State Load Despatch Centre or by any other authorised State Utility.
- (9) “long term open access” means the use of the intra-State transmission and/or distribution system for a period exceeding 12 years but not exceeding 25 years;
- (10) “long term open access customer” means a person who has been granted long-term open access;
- (11) “medium term open access” means the use of the intra-State transmission and/or distribution system for a period exceeding 3 months but not exceeding 3 years;
- (12) “medium term open access customer” means a person granted medium-term access;
- (13) "month" means a calendar month as per the British calendar;
- (14) "nodal agency" means the State Load Despatch Centre for arranging short-term open access to any transmission and/or distribution system under these regulations;
- (15) “open access customer” means a person, who has availed or intends to avail of open access under these regulations, and includes a short term open access customer or a generating company (including the captive generating plant) or a licensee or a consumer permitted by the Commission to receive supply of electricity from a person other than distribution licensee of his area of supply, or a State Government entity authorised to sell or purchase electricity;
- (16) “open access in distribution” means the non-discriminatory provision for the use of the distribution system and associated facilities by any licensee or customer or person engaged in generation, in accordance with these regulations;
- (17) “open access transaction” means a transaction for exchange of energy (MWh) between a specified buyer and a specified seller, directly or through a trading licensee, from a specified point of injection to a specified point of drawal for a fixed or varying quantum of power (MW) for any time period during a month;
- (18) “open access in transmission” means the non-discriminatory provision for the use of the transmission system and associated facilities by any licensee or customer or person engaged in generation, in accordance with these regulations;

(19) “short term open access” means open access for a period upto one (1) month at one time;

(20) “short term open access customer” means a person who has availed or intends to avail short term open access;.

(21) “State” means the State of Himachal Pradesh;

(22) “State network” means network owned by the State Transmission Utility, distribution licensee or any other person granted licence by the State Commission to construct, operate and maintain the transmission system;

(23) “ Supply Code” means the Supply Code specified by the Commission under section 50 and clause (x) of sub-section (2) of section 181 of the Act;

(24) “time block” means 15 minutes time period specified in the Grid Code for the purposes of scheduling and despatch of power; and

(25) other words and expressions used in these regulations and not defined herein but defined in the Act or the Grid Code or the Supply Code, shall have the same meaning as are assigned to them in the Act, or the Grid Code, or the Supply Code, as the case may be.

CHAPTER-II

SHORT TERM OPEN ACCESS IN INTRA-STATE TRANSMISSION

3. Criteria for allowing open access in transmission. - The short term open access shall be allowed, if request can be accommodated by utilizing surplus capacity available in the intra-State transmission system, by virtue of-

- (a) inherent design margins;
- (b) margins available due to variation in power flows; and
- (c) margins available due to in-built spare transmission capacity created to cater to future load growth.

4. Open access priority.- (1) The intra-State open access shall have the priority over the inter-State open access and the order of priority shall be -

- (a) long term open access for distribution licensees for electricity generated from renewable sources and co-generation;
- (b) long term open access for distribution licensees for electricity generated from sources other than referred to in clause (a);
- (c) medium term open access for distribution licensees for electricity generated from renewable sources and co-generation;

- (d) medium term open access for distribution licensees for electricity generated from sources other than referred to in clause (c):
 - (e) short term open access for distribution licensees for electricity generated from renewable sources and co-generation;
 - (f) short term open access for distribution licensees for electricity generated from sources other than referred to in clause (e):
 - (g) captive generating plant ;and
 - (h) open access to any other customer.
- (2) Notwithstanding anything contained in this regulation, the Commission may, at any time, having regard to the necessity to promote and develop market in the State, review the priority accorded by this regulation to any category of open access customers.
- (3) Once open access has been granted, the short term customer shall not be replaced by any other person on account of a subsequent request received from such other person.

5. **Detailed procedure.**- Subject to the provisions of these regulations, the nodal agency shall, submit the detailed procedure, covering relevant and residual matters not detailed in these regulations, to the Commission for its approval within 90 days of notification of these regulations in the Official Gazette:

Provided that prior to submitting the detailed procedure to the Commission for approval, the nodal agency shall make same available to the public and invite comments by putting the draft detailed procedure on its website and giving a period of one month to submit comments:

Provided further that while submitting the detailed procedure to the Commission, the nodal agency shall submit a statement indicating as to which of the comments of stakeholders have not been accepted by it along with reasons thereof.

6. **Submission of short term open access application.**- (1) An open access customer intending to avail of open access for use of the transmission lines or associated facilities for such lines on the intra-State transmission system, shall make an application to the nodal agency in accordance with these regulations.

(2) The application for an open access transaction shall contain the details, such as names and location of supplier and buyer, contracted power (MW) to be scheduled and interface at which it is referred to, point of injection, point of drawal, starting time block and date, ending time block and date, and such other information that may be required in the detailed procedure.

(3) The application shall be accompanied by a non-refundable application fee of rupees five thousand, payable in the name and in the manner laid down in the detailed procedure for open access in transmission:

Provided that the fee for an open access transaction on the day of the application or on the day immediately following the day of the application may be deposited within three working days of submission of the application.

7. Procedure for advance scheduling for open access transactions.- (1) An application for advance scheduling for an open access transaction may be submitted to the nodal agency up to the fourth month, the month in which an application is made being the first month:

Provided that separate application shall be made for each month, and for each transaction.

(2) (a) An application for intra-State scheduling during the fourth month shall be made up to the last day of the first month.

(b) All applications received under this sub-regulation shall be taken up together for consideration.

(c) The nodal agency shall convey its acceptance or otherwise to the applicant latest by the fifth day of the second month:

Provided that while accepting its application, open access granted to any person prior thereto shall not be withdrawn.

(3) (a) An application for intra-State scheduling during the third month shall be made upto five (5) days prior to the close of the first month.

(b) All applications received under this sub-regulation shall be taken up together for consideration.

(c) The nodal agency shall convey its acceptance or otherwise to the applicant latest by the close of the first month:

Provided that while accepting the application, open access granted to any person prior thereto shall not be withdrawn.

(4) (a) An application for intra-State scheduling during the second month shall be made with the nodal agency up to ten (10) days prior to the close of the first month.

(b) All applications received under this sub-regulation shall be taken up together for consideration.

(c) The nodal agency shall convey its acceptance or otherwise to the applicant five days prior to the last day of the first month:

Provided that while accepting the application, open access granted to any person prior thereto shall not be withdrawn.

(5) Wherever the nodal agency rejects an application, it shall convey its reasons to the applicant in writing.

8. Congestion management.- Where in the opinion of the nodal agency, grant of open access to all applications at a particular stage of advance scheduling is likely to cause congestion in one or more of the transmission corridors to be used, it shall conduct electronic bidding for grant of open access for the available surplus transmission capacity among the applicants at that stage, in accordance with the detailed procedure:

Provided that if any person does not participate in the bidding process he shall be deemed to have withdrawn his application.

9. Procedure for scheduling of open access transactions on first-come-first-served basis.- (1) The applications for grant of open access for the second month, received after the date specified in sub-regulation (4) of regulation 7 and the applications for grant of open access during the first month shall be considered on first-come-first-served basis, and such transactions shall be scheduled subject to availability of the required transmission capacity:

Provided that such applications shall reach the nodal agency at least four (4) days in advance of the date of the open access transaction:

Provided further that separate application shall be made for each transaction.

(2) All these applications shall be processed and decided within three (3) days of their receipt.

10. Procedure for scheduling for day-ahead transaction.- All applications for open access transactions received within three (3) days prior to the date of scheduling and up to 15.00 hrs of the day immediately preceding the date of scheduling shall be clubbed and treated at par for day ahead transaction.

Procedure for scheduling of transactions in a contingency.- In the event of a contingency, the buyer may locate a source of power to meet short-term contingency requirement even after the cut-off time of 15.00 hrs of the preceding day and apply to the nodal agency for open access and scheduling and in that event, the nodal agency shall endeavor to accommodate such request as soon as and to the extent practically feasible, in accordance with the detailed procedure.

12. Revision of schedule.- (1) The short term open access schedules accepted by the nodal agency in advance or on first-come-first-served basis may be cancelled or revised downward, on an application made by the person granted short term open access-

Provided that such cancellation or downward revision of the short term open access schedules shall not be effective before expiry of a minimum period of two days:

Provided further that the day on which notice for cancellation or downward revision of a short term open access schedule is served on the nodal agency and the day from which such cancellation or downward revision is to be implemented, shall be excluded for computing the notice period of two (2) days.

(2) The person seeking cancellation or downward revision of schedule of short term open access schedule shall pay the transmission charges for the notice period of two (2) days in accordance with the schedule originally approved by the nodal agency.

(3) If the period of cancellation or downward revision of schedule exceeds two (2) days, the transmission charges for the period beyond the notice period of two (2) days shall be payable in accordance with the revised schedule prepared by the nodal agency.

13. Curtailment in case of transmission operational constraints.-(1) The State Load Despatch Centre may curtail power flow on any transmission corridor, by cancelling or re-scheduling any transaction, if in its opinion cancellation or curtailment of any such transaction is likely to relieve the transmission operational constraint or improve grid security.

(2) In case of curtailment of the approved schedule by the State Load Despatch Centre, transmission charges shall be payable pro-rata in accordance with the curtailed schedule:

Provided that operating charges shall not be revised in case of curtailment under sub-regulation(1) .

Explanation. – For the purpose of this regulation, the expression “operational constraints” shall include the availability of the adequate capacity in the transmission system, appropriate metering and energy accounting system where the electricity to be transmitted can be correctly measured and accounted for and such other factors which may have an impact on the transmission licensee’s business of supplying electricity to consumers in the area of supply.

14. Curtailment priority.- When because of operational constraints, force majeure events, or otherwise it becomes necessary to curtail the short term open access in transmission, the curtailment priority shall be in the reverse order of the priority specified in regulation 4.

15. Determination of capacity.- (1) The availability of capacity in the intra-State transmission system including existence or absence of operational constraints affecting open access being allowed shall be determined by the nodal agency in consultation with other agencies involved and also after considering the submissions made by the transmission licensees and the persons seeking open access.

(2) In the event of any dispute in the matter of operational constraints in transmission system, on the determination of capacity under sub-regulation (1), the same shall be referred by the nodal agency to the Commission for its decision.

(3) The Commission may, while deciding the dispute under sub- regulation (2) or otherwise, by a general or special order made from time to time, lay down the conditions to be complied with by the persons seeking short term open access and the said open access shall be allowed only subject to the due satisfaction of such conditions.

16. Charges for open access in transmission.- The short term open access customers shall, for the use of the transmission system, pay the transmission charges at par with the long term transmission charges in accordance with the terms and conditions for determination of transmission tariff specified by the Commission from time to time.

17. Operating Charges.- Operating charges for the day or part of the day for each transaction for the State Load Despatch Centre shall be payable by the applicant.

Note 1.-The operating charges include fee for scheduling, system operation and collection and disbursement of charges.

Note 2 .-The operating charges collected by the nodal agency shall be in addition to the fees and charges specified by the Commission under sub-section (3) of section 32 of the Act.

18. Payment of transmission charges and operating charges.- The applicant shall deposit with the nodal agency transmission charges and operating charges within three (3) working days of grant of application.

19. Default in payment of open access charges.- (1) In case of default in payment of the application fee or the charges specified under these regulations, the nodal agency may, in its discretion, decide not to schedule the transaction, or to cancel the scheduling of already scheduled transaction, or not to entertain any application of such persons in future until such time the default is cured.

(2) Notwithstanding the above, the person committing default in payment shall pay simple interest at the rate of 0.04% for each day of default.

20. Unscheduled Inter-change (UI) Charges.- (1) All transactions for intra-State entities by the nodal agency under these regulations, shall be accounted for and included in the respective day-ahead net interchange schedules of the intra-State entity issued by the State Load Despatch Centre.

(2) Based on net metering on the periphery of each intra-State entity, composite UI accounts shall be issued for each intra-State entity on a weekly cycle.

(3) Any mismatch between the scheduled and the actual drawal at drawal points and scheduled and the actual injection at injection points for the intra- State entities shall be determined by the State Load Despatch Centre and covered in the intra-State Availability Based Tariff (ABT).

(4) The UI rate for intra-State entity shall be 105% (for over-drawals or under generation) and 95% (for under-drawals or over generation) of inter-State UI rate.

21. Reactive energy charges.- (1)The payment and receipt of the reactive energy charges by the open access customers shall be in accordance with the relevant provisions of the Grid Code.

(2) The reactive energy drawals and injections by the open access customers shall be governed by the relevant provisions of the Grid Code.

22. Collection and disbursement of transmission charges and operating charges.- (1) The transmission charges and the operating charges payable by the persons allowed short-term open access shall be collected and disbursed by the nodal agency.

(2) The transmission charges collected for use of the transmission system for each point of injection and each point of drawal shall be disbursed by the nodal agency in the following manner, namely-

- (a) the State Transmission Utility / Transmission Licensee -25% on pro-rata basis;
- (b) long-term open access customers -75%:

Provided that transmission charges shall be disbursed to the long-term open access customers in proportion to the monthly transmission charges payable by them.

CHAPTER-III

SHORT TERM OPEN ACCESS IN DISTRIBUTION

23. Open access in distribution.- Open access for one(1) MW and above in distribution in the State shall be allowed to any open access customer or person subject to the operational constraints and other relevant factors.

24. Application of provisions of Chapter-II. - The provisions specifying criteria for allowing open access priority, detailed procedure, submission of application, procedures for advance scheduling, congestion management, scheduling for first-come-first basis, scheduling for day ahead transactions,

scheduling for transaction for contingency, revision of scheduling, curtailment in case of operational constraints, curtailment priority, determination of capacity in relation to short term open access in intra-State transmission as contained in regulations 3 to 15 in Chapter II of these regulations shall apply mutatis mutandis to the short term open access in distribution.

25. Charges for open access in distribution.- The open access customers shall pay the wheeling charges determined, from time to time, under the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2007, for the use of the distribution system.

26. Operating Charges.- Operating charges at the rate of Rs. 2,000 /- per day or part of the day for each transaction of the State Load Despatch Centre, shall be payable by the applicant.

Note 1.-The operating charges include fee for scheduling, system operation and collection and disbursement of charges.

Note 2.-The operating charges collected by the nodal agency shall be in addition to the fees and charges specified by the Commission under sub-section (3) of section 32 of the Act.

27. Surcharge.- (1) In addition to the wheeling charges, an open access customer, other than the captive generating customer, availing open access in distribution shall pay a surcharge specified by the Commission in the Himachal Pradesh Electricity Regulatory Commission (Cross Subsidy Surcharge, Additional Surcharge and Phasing of Cross Subsidy) Regulations, 2006.

(2) The amount of surcharge shall compensate for the loss in the current level of cross -subsidy from the category of consumers to which the open access customer belongs and shall be paid to the respective distribution licensee of the area of supply.

(3) The surcharge shall be progressively reduced in the manner as specified by the Commission in the Himachal Pradesh Electricity Regulatory Commission (Cross Subsidy Surcharge, Additional Surcharge and Phasing of Cross Subsidy) Regulations, 2006.

28. Unscheduled Inter-change (UI) Charges.- (1) All transactions for intra-State entities under these regulations, shall be accounted for and included in the respective day-ahead net interchange schedules of the concerned intra-State entity issued by the State Load Despatch Centre.

(2) Based on net metering on the periphery of each intra-State entity, composite UI accounts shall be issued for each intra-State entity on a weekly cycle.

(3) Any mismatch between the scheduled and the actual drawl at drawl points and scheduled and the actual injection at injection points for the intra- State entities shall be determined by the State Load Despatch Centre and covered in the intra-State Availability Based Tariff (ABT).

(4) The UI rate for intra-State entity shall be 105% (for over-drawls or under generation) and 95% (for under-drawls or over generation) of UI inter-State rate.

29. Payment of wheeling charges and operating charges.- The applicant shall deposit with the nodal agency wheeling charges and operating charges within three (3) working days of grant of application.

30. Default in payment of open access charges.- (1) In case of default in payment of the application fee or the charges specified under these regulations, the nodal agency may, in its discretion, decide not to schedule the transaction, or to cancel the scheduling of already scheduled transaction, or not to entertain any application of such persons in future until such time the default is cured.

(2) Notwithstanding the above, the person committing default in payment shall pay simple interest at the rate of 0.04% for each day of default.

31. Reactive Energy Charges.- (1) The payment and receipt of the reactive energy charges by the open access customers shall be in accordance with the relevant provisions of the Grid Code.

(2) The reactive energy drawls and injections by the open access customers shall be governed by the relevant provisions of the Himachal Pradesh Electricity Distribution Code, 2009.

32. Collection and disbursement of wheeling charges, and operating charges.- (1) The wheeling charges and the operating charges payable by the persons allowed short-term open access in distribution system shall be collected and disbursed by the nodal agency.

(2) The wheeling charges collected for use of the distribution system for each point of injection and each point of drawal shall be disbursed by the nodal agency in the following manner, namely-

- (a) the distribution licensee- 25%;
- (b) the long-term open access customers -75%;

Provided that the wheeling charges shall be disbursed to the long-term customers in proportion to the monthly wheeling charges payable by them.

33. Obligation of distribution licensee to an open access customer.- (1) Notwithstanding that a customer is availing open access in distribution, the distribution licensee shall allow non-discriminatory flow of energy to such customer in its area.

(2) Upon the expiry of the period of open access availed by a open access customer or earlier termination thereof, the distribution licensee of the area shall commence supply of electricity to such open access customer at such tariff

as may be determined by the Commission and on fulfillment of codal formalities of the distribution licensee for connection of the supply.

CHAPTER-IV

MISCELLANEOUS

34., Special Energy Meters.- (1) Special Energy Meters alongwith telemetry connection shall be installed by the State Transmission Utility for open access in transmission and by the distribution licensee for open access in distribution for and at the cost of the open access customers.

(2) Special Energy Meters installed shall be capable of time-differentiated measurements for time block wise active energy and voltage-differentiated measurement of reactive energy in accordance with Annexure – 2 of the Grid Code.

(3) Special Energy Meters shall always be maintained in good condition.

(4) Special Energy Meters for the open access customer shall be open for inspection by any person authorised by the State Transmission Utility/ the distribution licensee or the State Load Despatch Centre.

35. Energy losses.- (1) The buyers and sellers of the electricity shall absorb apportioned energy losses in the transmission and or distribution system as estimated by the State Load Despatch Centre and applied in accordance with the detailed procedure.

(2) The energy losses shall be accounted for by providing a differential between schedules at the points of supply, and drawal of electricity.

(3) The applicable transmission and distribution losses for the State network shall be declared in advance and shall not be revised retrospectively.

36. Short-term open access not to be granted.- When so directed by the Commission, the nodal agency shall not grant short-term open access to the entities and associates of such entities, who consistently and willfully default in payment of Unscheduled Interchange charges, transmission charges, wheeling charges, surcharge, operating charges, reactive energy charges, and fee and charges for the State Load Despatch Centre.

37. Information system.- The State Load Despatch Centre shall post the following information on their websites in a separate web-page titled “Short-term open access information”:

- (a) these regulations;
- (b) the detailed procedure;
- (c) a list of transactions accepted by the nodal agency, to be

displayed till the end of the month in which transactions are scheduled, indicating.-

- (i) name of customers;
- (ii) period of the open access granted (start date and end date);
- (iii) point or points of injection;
- (iv) point or points of drawal;
- (v) transmission systems used;
- (vi) distribution system used;
- (vii) accepted schedule (MW) with start time and end time.

Note.- The status report shall be updated daily.

- (d) the information regarding average energy losses for the previous 52 weeks;
- (e) transmission charges and applicable transmission losses;
- (f) the list of open access applications for advance scheduling received by the nodal agency which have not been accepted, along- with reasons for denial, to be displayed till one month after the scheduling period;
- (g) the wheeling charges and applicable distribution losses.

38. Communication facility.- An open access customer shall provide for or bear the cost of equipment for communication upto the nearest grid sub-station or the State Load Despatch Centre as may be determined by the nodal agency.

39. Compliance with electricity Codes.- The open access customer shall abide by the State Grid/ Supply/Distribution Code.

40. Redressal mechanism.- (1) All disputes and complaints regarding unfair practices, delays, discrimination, lack of information, supply of wrong information or any other matter relating to open access shall be made to the nodal agency, which shall investigate and endeavour to resolve the grievances within 45 days:

Provided that where the open access customer is not satisfied with the redressal of grievance by the nodal agency, it may approach the Commission, whose decision shall be final and binding.

(2) The Commission may, while deciding the dispute under sub-regulation (1) or otherwise, by a general or special order made from time to time, lay down the conditions to be complied with by the transmission and distribution licensees and the persons seeking open access in regard to operational constraints and the open access shall be allowed only subject to the due satisfaction of such conditions.

41. General conditions.- (1) Nothing in these regulations shall be deemed to limit or otherwise affect the powers of the Commission to make such orders as may be necessary to meet the ends of justice.

(2) Nothing in these regulations shall bar the Commission from adopting a procedure, which is at variance with any of the provisions of these regulations, if the Commission, in view of the force majeure events or 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.

(3) Nothing in these regulations shall, expressly or impliedly, restrict the Commission from 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.

42. Power to remove difficulties.- If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may, by general or special order, direct the transmission licensee/(s), the distribution licensee/(s), the State Load Despatch Centre, the generators, the nodal agency, the State Transmission Utility and the open access customer to take such suitable action, not being inconsistent with the Act, as may appear to the Commission to be necessary or expedient for the purpose of removing such difficulties.

43. Repeal and Savings.- (1) Save as otherwise provided in these regulations, the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2005, and sub-regulations (3) and (4) of regulation 32 of HPERC (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2007 are hereby repealed.

(2) Notwithstanding such repeal.-

(a) anything done or any action taken or purported have been done or taken under the repealed regulations shall, in so far it is not inconsistent with the provisions of these regulations, be deemed to have been done or taken under the corresponding provisions of these regulations, and

(b) the provisions relating to long-term open access customers shall continue to apply till the Commission notifies separately open access regulations covering aspects relating to the long-term and medium customers.

By order of the Commission

Sd/-
Secretary