BEFORE THE APPELLATE TRIBUNAL FOR ELECTRICITY

APPELLATE JURISDICTION

APPEAL NO. 335 OF 2017

IN THE MATTER OF:

BSES Rajdhani Power Ltd	...	Appellant
Versus		
Delhi Electricity Regulatory Commission	...	Respondent

PAPER BOOK

VOLUME- I
(PAGE NOs. 1- 264)

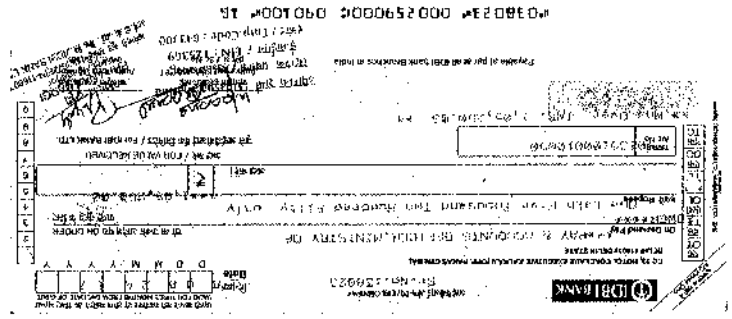
For index please see inside

Filed on: 29-08-2017

Filed by:

New Delhi

Hasan Murtaza/Malavika Prasad
Mulla & Mulla & Craigie Blunt & Caroe
Advocates for Appellant
502, Nilgiri Apartments
9, Barakhamba Road
New Delhi 110 001



Appeal/ DFR No.	Date of Filing	Appellants	Respondents	Counsel of Appellants	Full DD Details	Relief sought - briefly & accurately for permanent record purpose with provisions of law involved	
	08-2017	BSES Rajdhani Power Limited	Delhi Electricity Regulatory Commission	Mr. Hasan Murtaza, Ms. Malavika Prasad Advocate Mulla & Mulla & Craigie Blunt & Caroe	Demand Draft No. "038023" dated 28-08-2017 drawn on IDBI Bank payable at New Delhi in favor of Pay and Accounts Officer, Ministry of Power for an amount of Rs. 1,05,250/-	a b	The Hon'ble Tribunal may be pleased to quash and set aside the impugned order dated 1-6-2017 passed by the Respondent Commission; and Pass such other and further orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

MASTER INDEX

S. No.	PARTICULARS	PAGE Nos.
VOLUME-I		
1	Opening Sheet	
2	Synopsis and List of Dates	A-C
3	Memo of Parties	D
4	Appeal alongwith Affidavit in Support	1-33
5	ANNEXURE A-1 True copy of Impugned Order dated 01-06-2017 in the matter of determination of Open Access charges and related matters passed by DERC	34-135
6	ANNEXURE A- 2 True copy of Delhi Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2005	136-145
7	ANNEXURE A - 3 True copy of the Public Notice issued by DERC enclosing a Staff Paper on determination of open access charges and invited comments from the public	146
8	ANNEXURE A-4 True copy of the order dated 29-08-2008 passed by DERC	147-177
9	ANNEXURE A -5 True copy of the Public Notice issued by DERC enclosing a Proposal on determination of open access charges and invited comments from the public	178
10	ANNJEXURE A -6 True copy of the Order dated 24-12-2013 passed by DERC	179-264
VOLUME-II		
11	ANNEXURE A -7 True copy of Order dated 18-05-2015 passed by	265-268

	DERC	
12	ANNEXURE A -8 true copy of Order dated 09-12-2015 passed by DERC	269-270
13	ANNEXURE A-9 True copy of the draft proposal for determination of open access charges and related matters along with a Public Notice inviting comments on the same issued in December 2016.	271-296
14	ANNEXURE A -10 True copy of a statement of the ABR at the rate of revised tariff vis-à-vis ACoS and the variation of different tariff category with regard to ACoS	297
15	ANNEXURE A-11 True copy of the suggestions and objections submitted by the Appellant in response to the draft proposal issued by the DERC	298-325
16	I.A. No. OF 2017 Application for Condonation of Delay in Filing of the Appeal under Section 111 Of The Electricity Act 2003	326-333
17	I.A. No. of 2017 Application for Exemption for Filing Certified Copy of the Impugned Order dated 01-06-2017 under Section 151 of CPC	334-339
18	I.A. No. OF 2017 Application for Stay of the Impugned Order dated 01-06-2017 under Section 151 of CPC	340-348

INDEX

VOLUME-I

Sr. No.	Particulars	Page Nos.
1	Opening Sheet	
2	Synopsis and List of Dates	A-C
3	Memo of Parties	D
4	Appeal alongwith Affidavit in Support	1-33
5	ANNEXURE A-1 True copy of Impugned Order dated 01-06-2017 in the matter of determination of Open Access charges and related matters passed by DERC	34-135
6	ANNEXURE A- 2 True copy of Delhi Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2005	136-145
7	ANNEXURE A - 3 True copy of the Public Notice issued by DERC enclosing a Staff Paper on determination of open access charges and invited comments from the public	146
8	ANNEXURE A-4 True copy of the order dated 29-08-2008 passed by DERC	147-177
9	ANNEXURE A -5 True copy of the Public Notice issued by DERC enclosing a Proposal on determination of open access charges and invited comments from the public	178
10	ANNJEXURE A -6 True copy of the Order dated 24-12-2013 passed by DERC	179-264

Continued in Volume-II

A

SYNOPSIS

The impugned order allowing open access to consumers of the Appellant Licensee deprives the licensee from the levy of cross subsidy surcharge, additional surcharge, wheeling charges and transmission charges, which are mandatory in nature under the Electricity Act, 2003 ("the 2003 Act"). The impugned order is ex facie in the teeth of the Hon'ble Supreme Court's judgment in Sesa Sterlite Vs. OERC & Ors. (2014) 8 SCC 444 in so far as the impugned order (1) exempts the railways from the levy of cross subsidy surcharge on the purchase of electricity through open access for its own consumption; (2) computes the quantum of cross subsidy surcharge by capping it to 20% of the tariff thereby neither making it compensatory nor making it adequate. The impugned order incorrectly treats the railways as a deemed distribution licensee though the Hon'ble Supreme Court in Northern Railways vs. UPSEB & Ors. (2012) 3 SCC 329, has, equated the railways to a consumer under the 2003 Act.

The impugned order violates the provisions of section 2(47) read with section 42(2) and (4) of the 2003 Act in so far as it grants exemption from the levy of cross subsidy surcharge, additional surcharge, wheeling and transmission charges other than the exemption from the levy of cross subsidy surcharge to the users of captive generating plants.

Hence, the present Appeal.

B

LIST OF DATES

DATE	EVENT
03-01-2006	The Delhi Electricity Regulatory Commission ("Respondent Commission") notified the Delhi Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2005, after inviting comments and suggestions from the public as part of previous publication.
April/May 2008	The Respondent Commission issued a Public Notice enclosing a Staff Paper on determination of open access charges and invited comments from the public.
29-08-2008	The Respondent Commission passed an order after following a public consultation process in the matter of Determination of Transmission and Wheeling Charges, Cross Subsidy Surcharge, additional surcharge and other applicable charges under Open Access.
24-12-2013	The Respondent Commission passed an order after following a public consultation process for amending its aforesaid Order dated 29.8.2008 in the matter of Determination of Transmission and Wheeling Charges, Cross Subsidy Surcharge, additional surcharge and other applicable charges under Open Access
18-05-2015	The Respondent Commission suo motu passed an order without following any public consultation process or hearing for amending its aforesaid Order dated 23.12.2013
09-12-2015	The Respondent Commission passed an order revising the scheduling and system operating charges of SLDC

C

	from Rs.2000/- to Rs.1000/- per day or part of the day or the rate fixed by the Commission from time to time
December 2016	The Respondent Commission circulated a draft proposal for determination of open access charges and related matters
01-06-2017	The Respondent Commission passed the Impugned Order repealing the earlier orders dated 24.12.2013, 18.5.2015, and 9.12.2015.
08-2017	Hence the present Appeal

D

BEFORE THE HON'BLE APPELLATE TRIBUNAL FOR ELECTRICITY

AT DELHI

APPELLATE JURISDICTION

APPEAL No. OF 2017

MEMO OF PARTIES

IN THE MATTER OF:

BSES Rajdhani Power Limited
BSES Bhavan
Nehru Place
New Delhi – 110 019 ... Appellant

VERSUS

Delhi Electricity Regulatory Commission
Viniyamak Bhavan
C Block, Shivalik
Malviya Nagar
New Delhi 110 017 ... Respondent

Filed on :

Filed by:

New Delhi

Hasan Murtaza/Malavika Prasad
Mulla and Mulla and Cragie Blunt and Caroe
Advocates for the Appellants
502, Nilgiri Apartments
9- Barakhamba Road
New Delhi 110 001

BEFORE THE APPELLATE TRIBUNAL FOR ELECTRICITY

APPELLATE JURISDICTION

APPEAL NO. OF

IN THE MATTER OF : Impugned order dated 01-06-2017 issued by the Delhi Electricity Regulatory Commission in the matter of determination of open access charges and related matters;

AND

IN THE MATTER OF:

BSES Rajdhani Power Ltd
BSES Bhawan, Nehru Place,
New Delhi - 110 019 ... Appellant

Versus

Delhi Electricity Regulatory Commission
Viniyamak Bhavan
C Block, Shivalik
Malviya Nagar
New Delhi 110 017 ... Respondent

APPEAL UNDER SECTION 111 OF THE ELECTRICITY ACT 2003 AGAINST THE IMPUGNED ORDER OF THE DELHI ELECTRICITY REGULATORY COMMISSION DATED 1-6-2017 IN THE MATTER OF DETERMINATION OF OPEN ACCESS CHARGES AND RELATED MATTERS

MEMORANDUM OF APPEAL

MOST RESPECTFULLY SHEWETH :

1. DETAILS OF APPEAL:

The present appeal is preferred under section 111 of the Electricity Act, 2003 against the impugned order of the Delhi

Electricity Regulatory Commission dated 01-06-2017 in the matter of determination of Open Access charges and related matters a copy of which is annexed herewith and marked and **ANNEXURE A-1**.

1B. The Appellant is incorporated under the Companies Act, 1956, and having their registered office at BSES Rajdhani Power Ltd BSES Bhawan, Nehru Place, New Delhi - 110 019. The Appellant is a distribution licensee under section 2(17) of the 2003 Act, as the successors in interest of the erstwhile Delhi Vidyut Board alongwith other Discom Tata Power Delhi Distribution Ltd. The Appellant is engaged in distribution of electricity in the areas within Delhi according to the terms and conditions of their respective licenses issued by the Respondent Commission.

2. DATE ON WHICH THE ORDER APPEALED AGAINST IS COMMUNICATED AND PROOF THEREOF, IF ANY:

The Appellant came to know of the Order when it was uploaded on the website of the Respondent Commission on 01-06-2017, however a certified copy of the said order has not been received by the Appellant till date.

3. THE ADDRESS OF THE APPELLANT FOR SERVICE IS AS SET OUT HEREUNDER:

BSES Rajdhani Power Ltd
BSES Bhawan, Nehru Place,
New Delhi - 110 019

Address of the Advocate for the Appellants

Hasan Murtaza
Mulla & Mulla & Craigie Blunt & Caroe
Advocates for Appellants
502, Nilgiri Apartments, 9, Barakhamba Road,
New Delhi 110 001
Phone : 23321501, 1504, 1507, 1513; Fax. 23321520
Mobile : 9871592299
email : mullasdelhi@mullas.net, h.murtaza@hotmail.com

4. THE ADDRESS OF THE RESPONDENT/S FOR SERVICE OF ALL NOTICES IN THE APPEAL ARE AS SET OUT HEREUNDER:

Delhi Electricity Regulatory Commission
Viniyamak Bhavan C Block,
Shivalik Malviya Nagar
New Delhi 110 017

5. JURISDICTION OF THE APPELLATE TRIBUNAL:

The Appellant declares that the subject matter of the appeal is within the jurisdiction of this Tribunal.

6. LIMITATION :

The Appellant submits that there is a delay of days in filing the Appeal under sub-section (2) of section 111 of the Act. The Appellant is separately seeking condonation of delay by days, by way of a separate application seeking condonation of delay.

7. FACTS OF THE CASE:

The facts of the case are given below:

(1) On 03.01.2006, the Respondent Commission notified the Delhi Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2005, after inviting comments and suggestions from the public as part of previous publication. A copy of the said Regulations is annexed herewith and marked as **ANNEXURE A- 2.**

(2) The Respondent Commission issued a Public Notice enclosing a Staff Paper on determination of open access charges and invited comments from the public. On 29.8.2008, the Respondent Commission passed an order after following a public consultation process in the matter of Determination of Transmission and Wheeling Charges, Cross Subsidy Surcharge, additional surcharge and other applicable charges under Open Access. A copy of the said Public Notice is annexed herewith and marked as **ANNEXURE A-3.** A copy of the Order dated 29.8.2008 is annexed herewith and marked as **ANNEXURE A-4.**

(3) On 24.12.1013, the Respondent Commission passed an order after following a public consultation process for amending its aforesaid Order dated 29.8.2008 in the matter of Determination of Transmission and Wheeling Charges, Cross Subsidy Surcharge, additional surcharge and other applicable charges under Open Access. The Respondent Commission issued a Public Notice enclosing a Proposal on determination of open access

charges and invited comments from the public. A copy of the said Public Notice is annexed herewith and marked as **ANNEXURE A– 5.** A copy of the Order dated 24.12.2013 is annexed herewith and marked as **ANNEXURE A- 6**

(4) On 18.5.2015, the Respondent Commission suo motu passed an order without following any public consultation process or hearing for amending its aforesaid Order dated 23.12.2013. A copy of the Order dated 18.5.2015 is annexed herewith and marked as **ANNEXURE A- 7**.

(5) On 9.12.2015, the Respondent Commission passed an order revising the scheduling and system operating charges of SLDC from Rs.2000/- to Rs.1000/- per day or part of the day or the rate fixed by the Commission from time to time. In December 2016, the Respondent Commission circulated a draft proposal for determination of open access charges and related matters. A copy of the Order dated 09.12.2015 is annexed herewith and marked as **ANNEXURE A-8.** A copy of the draft proposal for determination of open access charges and related matters along with a Public Notice inviting comments on the same are annexed herewith as **ANNEXURE A-9**.

(6) On 1.6.2017, the Respondent Commission issued the impugned order repealing the earlier orders dated 24.12.2013, 18.5.2015, and 9.12.2015.

(7) The number of eligible open access participants/consumers of the Appellant are:

(i) Non-Domestic: 179,

(ii) Industrial:3,

(iii) DMRC-6

(iv) Railways:1,

(v) DJB-27,Govt

(vi) Hospital:3,

(vii) Group Housing Societies: 75

As per the latest available information there are about 295 (exceeding 1 MW) with Annual Consumption of 1500 MUs and the Appellant's Annual Revenue from these consumers are approx. Rs. 1300 Crs. It is submitted that the effect of the Impugned Order is to be felt each year when ARR and Tariff Orders for each year is issued for the Appellant.

8. (a) Facts in Issue :

i) The present Appeal has been filed under Section 111 of the Electricity Act, 2003 against the Impugned Order of the Delhi Electricity Regulatory Commission dated 01-06-2017 in the matter of determination of Open Access charges and related matters.

ii) The Ld. DERC without even giving any reasons as to how the Railways are a deemed licensee, held in the Impugned Order that the Railways as defined in the Indian Railways Act, 1989, is exempt from the levy of cross subsidy surcharge, being a deemed distribution licensee.

iii) The impugned order exempting the railways from the levy of cross subsidy surcharge is ultra vires section 2(47) of the 2003 Act in terms whereof "open access: is for use of

distribution system "by any licensee", thereby clearly indicating that even a licensee including a deemed licensee are entitled to "open access" and therefore liable to consequences of the provisions of "open access".

iv) The impugned order in so far as it exempts the Railways, being a deemed distribution licensee, from the levy of cross subsidy surcharge on electricity purchased for its own consumption, is ex facie contrary to and in the teeth of the Hon'ble Supreme Court's judgment in Sesa Sterlite Ltd. Vs. OERC & Ors. (2014) 8 SCC 444.

v) The Ld. DERC failed to comply with the principles of natural justice and to afford a reasonable opportunity of hearing to the distribution licensees in the State of Delhi, which includes the Appellant herein, on their legitimate claims and interests, vis-a-vis the Impugned Order.

(b) Questions of Law:

(1) Whether the impugned order is contrary to and in the teeth of Hon'ble Supreme Court's judgment in Sesa Sterlite Vs. OERC & Ors (2014) 8 SCC 444 in so far as it exempts the railways from the levy of cross subsidy surcharge on electricity purchased for its own consumption?

(2) Whether the impugned order is contrary to and in the teeth of the Hon'ble Supreme Court's judgment in Northern Railways vs. UPSEB & Ors. where the Hon'ble Supreme Court has equated Indian Railways to a consumer while holding that under the 2003

Act, a direct sale of power by a generating company to a consumer is specifically permitted under section 10(2) thereof?

(3) Whether the impugned order exempting the railways from the levy of cross subsidy surcharge is ultra vires section 2(47) read with section 42(2) of the 2003 Act?

(4) Whether the impugned order exempting the levy of additional surcharge on users of captive generating plants is ultra vires section 42(4) of the 2003 Act?

(5) Whether the impugned order capping the cross subsidy surcharge to 20% of the tariff applicable to the relevant category is not adequate and compensatory as envisaged under section 42(2) read with the law laid down by the Hon'ble Supreme Court in Sesa Sterlite Ltd. *Supra*?

(6) Whether the impugned order erroneously computes the additional surcharge by reducing it for the months of May to September to an amount half of the average fixed costs for the period?

9. Grounds with Legal Provisions:

The Appellant submits that the impugned order dated 1-6-2017 passed by the Respondent Commission, is liable to be set aside on the following amongst other grounds which are without prejudice to one another:-

Exemption to Railways from Cross Subsidy Surcharge:

(1) The impugned order in so far as it exempts the Railways, being a deemed distribution licensee, from the levy of cross subsidy surcharge on electricity purchased for its own consumption, is ex facie contrary to and in the teeth of the Hon'ble Supreme Court's judgment in Sesa Sterlite Ltd. Vs. OERC & Ors. (2014) 8 SCC 444. The Hon'ble Supreme Court in the said judgment inter alia held that even a licensee which purchases electricity for its own consumption either through a dedicated transmission line or through open access would be liable to pay cross subsidy surcharge under the Electricity Act, 2003 ("the 2003 Act"). The Hon'ble Supreme Court held that cross subsidy surcharge is meant to compensate the distribution licensees from the loss of cross subsidy that such distribution licensee would suffer by reason of the consumer taking supply from someone other than such distribution licensee.

(2) The Ld. DERC without even giving any reasons as to how the Railways are a deemed licensee, held in the impugned order that the Railways as defined in the Indian Railways Act, 1989, is exempt from the levy of cross subsidy surcharge, being a deemed distribution licensee. Even if it is to be assumed without admitting, that the Railways are a deemed licensee, they are necessarily to be treated as a consumer and not as a licensee in so far as they purchase electricity for their own consumption.

(3) The impugned order is also contrary to and in the teeth of the Supreme Court's judgment in Northern Railways Vs. UPSEB & Ors. (2012) 3 SCC 329 where the Hon'ble Supreme Court has equated the Indian Railways to a consumer while holding that under the 2003 Act, a direct sale of power by a generating company to a consumer is specifically permitted under section 10(2) thereof. Hence, the Railways are to be treated as a consumer under the 2003 Act and not as a deemed distribution licensee. It is a fact that the Indian Railways has been taking electricity supplies from various distribution licensees in India for the purposes of electric traction and power supply in connection with the working of the railways. The said practice of taking supply from various distribution licensees has been in vogue for the past several decades. In case, if railways were a deemed distribution licensee vested with the authority under the Railways Act to distribute and supply electricity independent of the 2003 Act, then in that event, the Indian Railways could not have ever treated itself as a consumer under the 2003 Act for taking bulk supply of electricity from the distribution licensees. Hence, even on facts, the past conduct of the Indian Railways would show that they could not be treated as a deemed distribution licensee, but have to be treated as a consumer under the 2003 Act. The aforegoing submissions are, without prejudice to the submissions that even if the railways were to be treated as a deemed distribution licensee, they would be bound to pay cross subsidy surcharge following the law laid down by the Hon'ble Supreme Court in Sesa Sterlite *Supra*.

(4) The impugned order exempting the railways from the levy of cross subsidy surcharge is ultra vires section 2(47) of the 2003 Act in terms whereof "open access: is for use of distribution system "by any licensee", thereby clearly indicating that even a licensee including a deemed licensee are entitled to "open access" and therefore liable to consequences of the provisions of "open access". Section 42(2) mandates that open access shall be allowed on payment of a surcharge which shall be utilized to meet the requirements of current level of cross subsidy within the area of supply of the distribution licensee. The words employed in the first proviso to section 42(2) are "such open access shall be allowed on payment of a surcharge" thereby clearly indicating the mandatory payment of surcharge. The second proviso to section 42(2) describes the surcharge to be utilized to meet the requirements of current level of cross subsidy. The fourth proviso to section 42(2) states that "such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying electricity to the destination of his own use". It would be clear from a reading of section 42(2) that there is no exemption from the levy of cross subsidy surcharge to anybody other than a person who has established a captive generating plant. Hence, the impugned order exempting the railways, being a deemed licensee, from the levy of cross subsidy surcharge on electricity purchased for its own consumption is ultra vires section 2(47) read with section 42(2) of the 2003 Act.

(5) The revised Tariff Policy dated 28.1.2016 contemplates that the Appropriate Commission would be required to consult the Appropriate Government for exempting levy of cross subsidy surcharge on the railways, being a deemed licensee, on electricity purchased for its own consumption. The said provision of the Tariff Policy is ultra vires and militates against section 2(47) read with section 42(2) of the 2003 Act and is contrary to the law laid down by the Hon'ble Supreme Court in Sesa Sterlite *Supra*. Without prejudice to the aforegoing submissions, it is submitted that the Ld. DERC ought to have consulted the Appropriate Government as well as heard the distribution licensees in the State of Delhi before taking a decision in the impugned order to exempt the railways from the levy of cross subsidy surcharge. However, the Ld. DERC has neither carried out any such consultation with the Appropriate Government nor has heard the distribution licensees before taking the decision to exempt the railways from payment of cross subsidy surcharge.

(6) The Ld. DERC failed to notice that the cross subsidy surcharge is meant to compensate the distribution licensees from the loss of cross subsidy that the distribution licensees would suffer by reason of the railways taking supplies from someone other than such distribution licensees.

(7) The Ld. DERC failed to comply with the principles of natural justice and to afford a reasonable opportunity of hearing to the distribution licensees in the State of Delhi, which includes the Appellant herein, on their legitimate claims and

interests. Therefore, the impugned order is bad in law and suffers from a grave illegality in so far as the impugned order violates natural justice by depriving the distribution licensees to offer their say in the matter.

(8) The Ld. DERC also failed to notice that the impugned order is against the interests of the public and the consumers as the burden of exempting the levy of cross subsidy surcharge on the railways would befall on the subsidized consumers. The Ld. DERC was therefore mandated to hear even the consumers before passing the impugned order, which the Ld. DERC miserably failed to do.

(9) The impugned order incorrectly treats the railways as a deemed distribution licensee for the following reasons:

(a) The Ld. DERC failed to consider that the Ministry of Power, Central Government, in its letter dated 6.5.2014 inter alia stated that the "clarification" in the said letter that the railways were a deemed licensee may be read with other applicable provisions of the 2003 Act and the policies made thereunder. Hence, assuming without admitting that the Ministry's letter is correct in law, at least the "other applicable provisions of the Electricity Act, 2003" were not to be glossed over for the railways, which would mean that the mandatory payment of cross subsidy surcharge under section 42(2) would apply to the railways even if it were a deemed licensee. This is without prejudice to the submission that,

even the Ministry of Power admitted that its letter dated 6.5.2014 is a mere clarification and not a decision on the question as to whether the railways are a deemed distribution licensee or not. This submission of the Appellant is also without prejudice to the submission that the letter dated 6.5.2014 of the Ministry of Power is not valid in law.

(b) The third proviso to Section 14 applies only where an Appropriate Government "transmits electricity or distributes electricity or undertakes trading in electricity". The term 'distribute' can be derived from the definition of 'distribution licensee' in Section 2(17) of the Electricity Act which "means a licensee authorized to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply". However, Railways does not supply electricity to consumers. Accordingly, the Railways cannot fall within the third proviso to Section 14 which applies only where an Appropriate Government "transmits electricity or distributes electricity or undertakes trading in electricity". It is submitted that the definition of 'consumer' in Section 2(15) of the Electricity Act presupposes supply of electricity by a licensee/government or any other person which is engaged in the business of supplying electricity to the public under the Electricity Act or any other law for the time being in force. However, as is clear from the provisions of Railways Act, especially Section 11 thereof, the railway

administration is not engaged in the business of supplying electricity to the public and instead is limited to construct electric supply lines, operate power supply and installation only for the purposes of constructing or maintaining a railway or in connection with the working of railway, but not for supplying electricity to the public. Therefore, it is the submission of the Appellant that Railways cannot be held to be a deemed distribution licensee under the third proviso to Section 14 of the Electricity Act. This would be even clear from the following:-

Parliamentary Standing Committee Report [Standing Committee on Energy (2002) 31st Report/The Electricity Bill, 2001]:

The Ministry of Railways (Railway Board) requested for being exempted from the Electricity Bill, 2001 (enacted as Electricity Act, 2003) including from the requirement to obtain license. The relevant extracts in this regard are provided herein below:

"6.8 Northern Railway, New Delhi desired exemption from licensing under Clause 12 of the Bill on the grounds that Railways erect, maintain and operate electric traction equipment, power supply distribution installations in connection with the working of the Railways. The provisions of the Railways Act, 1989 have overriding effect in case the provision contained in the Electricity Bill – 2001 are inconsistent or contrary to the provisions of the former Act (Railway At 1989). It is mandatory for

the State Electricity Boards or the corresponding authorities to facilitate the Railway Administration to erect and maintain transmission lines for operating the Railways. Therefore, Railways be treated as deemed licensee under the Electricity Bill, 2001."

..

6.42 The Committee find that Railways are empowered to erect, maintain and operate transmission lines needed for the working of the Railways, in terms of Section 11(g) of the Railway Act, 1989. The Committee do not find any justification for the requirement of a licence for Railways for transmitting electricity provided under Section 12 of the Bill, if such transmission lines are not connected to the grid and erected for their own use only. The Committee, therefore, desire that Railways should be given exemption from licensing as required under Clause 12 of the Bill. The Committee desire that suitable amendments may be made in the Bill.

...

20.11 Some organisations/Ministries like the Ministry of Railways, the Bhakra Beas Management Board (BBMB) and the Damodar Valley Corporation (DVC) have requested for exemption from the Act citing peculiar/sensitive/specialised jobs they are carrying out as the ground.

20.12 The Ministry of Railways (Railway Board) have suggested that along with Defence and Atomic Energy, Railways should also be inserted in Clause 179. They have stated that the Railways have an important role to perform during the time of war for the security and defence of the country. As such, the provisions of this Act should not be applicable to the Ministry of Railways.

20.13 The Ministry of Railways (Railway Board) have also requested for exemption/concession under Clauses 12, 42, 47, 67, 68 and 169 of the Bill.

20.14 When asked to give their views on the request of the Ministry of Railways for exemption under Clause 179, the Ministry of Power, in a post-evidence reply, stated that the provision contained in the Clause is adequate.

..

...

20.32

...

After considering the arguments of these organisations, the Committee feel that DVC has a strong case for exemption from the Bill. Accordingly, the Committee recommend that DVC should be exempted from the Bill under Clause 168 or any other similar Clause. The Committee have taken note of the request of the Ministry of Railways for exemption from the provisions contained in Clauses 12, 42, 47, 67, 68 and 179.

The Committee desire that the Ministry of Railways be exempted from licensing for erecting, maintaining and transmission of electricity, subject to the condition that the transmission network is outside the grid and erected for their own use. The licence would be insisted upon for grid operation. As regards the request of BBMB, the Committee feel that the case of BBMB has no merit to be considered for exemption from the provisions of the Bill."

(c) It is submitted herein by the Appellant as follows:-

(i) It can be clearly noticed from the above extracts that the recommendation of the Parliamentary Standing Committee for exemption to the Railways from the requirement of obtaining license was limited to transmitting electricity, if such transmission lines are not connected to the grid and erected for their own use only.

(ii) Hence, firstly the Standing Committee did not give any recommendation for exemption to Railways for distribution of electricity and secondly the recommendation for exemption from transmission license was only when the transmission lines were for the own use of the Railways. The Parliamentary Standing Committee however categorically suggested that *"20.32 ..The license would be insisted upon for grid operation"*. There was however no recommendation whatsoever in relation to exemption to the Railways

from the requirement to obtain license for distribution of electricity.

(iii) However, most importantly it needs to be seen whether the recommendation of the Standing Committee that suitable amendments to the electricity bill were carried out or not was enacted as such by the Parliament while enacting the Electricity Act, 2003. It can be clearly seen from the provisions of Section 14 of the enacted Electricity Act, 2003 that no exemption has been provided to the Railways from the requirement of obtaining a license for transmission of electricity. However, it would be seen that the fourth proviso to Section 14 of the Electricity Act exempts Damodar Valley Corporation from the requirement to obtain a license under the Electricity Act, but no similar exemption has been accorded to the Railways. Even under Section 184 of the Electricity Act, 2003, no exemption has been given to the Railways from the applicability of the provisions of the Electricity Act, 2003. Section 184 is extracted as follows:-

"Provisions of Act not to apply in certain cases.

184. The provisions of this Act shall not apply to the Ministry or Department of the Central Government dealing with Defence, Atomic Energy or such other similar Ministries or Departments or undertakings or Boards or institutions under the control of such Ministries or Departments as may be notified by the Central Government."

(d) It can be seen from Section 184 above that neither is the Ministry of Railways listed / mentioned in Section 184 nor has the Ministry of Railways been notified by the Central Government under Section 184.

(10) The 2003 Act has provided for open access to be allowed on the transmission and distribution system, including in the Inter State Transmission System owned and operated by the Inter State Transmission Licensees, subject to payment of cross subsidy surcharge as may be specified from time to time by the Appropriate Commission. In this regard, reference may be had to the following provisions in the 2003 Act:

(a) Section 2(47);

(b) Section 38(2)(d) – proviso;

(c) Section 39(2)(d) – proviso;

(d) Section 40(c);

(e) Section 42(2).

The scheme and objective of imposing cross subsidy surcharge under the 2003 Act has been dealt with by the Hon'ble Supreme Court in the case of Sesa Sterlite Supra. Accordingly, the Appellants are to be compensated, amongst others, by levy of cross subsidy surcharge on the quantum of power to be procured through open access or otherwise from sources other than distribution licensee. The Appellant is facing a revenue gap/regulatory assets of Rs.5105 crore up to FY 2013-14 without any liquidation of the unrecovered

amounts by way of effective tariff increase or in any other manner whatsoever. On one hand, the retail tariffs are not being increased by the Ld. DERC, while on the other hand, the railways are being exempted from the levy of cross subsidy surcharge. Even if the railways were not taking supply of electricity from the Appellant, the railways are mandated to pay cross subsidy surcharge to compensate the Appellant Licensee in accordance with the law laid down by the Hon'ble Supreme Court in Sesa Sterlite Supra. In the facts and circumstances mentioned hereinabove, and in order to be an effective compensatory amount, there ought not be an exemption from the levy of cross subsidy surcharge on the railways. The only exemption provided and contemplated in the 2003 Act, from the levy of cross subsidy surcharge, is on a person who has established a captive generating plant.

Exemption from levy of 'Additional Surcharge':

(11) The impugned order is ultra vires section 42(4) of the 2003 Act in so far as the impugned order exempts the levy of additional surcharge on a person who has established a captive generating plant for carrying electricity to the destination of his own use, by open access. Section 42(4) mandates payment of an additional surcharge on wheeling by a consumer or class of consumers who have been permitted to receive supply of electricity from a person other than the distribution licensee of his area of supply. Such an additional surcharge is to meet the fixed costs of such distribution licensee arising out of his obligation to

supply. The Tariff Policy dated 28.1.2016 provides that the additional surcharge for obligation to supply as per section 42(4) should become applicable only if it is conclusively demonstrated that the obligations of a licensee, in terms of existing power purchase commitments, has been and continues to be stranded or there is an unavoidable obligation or incidence to bear fixed costs consequent to such a contract. Section 42(4) reads as follows:

> *"(4) Where the State Commission permits a consumer or class of consumers to receive supply of electricity from a person other than the distribution licensee of his area of supply, such consumer shall be liable to pay an additional surcharge on the charges of wheeling, as may be specified by the State Commission, to meet the fixed cost of such distribution licensee arising out of his obligation to supply."*

As would be clear from a clear reading of the provisions of section 42(4) there is no exemption to anybody from the payment of additional surcharge. Hence, the impugned order exempting the users of captive generating plants from the levy of additional surcharge is ex facie ultra vires section 42(4). The Ld. DERC appears to have failed to notice that exemption only from the levy of cross subsidy surcharge is provided for in the fourth proviso to section 42(2), on a person who has established a captive generating plant, however, there is no exemption in the levy of additional surcharge under section 42(4) of the 2003 Act. Therefore, by a judicial order such an exemption cannot be provided, if such an exemption is not contained in the Statute. Such

exemption is hence ultra vires the Statute. Even otherwise, the incidence of "fixed costs of distribution licensees arising out of their obligation to supply" would even apply to " a person who has established a captive generating plant for carrying electricity to the destination of his own use". Hence, there is no rationale for exempting captive generating plants from the liability to pay additional surcharge. Under the universal supply obligations, the Appellants are obligated to supply power to the consumers. Considering the sale as approved by the Ld. DERC, the Appellants have to make long term power purchase agreements (PPAs) with the generators and transmission licensees so as to ensure supply of power keeping in view the envisaged annual increase in the load. While contracting energy through long term PPAs, the Appellants have to bear certain financial obligations and therefore have to bear the minimal fixed costs even when there is no off-take of energy to such places.

Ceiling on Cross Subsidy Surcharge:

(12)The impugned order provides for a ceiling on the total cross subsidy surcharge payable, viz. not to exceed 20% of the tariff applicable to the relevant category. The cross subsidy surcharge presently allowed to the Appellant is not adequate and is not compensatory as envisaged under section 42(2) of the 2003 Act read with the law laid down by the Hon'ble Supreme Court in the case of Sesa Sterlite Ltd. Supra. The Ld. DERC has failed to achieve the objective that tariff progressively reflects the cost of supply of electricity. The

Ld. DERC has failed to bring the tariff within (+) (-) 20% of the average cost of supply. In such a scenario, the cross subsidy surcharge cannot be capped as has been done in the impugned order not exceeding 20% of the tariff applicable to the category of consumers seeking open access. The Appellant is annexing herewith a statement of the ABR at the rate of revised tariff vis-à-vis ACoS and the variation of different tariff category with regard to ACoS marked as **ANNEXURE A-10**.

(13) Whenever any consumer opts for open access and takes intermittent supply through open access, the Appellants have to continue to pay fixed charges to their contracted generating stations. However, Appellants are not able to sufficiently recover such fixed cost obligation from the Open Access Consumers. The cost recovered from fixed tariff schedule is less than the cost incurred by the Appellants while supplying energy which leads to the situation where the Appellants are saddled with the stranded cost on account of the universal supply obligation of the Discoms. Short term Open Access Consumers generally procure energy from collective market or power exchanges due to which there has been considerable variation in schedule and actual energy drawal of these consumers. These consumers reschedule their energy drawal on the basis of their daily load requirement. Such anomaly in energy drawal makes it difficult for the Discoms to forecast their energy requirement for the following day.

(14)Open Access consumer has a choice to reschedule his energy drawal based on the daily energy requirement. However, Appellants, irrespective of the drawal pattern of the Open Access consumers, are required under universal service obligation to keep their entire generation and transmission capacity available for the consumers as and when the same is required by such consumers. Due to such meticulous modus operandi adopted by Open Access consumers, forecasting of energy requirement from the generating stations becomes difficult for the Appellants. Considering the fluctuation of open access energy drawal, the stranded cost incurred by the Appellant due to the universal supply obligation cannot be met if exemption is provided to captive power plants as has been done in the impugned order.

Reduction of Additional Surcharge for May to September:

(15)The Ld. DERC has, while computing the additional surcharge for the Appellant, reduced the additional surcharge for the months of May to September to an amount half of the average fixed costs for the period. The Appellant had objected to the reduction of the additional surcharge to half of the additional fixed costs and had proposed for reduction of the additional surcharge to two thirds of the average fixed costs. However, the Ld. DERC failed to take into account and consider the financial impact that the Appellant would be adversely affected with and retained the additional surcharge to half of the average fixed costs. Such a

computation of the additional surcharge for the months of May to September would not fairly and equitably compensate the Appellant from the unavoidable obligation of incidence of fixed costs consequent to stranded power purchase agreements. [A copy of the suggestions and objections submitted by the Appellant in response to the draft proposal issued by the Ld. DERC is annexed hereto and marked as **ANNEXURE A-11**] The Hon'ble Supreme Court has dealt with provision of additional surcharge as follows:

"Cross-Subsidy Surcharge (CSS)—Its rationale

27. The issue of open access surcharge is very crucial and implementation of the provision of open access depends on judicious determination of surcharge by the State Commissions. There are two aspects to the concept of surcharge — one, the cross-subsidy surcharge i.e. the surcharge meant to take care of the requirements of current levels of cross-subsidy, and the other, the additional surcharge to meet the fixed cost of the distribution licensee arising out of his obligation to supply. The presumption, normally is that generally the bulk consumers would avail of open access, who also pay at relatively higher rates. As such, their exit would necessarily have adverse effect on the finances of the existing licensee, primarily on two counts — one, on its ability to cross-subsidise the vulnerable sections of society and the other, in terms of recovery of the fixed cost such licensee might have incurred as part of his obligation to supply electricity to that consumer on demand (stranded costs). The mechanism of surcharge is meant to compensate the licensee for both these aspects."

(16) It is submitted that the computation of the additional surcharge for the months of May to September as has been done in the impugned order would deny the appropriate entitlement of the Appellant for additional surcharge from open access consumers to meet the stranded costs towards universal supply obligations under section 43 of the 2003 Act.

10. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:

The Appellant further declares that the appellant had not previously filed any writ petition or suit regarding the matter in respect of which this appeal is preferred before any court or any other authority nor any such writ petition or suit is pending before any of them.

11. SPECIFY BELOW EXPLAINING THE GROUNDS FOR SUCH RELIEF (S) AND THE LEGAL PROVISIONS, IF ANY, RELIED UPON:

Same as what is stated in paragraph 9 hereinabove.

12. DETAILS OF INTERIM APPLICATION, IF ANY, PREFERRED ALONG WITH APPEAL:

Application for stay and Application for exemption from filing the certified copy of the impugned order and Application

seeking condonation of delay in filing appeal under section 111 of the Electricity Act 2003.

13. DETAILS OF APPEAL/S, IF ANY PREFERRED BEFORE THIS APPELLATE TRIBUNAL AGAINST THE SAME IMPUGNED ORDER/ DIRECTION, BY RESPONDENTS:-

No other Appeal is preferred.

14. DETAILS OF INDEX:-

An index containing the details of the documents relied upon is enclosed in the beginning of the Appeal.

15. PARTICULARS OF FEE PAYABLE AND DETAILS OF BANK DRAFT IN FAVOR OF PAY AND ACCOUNTS OFFICER, MINISTRY OF POWER, NEW DELHI:

Details of Demand Drafts :

(a) DD No "038023", dated 28-08-2017 , for Rs. 1,05,250/-

(b) Name of Bank : IDBI Bank, payable at New Delhi

in favour of Pay and Accounts Officer, Ministry of Power.

16. LIST OF ENCLOSURES :

1. Vakalatnama
2. Demand Draft for Rs. 1,05,250- /-.
3. Index containing details of documents to be relied upon.

17. WHETHER THE ORDER APPEALED AS COMMUNICATED IN ORIGINAL IS FILED? IF NOT, EXPLAIN THE REASON FOR NOT FILING THE SAME.

The Appellants are filing the copy of the order which was communicated to the Appellants by the Respondent Commission.

18. WHETHER THE APPELLANT/S IS READY TO FILE WRITTEN SUBMISSIONS/ARGUMENTS BEFORE THE FIRST HEARING AFTER SERVING THE COPY OF THE SAME ON RESPONDENTS?

The Appellants craves leave to file the written submissions whenever the occasion arises.

19. WHETHER THE COPY OF MEMORANDUM OF APPEAL WITH ALL ENCLOSURES HAS BEEN FORWARDED TO ALL RESPONDENTS AND ALL INTERESTED PARTIES, IF SO, ENCLOSE POSTAL RECEIPT/COURIER RECEIPT IN ADDITION TO PAYMENT OF PRESCRIBED PROCESS FEE.

Will be so done upon Notice being issued by this Hon'ble Tribunal.

20. ANY OTHER RELEVANT OR MATERIAL PARTICULARS /DETAILS WHICH THE APPELLANT(S) DEEMS NECESSARY TO SET OUT:

The Appellant submits that it would rely on all such documents/submissions, which may be necessary for the proper adjudication of the issues involved in the present appeal.

21. RELIEFS SOUGHT:

In the aforesaid circumstances, this Hon'ble Tribunal may be pleased to:-

(A) The Hon'ble Tribunal may be pleased to quash and set aside the impugned order dated 01-06-2017 passed by the Respondent Commission; and

( ) Pass such other and further orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

Dated at New Delhi this the 28th day of August, 2017.

Appellant
BSES Rajdhani Power Limited

Through

Mulla & Mulla & Craigie Blunt & Caroe
Advocates for Appellant
502, Nilgiri Apartments
9, Barakhamba Road
New Delhi 110 001

DECLARATION

The Appellant above named hereby solemnly declares that nothing material has been concealed or suppressed and further declares that the enclosures and typed set of material papers relied upon and filed herewith are true copies of the originals/fair reproduction of the originals/true translation thereof.

Verified at New Delhi on this the 28th day of August, 2017.

Appellant
BSES Rajdhani Power Limited

VERIFICATION

I, Ravi Shandilya, Manager – Regulatory Affairs of the Appellant, BSES Rajdhani Power Limited, having its Registered Office at "BSES Bhawan, Nehru Place, New Delhi - 110019, do hereby verify that the contents of paras to are true to my personal knowledge derived from official record and para to are believed to be true on legal advice and that I have not suppressed any material facts.

Verified at New Delhi on this the 28th day of August, 2017.

Appellant
BSES Rajdhani Power Limited

32

BEFORE THE APPELLATE TRIBUNAL FOR ELECTRICITY

NEW DELHI

APPELLATE JURISDICTION

IN THE MATTER OF:

BSES Rajdhani Power Limited ... Appellant

VERSUS

Delhi Electricity Regulatory Commission ... Respondent

AFFIDAVIT

I, Ravi Shandilya, Manager, Regulatory Affairs of the Appellant, BSES Rajdhani Power Limited, having its Registered Office at "BSES Bhawan, Nehru Place, New Delhi – 110019 do hereby state on solemn affirmation as under:

1. I say that I am the Manager, Regulatory Affairs of the Appellant Company above named and as such I am familiar with the facts of the case.

2. I have read and understood the contents of the accompanying Appeal and Annexures thereto.

3. I say that the facts stated in the Appeal are based on information derived from the records of the Appellant and believed by me to be true.

4. I say that the Annexures to the Appeal are true copies of their respective originals.

5. I say that nothing herein is false and no material has been concealed there from.

DEPONENT

BSES RAJDHANI POWER LTD. DELHI

VERIFICATION

Verified at New Delhi on this the 28th day of August, 2017 that the contents of the above Affidavit are true and correct to the best of my knowledge. Nothing material has been concealed nor withheld there from.

DEPONENT

BSES RAJDHANI POWER LTD. NEW DELHI

ANNEXURE A- 1

34

Delhi Electricity Regulatory Commission
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17.

F.17(17)/Engg./DERC/2015-16/OA/Part File-1/5318/

In the Matter of: Determination of Open Access Charges and related matters

ORDER
(Date of Order: 01.06. 2017)

The Delhi Electricity Regulatory Commission in exercise of the powers vested under Regulation 12 and Regulation 17 of Delhi Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2005 and complying with the conditions of previous publication i.e. analyzing the comments of the stakeholders hereby issues the following Order for determination of applicable charges for Open Access and related matters.

1. Applicable Charges for an Open Access Consumer

(1) Where a consumer opting for Open Access, he shall be liable to pay:-

a) Energy charges to the seller of electricity as per the contract entered into by him;
b) Wheeling charges, as applicable, to the distribution licensee in whose area he is located, at the rate fixed in the Tariff Order;
c) DTL Transmission charges, as applicable, payable to SLDC
d) Cross subsidy surcharge, as applicable, as determined by the Commission or the nodal agency, to the distribution licensee in whose area the consumer is located;
e) Additional surcharge, as applicable, to the distribution licensee in whose area the consumer is located;
f) Standby charges, as applicable, to the distribution licensee in whose area the consumer is located;
g) Scheduling and system operating charges to SLDC;
h) Reactive energy charges, as applicable, to the distribution licensee in whose area the consumer is located;;
i) Regulatory Surcharge to the distribution licensee;
j) Metering charges to the Licensee;
k) Any other charges not mentioned above, but covered by this Order and the detailed procedures drawn by SLDC for operationlization of Open Access in Delhi;

2. The aforesaid charges for Open Access shall be calculated and levied in the following manner:-

2.1 Transmission and Wheeling Charges:

(1) The transmission charge for Open Access consumers availing Open Access from the Delhi Transco Limited's transmission system shall be regulated in terms of the

applicable provisions of Delhi Electricity Regulatory Commission (Terms and Conditions for determination of Tariff) Regulations, 2017.

(2) The Wheeling charges leviable by the distribution licensees shall be in accordance with the charges determinec by the Commission in the respective Tariff Orders.

(3) The Transmission charges, wheeling charges shall be levied on the maximum Open Access quantum approved by the nodal agency in its conditional consent form ST-5B. The charges to the other States/PGCIL etc. for using Inter-State or Inter-regional links for Open Access shall also be payable extra by the Open Access consumers in accordance with the applicable regulations, rules/orders in this regard.

(4) Wherever system strengthening/augmentation of distribution system is involved, any associated cost for this purpose shall be borne by the long term Open Access consumers.

(5) The Wheeling charges shall be on year-to-year basis keeping in account the investments being made by the Licensee in the sector for meeting the load growth, AT&C loss reduction and improving the performance standards.

2.2. Cross Subsidy surcharge:

(1) The Cross Subsidy Surcharge shall be based on the surcharge formula laid-down in Para 8.5 of the National Tariff Policy issued by the Government of India.

(2) Since the tariff for each category of consumers is determined by the Commission on year-to-year basis, the surcharge shall also be on a year-to-year basis.

(3) For the calculation of the surcharge, the losses shall be calculated based on average figures as projected in the respective Tariff Order and no ex-post-facto correction of the surcharges or the energy transactions based on the actual losses is permissible.

(4) Keeping in view all the above points, it is felt that it shall be appropriate to determine the surcharge on annual basis by nodal agency on issuance of Tariff Order. The charges so determined shall be applicable from the date of applicability of the tariff schedule.

(5) Based on the data available in Tariff Order for FY 2015-16 for the distribution Licensees issued by the Commission, the Commission has calculated the Cross Subsidy surcharge applicable to different class of consumers availing supply at different voltages/ along with assumptions as indicated in **Annexure – 1.** Accordingly, the charges indicated in **Annexure – 2** shall be payable by the Open Access consumers by way of Cross Subsidy surcharge in TPDDL, BRPL & BYPL areas, which shall be applicable from the date of issue of this Order. However, subsequently, the nodal agency shall compute Cross Subsidy Surcharge and shall display it on its website within one month of issue of Tariff Order.

(6) Cross Subsidy Surcharge so determinec on Per Unit basis shall be payable, by the Open Access Consumers based on the actual energy drawn through open

access, limited to a maximum of scheduled Open Access energy during that time block:

Provided that whenever the Cross Subsidy Surcharge so determined is negative, no Cross Subsidy Surcharge shall be payable by the Open Access Consumer:

Provided further that such Cross Subsidy Surcharge shall not be levied in case distribution access is provided to a person who has established a captive generation plant for carrying the electricity to the destination of his own use and on the Railways as defined in Indian Railways Act, 1989 being a deemed licensee, on electricity purchased for its own consumption.

2.3. Additional Surcharge:

(1) 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, in addition to wheeling charges and cross-subsidy surcharge, to meet out the fixed cost of such distribution licensee arising out of his obligation to supply as provided under sub-section (4) of section 42 of the Act.

(2) This additional surcharge shall become applicable only if the obligation of the 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. However, the fixed costs related to network assets would be recovered through wheeling charges.

(3) Additional surcharge determined on Per Unit basis shall be payable, by the Open Access consumer on actual energy drawn through Open Access, limited to a maximum of scheduled Open Access energy during that time block:

Provided that such additional surcharges shall not be levied in case Open Access is provided to a person who has established a captive generation plant for carrying the electricity to the destination of his own use.

(4) It is noted that the Licensees have surplus power during all months of the year. However, based on actual demand and availability, additional power is required to be purchased during some time blocks. It is noted that during the months of May to September, such additional power purchased is higher than other months. As the allocation of power purchase is not linked with the tariff category of consumers, the embedded consumers of the Licensees are bearing the average fixed cost of power purchase. If a consumer is opting for Open Access, it means a liability corresponding to average fixed cost is to be borne. Accordingly, the Commission has determined additional surcharge as average fixed cost per unit for respective distribution licensees based on the projections given in the Tariff Order for the months from October-April. The additional surcharge during the months of May to September has been kept 50% (fifty percent) of average fixed cost per unit.

(5) The additional surcharge for respective distribution licensees shall be payable as per **Annexure-3**.

37

2.4. Charges for Standby Power:

(1) In the event of non-availability of power supply due to any reason including outage of generator supplying the Open Access consumer, non-clearance of bid on power exchange, it shall be duty of the distribution licensee to provide power to such Open Access consumers and the Open Access shall pay tariff for temporary connection to that category of consumer for the energy over and above admissible drawl as specified in applicable tariff schedule:

Provided that open access consumers shall have the option to arrange standby power from any other source:

Provided further that standby power from any other source shall be scheduled, as early as possible, latest by 00hrs. of the day, after giving the notice to the distribution licensee.

(2) The arrangement for standby power supply by distribution licensee shall be subject to load shedding as is applicable to the embedded consumers of the distribution licensee.

2.5. Regulatory Surcharge:

(1) The Open Access consumer shall also be liable to pay regulatory surcharge at the rate specified in the applicable Tariff Order.

(2) For the purpose of computation of Regulatory Surcharge, the distribution licensee shall compute the Regulatory Surcharge treating the total power consumption of the Open Access Consumer as if taken from the distribution licensee.

2.6. Scheduling and System Operative Charge :

The Open Access Consumer shall pay scheduling and system operating charges to SLDC at the rate Rs. 1000/- per day/part of the day or the rate fixed by the Commission from time-to-time.

2.7. Reactive Energy Charge:

The Open Access Consumer shall pay charge for reactive energy on the actual reactive energy recorded by the meter, to the distribution licensee in whose area, the consumer is located at the rate @ 13 Ps/kVARh. This rate shall be escalated at 0.5paise/kVARh per year thereafter w.e.f. 1st April of the current financial year, unless otherwise revised by the Commission.

2.8. Metering Charges:

(1) In case the main meter is installed by the Licensee, the Licensee shall be entitled to recover the actual cost of the meter:

Provided that an amount of Rs. 50,000/- may be charged from the applicant before procurement of Availability Based Tariff (ABT) compliant meter with Automatic Meter Reading (AMR) facility. This amount shall be adjusted in the actual cost of the meter.

(2) The applicant shall also pay Rs.20,000/- towards installation and testing of meter.

(3) The open access consumer shall also be liable to Rs.2500/- per visit towards data downloading of Energy Meter.

3. Settlement of Deviation between scheduled energy and actual energy:

3.1 Settlement of Energy at drawl point:-

(1) **Admissible Drawl of Electricity by Open Access Consumer from the distribution licensee:**

The quantum of drawl of electricity by an open access consumer from the distribution licensee during any time block of a day should not exceed the "Admissible Drawl of Electricity by Open Access Consumer" which is the difference of contract demand and maximum quantum of open access for which approval has been granted by Nodal Agency.

[Illustration: If an Open Access Consumer with a contract demand of 10 MW has been given an approval for a maximum Open Access quantum of 6MW for a period of 3 months, the Admissible Drawl of Electricity from distribution licensee during any time block shall be 4 MW for any day during a period of 3 months.]

(2) **Over-drawl by an Open Access Consumer shall be settled as under:**

(i) Fixed Charges on Admissible Drawl of Electricity by Open Access Consumer from the distribution licensee.

(ii) Energy Charges corresponding to excess drawl above 'scheduled Open Access Quantum' limited to "Admissible Drawl of Electricity by open access consumer", at applicable distribution licensee's energy charge rates.

(iii) Temporary Charges on any drawl above the sum total of "Scheduled Open Access quantum" and "Admissible Drawl of Electricity by Open Access Consumer".

(Illustrations of Computation are given at **Annexure-4**)

(3) In case of under-drawl with respect to scheduled energy, open access consumer shall not be paid any charges by the Distribution Licensee.

(4) Central Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2014 as amended from time to time shall not be applicable for settlement at drawl point.

(5) The Nodal Agency shall upload the slot wise Open Access schedule on its website which shall be used by the distribution licensee for preparation of the bill wherever applicable.

3.2 Settlement of Deviation at Injection Point:

Deviation between the schedule and the actual injection in respect of Open Access taken by a Generating company/ Seller shall be settled as per the applicable Central Electricity Regulatory Commission (Deviation Settlement

Mechanism and related matters) Regulations, 2014 as amended from time to time.

4. Payment of statutory levies/taxes by Open Access Consumers:

(1) Any tax/ duty levied by the Delhi Government or Central Government or any other statutory body shall be payable by the Open access consumers.

(2) The same shall be levied by the licensee on the bill raised as per its applicability.

5. Temporary Tariff:

(1) The temporary tariff applicable to open access consumer shall be the energy charges for temporary supply as determined by the Commission in its applicable Tariff Order.

(2) In case temporary tariff is more than 125 percent of energy charge of that category, the temporary tariff shall be restricted to 125 percent of energy charges for that category.

6. Quantum of Renewable Purchase Obligation (RPO):

(1) Open Access consumer shall fulfill its RPO as per Delhi Electricity Regulatory Commission (Renewable Purchase Obligation and Renewable Energy Certificate Framework Implementation) Regulations, 2012 as amended from time to time.

(2) Wheeling, Transmission and Additional surcharge shall not be applicable on Open Access Consumers availing energy from all renewable energy sources within or outside Delhi. Open Access consumer receiving electricity from renewable energy sources shall be exempted from the cross subsidy surcharge to the extent of RPO:

Provided that the generators using renewable energy sources shall certify that no REC/RPO claim for this power has been made.

(3) No banking facility shall be provided for supply of electricity from renewable energy sources through Open Access.

7. Compensation:

(1) In case Open Access Consumer is not able to draw power, due to failure of distribution system, the Open Access consumer shall be compensated for scheduled Open Access quantum at the lowest of the two, viz (i) average rate at which power is procured by open access customer; (ii) applicable tariff for that category. In such cases, open access consumer shall provide details of procurement of power alongwith rates:

Provided that Open Access consumer shall file his claim before the distribution Licensee and the distribution Licensee shall settle the claims within 30 days of its receipt:

Provided further that the Open Access Consumer not satisfied with the settlement of claim, may approach the Nodal Agency.

(2) In case the Distribution Licensee fails to adhere to the timelines specified for providing Open Access, the Distribution Licensee shall be liable to pay a compensation of Rs. 1000 per day of default to the Open Access consumer. The Open Access consumer shall file his claim to Nodal Agency.

(3) The Nodal Agency after hearing the parties shall give a reasoned speaking order, within 30 days of filing of a claim by the Open Access Consumer.

8. Procedure for settlement of grievances:

(1) The Open Access consumer shall file his grievance to the Nodal Agency under Regulation 16(1) of the Delhi Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2005:

Provided that before filing the grievance to the Nodal Agency, the Open Access Consumer shall approach the distribution licensee for redressal of his grievances.

(2) if the grievance is against the distribution licensee, the nodal agency shall seek the comments from the distribution licensee within seven days of receipt of grievance.

(3) The distribution licensee shall submit their comments within seven days of receipt of communication from the Nodal Agency.

(4) The Nodal Agency after hearing both the parties shall issue order for disposal of the grievance within thirty days of receipt of the complaint.

(5) In case the Nodal Agency feels that for redressal of the grievance or complaint or dispute, requires adjudication from the Commission, the Nodal Agency shall refer the matter to the Commission with all relevant document and a brief for adjudication under Regulation 16(2) of the Delhi Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2005:

Provided that in case the Open Access Consumer is not satisfied with the Order of the Nodal Agency, he may request the nodal agency to refer the matter to the Commission for adjudication.

9. Violation of Provisions of the Regulations or the Order by the Open Access Consumer:

(1) The Open Access consumer shall adhere to provisions of Regulations and the Order.

(2) The distribution licensee shall report all such cases of violation of the provisions of Regulations or the Order to the nodal agency alongwith all relevant data of violation such as actual meter reading.

(3) If in the opinion of Nodal Agency, any Open Access Consumer is involved in violation of the provisions of Regulations or the Order, the Nodal Agency shall

give a 7 days notice to the Open Access Consumer within the receipt of such information.

(4) The Open Access Consumer shall file his reply within 7 days of receiving the notice.

(5) The Nodal Agency shall grant an opportunity of hearing within 5 days of receiving the reply from the Open Access Consumer.

(6) The Nodal Agency shall issue a speaking Order within 30 days from the receipt of information and if the violation is established for first time, the nodal agency shall direct the Open Access consumer for taking necessary steps to avoid gaming.

(7) In case the Open Access consumer is not satisfied with the Order of nodal agency, he may request the nodal agency to refer the matter to the Commission for adjudication.

(8) In case of establishment of subsequent violation within three months of occurrence of first violation, the approval for grant of Open Access for a period of maximum of one month may be cancelled:

Provided that the Nodal Agency shall indicate the date of cancellation of Open Access in its speaking order.

(9) During the period of cancellation, total energy consumed by the Open Access consumer shall be billed at normal tariff by the distribution licensee. In addition to this, the cost of procurement of power from Open Access shall be borne by the Open Access Consumer and no compensation for such cost shall be provided.

10. General Terms:

(1) An illustration for computation of charges is at **Annexure-5**. The Distribution Licensee may devise their own format.

(2) It is further clarified that no Cross Subsidy Surcharge shall be payable in cases specifically exempted from payment of Cross Subsidy surcharge by the provisions of the Electricity Act, 2003 and the Tariff Policy of Government of India.

(3) All the charges except distribution charges (Distribution Licensee's wheeling charges, cross subsidy surcharge, additional surcharge, reactive energy charge etc.) in first instance will be collected by SLDC directly or through RLDC/Exchange. The Transmission Charges as received by SLDC shall be remitted to STU within 15 days of its receipt by SLDC.

(4) The total amount received against of the charges from Short Term Open Access consumer by the Transmission Licensee shall be adjusted towards reduction in the transmission service charges payable by the beneficiaries, unless specified otherwise in other Regulations notified by the Commission.

(5) The distribution licensee shall not provide supply of electricity to any Open Access consumer by resorting to load shedding of electric supply to its existing consumers.

(6) All the utilities are further directed to furnish details of Open Access transactions, available capacity for Open Access etc. on their websites, in the formats devised by SLDC and approved by the Commission.

(7) This order shall be read in conjunction with the Delhi Electricity Regulatory Commission (terms and conditions for Open Access) Regulations, 2005 or as amended and as per the procedures drawn by nodal agency for operationalisation of Open Access in Delhi.

(8) Any dispute arising on account of Open Access transactions shall be dealt with in accordance with the Open Access Regulations issued by the Commission.

(9) The Annexures of Order shall form integral part of this Order.

(10) The words and expressions occurring in this Order and not explained or defined hereinabove shall have the same meaning assigned to them in the Open Access Regulations issued by the Commission or the Electricity Act, 2003 as the case may be.

(11) The charges decided by this Order would be applicable from the date of issue of the Order and shall remain in force till revised.

(12) The guidelines for operationalisation and implementation of Open Access in Delhi are enclosed at Annexure A and B. However, in case, if any provision of guidelines is at variance with this order, the provisions of this Order shall prevail.

11. Repeal and Savings:

(1) Save as otherwise provided in this Order, the Commission's Order dated 24.12.2013, 18.5.2015 and 9.12.2015, shall cease to have effect from the date of notification of this Order.

(2) Notwithstanding such repeal, anything done or purported to have been done under the repealed Orders shall be deemed to have been done or purported to have been done under this Order.

Sd/-
(B.P. SINGH)
MEMBER

43

Annexure – '1'

Assumptions for computation of Cross Subsidy and Additional Surcharge

1) 'T' is the average tariff in paisa per unit for various consumer categories as per Average Billing Rate (ABR) specified in Tariff Order.

2) 'C' is the weighted average cost of power purchase in paisa per unit as specified in the tariff Order

3) 'D' is the aggregate of transmission, distribution and wheeling charge applicable to the relevant voltage level

4) 'L' is the aggregate of transmission, distribution and commercial losses, expressed as a percentage applicable to the relevant voltage level

5) 'R' is the per unit cost of carrying regulatory assets computed based on approval of projected carrying cost divided by projected sales approved in Tariff Order.

6) Wherever the surcharge works out to be negative, it shall be limited to zero.

7) Additional Surcharge in Rs. Per unit has been computed based on the projections of fixed cost and corresponding power purchase approved by the Commission for BRPL, BYPL & TPDDL in its Tariff Order for FY 2015-16.

Annexure- '2'

Cross subsidy surcharge approved by the Commission

Computation of Cross Subsidy Surcharge

Cross Subsidy Surcharge Formula=T-[C/(1-L/100)+D+R]

Where

S is the surcharge

T is the tariff payable by the relevant category of consumers, including reflecting the Renewable Purchase Obligation

C is the per unit weighted average cost of power purchase by the Licensee, including meeting the Renewable Purchase Obligation

D is the aggregate of transmission, distribution and wheeling charge applicable to the relevant voltage level

L is the aggregate of transmission, distribution and commercial losses, expressed as a percentage applicable to the relevant voltage level

R is the per unit cost of carrying regulatory assets.

X= C/(1-L/100)

Tata Power Delhi Distribution Limited (TPDDL)

Summary

(Paisa/kWh)

Voltage Level	Industrial	Non-Domestic	Domestic	Railway	DMRC	DJB
	Final restricted to 20%	Final restricted to 20%	Final restricted to 20%		Final restricted to 20%	Final restricted to 20%
Above 66kV level	**165.20**	**206.00**	-	**Exempted as per revised National Tariff Policy**	**48.78**	**182.20**
At 33/ 66kV level	**165.20**	**206.00**	-		**42.39**	**182.20**
At 11kV level	**165.20**	**206.00**	-		**27.22**	**182.20**
At LT level	**154.40**	**206.00**	-		**9.40**	**182.20**

Detail

(Paisa/kwh)

Voltage Level	X	X+D	X+D+R	Industrial		Non- Domestic		Domestic	
				As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%
				826		1030		555	
Above 66kV level	425.71	594.63	632.22	193.78	**165.20**	397.78	**206.00**	(77.22)	-
At 33/ 66kV level	431.10	601.02	638.61	187.39	**165.20**	391.39	**206.00**	(83.61)	-
At 11kV level	443.27	616.18	653.78	172.22	**165.20**	376.22	**206.00**	(98.78)	-
At LT level	456.09	634.00	671.60	154.40	**154.40**	358.40	**206.00**	(116.60)	-

Voltage Level				Railway		DMRC		DJB	
				As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%
	X	X+D	X+D+R	845		681		911	
Above 66kV level	425.71	594.63	632.22	212.78	-	48.78	**48.78**	278.78	**182.20**
At 33/ 66kV level	431.10	601.02	638.61	206.39	-	42.39	**42.39**	272.39	**182.20**
At 11kV level	443.27	616.18	653.78	191.22	-	27.22	**27.22**	257.22	**182.20**
At LT level	456.09	634.00	671.60	173.40	-	9.40	**9.40**	239.40	**182.20**

Values of constants:-

L (%)

Sl. No.	Voltage Level	Transmission Loss (%)	Distribution Loss (%)	Total Loss 'L' (%)	Reference
1	2	3	4	5=4+3+(4*3/100)	6
1	Loss above 66kV level	3.22	0	3.22	Table 5.11 of TO 15-16 for distribution loss. Weighted average of transmission loss as per Table 4.28
2	Loss at 33/ 66kV level	3.22	1.25	4.43	
3	Loss at 11kV level	3.22	3.96	7.05	
4	Loss at LT level	3.22	6.66	9.67	

D

Sl. No.	Voltage Level	Transmission Charges (Paisa/kWh)	Wheeling Charges (Paisa/kWh)	Total Loss 'D' (Paisa/kWh)	Reference
1	2	3	4	5=4+3	6
1	Above 66kV level	102.92	66	168.92	Table 5.14 of TO 15-16 for wheeling charges. Transmission charges per kWh=Table 4.26 for total transmission charges / Table 4.28 for energy sales
2	At 33/ 66kV level	102.92	67	169.92	
3	At 11kV level	102.92	70	172.92	
4	At LT level	102.92	75	177.92	

R

Sl. No.	Description	Unit	Value	Reference
1	Carrying cost approved in Tariff Order	Rs. Crore	300.3	Table 4.67 of TO 2015-16
2	Projected sales approved	MU	7,987.9	Table 4.7 of TO 2015-16
3	Carrying Cost per unit	Paisa /kWh	37.59	3=(1/2)x1000

Description	Value (Paisa per unit)	Reference
C	412	Table 4.22 of TO 2015-16

****

BSES Rajdhani Power Limited (BRPL)

Summary

(Paisa/kWh)

Voltage Level	Industrial	Non-Domestic	Domestic	Railway	DMRC	DJB	DIAL
	Final restricted to 20%	Final restricted to 20%	Final restricted to 20%	Final restricted to 20%	Final restricted to 20%	Final restricted to 20%	Final restricted to 20%
Above 66kV level	**167.60**	**196.00**	**13.47**	**Exempted as per revised National Tariff Policy**	**39.47**	**183.60**	**166.00**
At 33/ 66kV level	**167.60**	**196.00**	-		-	**183.60**	**165.15**
At 11kV level	**166.83**	**196.00**	-		-	**183.60**	**158.83**
At LT level	**118.20**	**196.00**	-		-	**183.60**	**110.20**

Detail

(Paisa/kWh)

Voltage Level				Industrial		Non- Domestic		Domestic	
				As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%
	X	X+D	X+D+R	838		980		611	
Above 66kV level	462.24	555.35	597.53	240.47	**167.60**	382.47	**196.00**	13.47	**13.47**
At 33/ 66kV level	468.56	622.67	664.85	173.15	**167.60**	315.15	**196.00**	(53.85)	-
At 11kV level	472.88	628.99	671.17	166.83	**166.83**	308.83	**196.00**	(60.17)	-
At LT level	514.51	677.62	719.80	118.20	**118.20**	260.20	**196.00**	(108.80)	-

Voltage Level	X	X+D	X+D+R	Railway		DMRC		DJB		DIAL	
				As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%
				833		637		918		830	
Above 66kV level	462.24	555.35	597.53	235.47	-	39.47	**39.47**	320.47	**183.60**	232.47	**166.00**
At 33/ 66kV level	468.56	622.67	664.85	168.15	-	(27.85)	-	253.15	**183.60**	165.15	**165.15**
At 11kV level	472.88	628.99	671.17	161.83	-	(34.17)	-	246.83	**183.60**	158.83	**158.83**
At LT level	514.51	677.62	719.80	113.20	-	(82.80)	-	198.20	**183.60**	110.20	**110.20**

Values of constants:-

L (%)

Sl. No.	Voltage Level	Transmission Loss (%)	Distribution Loss (%)	Total Loss 'L' (%)	Reference
1	2	3	4	5=4+3-(4*3/100)	6
1	Loss above 66kV level	3.08	0	3.08	Table 5.11 of TO 15-16 for distribution loss. Weighted average of transmission loss as per Table 4.27
2	Loss at 33/ 66kV level	3.08	1.35	4.39	
3	Loss at 11kV level	3.08	2.25	5.26	
4	Loss at LT level	3.08	10.16	12.93	

D

Sl. No.	Voltage Level	Transmission Charges (Paisa/kWh)	Wheeling Charges (Paisa/kWh)	Total Loss 'D' (Paisa/kWh)	Reference
1	2	3	4	5=4+3	6
1	Above 66kV level	93.11	0	93.11	Table 5.14 of TO 15-16 for wheeling charges. Transmission charges per kWh=Table 4.25 for total transmission charges / Table 4.27 for energy sales
2	At 33/ 66kV level	93.11	61	154.11	
3	At 11kV level	93.11	63	156.11	
4	At LT level	93.11	70	163.11	

R

Sl. No.	Description	Unit	Value	Reference
1	Carrying cost approved in Tariff Order	Rs. Crore	450.61	Table 4.62 of TO 2015-16
2	Projected sales approved	MU	10683.07	Table 4.6 of TO 2015-16
3	Carrying Cost per unit	Paisa /kWh	42.18	3=(1/2)x1000

Description	Value (Paisa per unit)	Reference
C	448	Table 4.18 of TO 2015-16

*****

BSES Yamuna Power Limited (BYPL)

Summary

(Unit –paisa/kwh)

Voltage level	Industrial	Non-Domestic	Domestic	Railway	DMRC	DJB	DIAL
	Final restricted to 20%	Final restricted to 20%	Final restricted to 20%		Final restricted to 20%	Final restricted to 20%	Final restricted to 20%
Above 66kV level	175.00	199.60	-	Exempted as per the revised National Tariff Policy	82.92	187.60	-
At 33/ 66kV level	175.00	199.60	-		5.43	187.60	-
At 11kV level	175.00	199.60	-		0.07	187.60	-
At LT level	175.00	199.60	-		-	187.60	-

Detail

(Unit –paisa/kwh)

Voltage Level	X	X+D	X+D+R	Industrial		Non- Domestic		Domestic	
				As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%
				875		998		543	
Above 66kV level	384.83	497.89	546.08	328.92	175.00	451.92	199.60	(3.08)	-
At 33/ 66kV level	388.33	575.38	623.57	251.43	175.00	374.43	199.60	(80.57)	-
At 11kV level	392.69	580.74	628.93	246.07	175.00	369.07	199.60	(85.93)	-
At LT level	438.50	637.56	685.75	189.25	175.00	312.25	199.60	(142.75)	-

Voltage Level	X	X+D	X+D+R	Railway		DMRC		DJB		DIAL	
				As per Formula	Final estricted to 20%	As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%
				0		629		938		0	
Above 66kV level	384.83	497.89	546.08	546.08	-	82.92	82.92	391.92	187.60	(546.08)	-
At 33/ 66kV level	388.33	575.38	623.57	623.57	-	5.43	5.43	314.43	187.60	(623.57)	-
At 11kV level	392.69	580.74	628.93	628.93	-	0.07	0.07	309.07	187.60	(628.93)	-
At LT level	438.50	637.56	685.75	685.75	-	(56.75)	-	252.25	187.60	(685.75)	-

Values of constants:- 49

L (%)

Sl. No.	Voltage Level	Transmission Loss (%)	Distribution Loss (%)	Total Loss 'L' (%)	Reference
1	2	3	4	5=4+3-(4*3/100)	6
1	Loss above 66kV level	3.33	0	3.33	Table 5.11 of TO 15-16 for distribution loss. Weighted average of transmission loss as per Table 4.28
2	Loss at 33/ 66kV level	3.33	0.90	4.20	
3	Loss at 11kV level	3.33	2.00	5.27	
4	Loss at LT level	3.33	12.24	15.17	

D

Sl. No.	Voltage Level	Transmission Charges (Paisa/kWh)	Wheeling Charges (Paisa/kWh)	Total Loss 'D' (Paisa/kWh)	Reference
1	2	3	4	5=4+3	6
1	Above 66kV level	113.06	0	113.06	Table 5.14:of TO 15-16 for wheeling charges. Transmission charges per kWh=Table 4.26 for total transmission charges / Table 4.28 for energy sales
2	At 33/ 66kV level	113.06	74	187.05	
3	At 11kV level	113.06	75	188.05	
4	At LT level	113.06	86	199.05	

R

Sl. No.	Description	Unit	Value	Reference
1	Carrying cost approved in Tariff Order	Rs. Crore	271.23	Table 4.62 of TO 2015-16
2	Projected sales approved	MU	5628.52	Table 5.10 of TO 2015-16
3	Carrying Cost per unit	Paisa /kWh	48.19	3=(1/2)x1000

Description	Value (Paisa per unit)	Reference
C	372	Table 4.19 of TO 2015-16

Annexure – 3

Additional Surcharge

Sl. No.	Description	Power Purchase (MUs)	Fixed Cost (Rs. Crore)	Fixed cost Rs. per unit	Additional Surcharge (Paisa per unit)	
					October-April	May-September
1	TPDDL	10731.41	1538.17	1.43	143	71.5
2	BRPL	12859.55	1862.14	1.45	145	72.5
3	BYPL	8895.33	1091.43	1.23	123	61.5

51

Annexure - 4

Illustration of computation of charges for imbalance

Contract Demand = 10 MW

Approval for a maximum open access quantum of 7 MW for a period of 3 months

Slot-wise calculation for distribution licensee billing shall be done as under:

(i) Fixed Charges Admissible Drawl of Electricity by open access consumer from the distribution licensee i.e. for 3MW (10-7).

(ii) Energy charges including temporary charges shall be recovered by the distribution licensee, under the following cases as given:

Case-1

(i) Contract Demand = 10MW
(ii) Approval for a maximum open access quantum of 7 MW for a period of 3 months
(iii) Scheduled Open Access Quantum for the day is 6 MW during 0-12hrs, 5MW during 12-24 hours
(iv) Admissible Drawl of Electricity from Distribution Licensee works out = 3MW (10-7)
(v) Actual drawl by OA consumer= 4 MW
Distribution licensee will levy only fixed charges corresponding to 3MW. No energy charges and temporary charges shall be levied since the actual drawl of energy is within the limit of scheduled energy.

Case-2

(i) Contract Demand = 10MW
(ii) Approval for a maximum open access quantum of 7 MW for a period of 3 months
(iii) Scheduled Open Access Quantum for the day is 6 MW during 0-12hrs, 5MW during 12-24 hours
(iv) Admissible Drawl of Electricity from Distribution Licensee works out = 3MW (10-7)
(v) Actual drawl OA consumer = 8 MW
Distribution licensee will levy fixed charges corresponding to 3MW. Energy of 2 MW during 0-12 hrs and 3 MW during 12-24 hrs will be charged at applicable distribution licensee's energy charge rates as the excess energy above scheduled energy is within the "Admissible Drawl of Electricity by open access consumer".

Case-3

(i) Contract Demand = 10MW
(ii) Approval for a maximum open access quantum of 7 MW for a period of 3 months
(iii) Scheduled Open Access Quantum for the day is 6 MW during 0-12hrs, 5MW during 12-24 hours
(iv) Admissible Drawl of Electricity from Distribution Licensee works out = 3MW (10-7)
(v) Actual drawl OA consumer= 8.5 MW
Distribution licensee will levy fixed charges corresponding to 3MW. Energy of 2.5 MW during 0-12 hrs and 3 MW during 12-24 hrs at applicable distribution licensee's energy charge rates, as this excess energy above scheduled energy is within the "Admissible Drawl of Electricity by open access consumer" and additional 0.5 MW during 12-24 hrs at temporary tariff, as this energy is above "Admissible Drawl of Electricity by open access consumer".

Case-4

(i) Contract Demand = 10MW
(ii) Approval for a maximum open access quantum of 7 MW for a period of 3 months

52

(iii) Scheduled Open Access Quantum for the day is 6 MW during 0-12hrs, 5MW during 12-24 hours

(iv) Admissible Drawl of Electricity from Distribution Licensee works out = 3MW (10-7)

(v) Actual drawl OA consumer= 11 MW*

Distribution licensee will levy fixed charges corresponding to 3MW. Additional fixed charges @ 125% of normal rate for additional load i.e 1MW (11-10) shall also be levied by distribution licensee. Energy of 3 MW during 0-24 hrs. at applicable distribution licensee's energy charge rates as this excess energy above scheduled energy is within the "Admissible Drawl of Electricity by open access consumer" and additional Energy of 2 MW during 0-12 hrs and 3 MW during 12-24 hrs at temporary tariff, as this energy is above "Admissible Drawl of Electricity by open access consumer".

[Note: - * In case maximum demand recorded by the meter is more than contract demand, the open access consumer shall also pay additional fixed charges @ 125% of normal rate for additional load.]

Annexure-5
Illustration

Sample computation of charges to be paid by Industrial Open Access consumer in the area of BRPL

		Unit	Value
1	Contract Demand of Industrial consumer with the Licensee at 11kV	MW	5
2	Open Access granted n conditional consent by SLDC, Delhi in form ST-5B	MW	5
3	Admissible drawl of Electricity from the distribution Licensee in any time block	MW	2
4	Maximum demand recorded by meter	MW	7
5	Reactive energy recorded by meter	KVAh	80000
4	Number of days in month	days	30

5 Pattern for energy scheduled and consumption for one day which is considered constant for 30 days.

	Time Block	Schedule approved by the nodal agency (MW)	Schedule approved at consumer periphery (MW)	Schedule approved at consumer periphery(MWh)	Actual Energy recorded by Meter (MW)	Actual Energy recorded by Meter (MWh)	Deviation (MWh)	Admissible drawl allowed (MWh)	Overdrawl above schedule but within admissible drawl (MWh)	Overdrawl above admissible drawl (MWh)	Energy qualified for additonal surcharge and cross subsidy surcharge (MWh)
A	B	C	D=Cx (1-applicable losses%)	E=DxHrs.	F	G	H=G-E	I=Admissible drawlx Hrs	J=Lower of {H,I}, If negative then zero	K={H-I}, if negative then zero	L=Lower of(E,G)
(i)	00:00Hrs-6:00Hrs	2	1.95	11.7	1.5	9	-2.7	12	0	0	9
(ii)	6:00Hrs- 12:00Hrs	3	2.925	17.55	7	42	24.45	12	12	12.45	17.55
(iii)	12:00Hrs- 18:00Hrs	1	0.975	5.85	2	12	6.15	12	6.15	0	5.85
(iv)	18:00 Hrs.-00:00Hrs	0	0	0	0.5	3	3	12	3	0	0
(v)	Total			35.1		66			21.15	12.45	32.4

6 Open Access charges payable by the consumer:-

		Per Unit Cost	Unit of measureme	Value	Total (Rs.)	Remarks	
		A		B	C=AxB	Computation of 'A'	Computation of 'B'
(i)	Wheeling Charges (Rs./kWh)	0.63	kWh	2160000	1360800	As per Tariff Order	(Conditional consent in Form 5B in (MW)xNumber of days in a monthx24 Hrs in a dayx1000) =(3x30x24x1000)
(ii)	Additional Surcharge (Rs./kWh)	1.45	kWh	972000	1409400	As determined*	(Sum total of column L of above table in (MWh)xNumber of days in a monthx1000) =(32.4x30x1000)
(iii)	Cross Subsidy Surcharge (Rs./kWh)	1.676	kWh	972000	1629072	As applicable	
(iv)	Reactive Energy Charge (Rs./kVAh)	0.13	kVARh	80000	10400	As applicable	Actual recorded by the meter in the month
(v)	Meter Reading Charges	1	Per Visit	2500	2500		Charges per visit
(vi)	Sub-Total (Rs.) [(i)+(ii)+(iii)+(iv)+(v)]				4412172		
(vii)	Fixed Charges (Rs./kVA/month)	125		2000	250000	As per Tariff Order	(Fixed Charges as per Tariff categoryxAdmissible drawl in (MW)x1000 =(125x2x1000)
(viii)	Energy Charges (Rs./kVAh)	7.4	kWh	634500	4695300	As per Tariff Order	(Sum total of column J of above table in (MWh)xNumber of days in a monthx1000)
(ix)	Additional Fixed charges (Rs./kVA/month) for overdrawl beyond contract demand	156.25		2000	312500	(Fixed Charges as per Tariff categoryx 125%) =(125x125%)	(Maximum demand (if above contract demand)recorded by meter-contract demand in (MW))x1000 =(125x125%x(7-5)x1000)
(x)	Temporary Tariff (Rs./kVAh)	9.25		373500	3454875	(Energy Charges as per Tariff categoryx 125%) =(7.4x125%)	(Sum total of column K of above table in (MWh)xNumber of days in a monthx1000) =(12.45x30x1000)
(x)	PPAC				0		
(xi)	Regulatory Surcharge	8%		15602000	1248160	As per Tariff Order	Fixed charges corresponding to contract demand/MDI whichever is higher + energy charges corresponding to total energy consumed =((125x5000+125x130%x2000)+7.4x66x30x1000)
(xii)	Electricity Tax	5%				As applicable	
(xiii)	Sub Total [(vii)+(viii)+(ix)+(x)+(xi)+(xii)]				9960835		
(xiv)	Total				14373007		
Note	Rebate/ subsidy as per ToD Tariff shall be extra for consumption above scheduled energy						
	Unity Power factor is considered for above computation						

		Per Unit Cost	Unit of measureme nt	Value	Total (Rs.)		
(xv	Transmission Charges	0.2519	kWh	2160000	544104	As applicable	(Conditional consent in Form 5B in (MW)xNumber of days in a monthx24 Hrs in a dayx1000)
(Xvi	SLDC Operating charges	1000	No. of days	30	30000	As applicable	No. of days in a month for scheduling

Note: The computation of deviation of energy at point no.5 shall be done for each time block

* By the Commission for the relevant period.

Annexure-A

GUIDELINES/PROCEDURE FOR IMPLEMENTATION OF SHORT TERM OPEN ACCESS (STOA)

1. **Eligibility Requirements:**

(1) The Short Term Open Access shall be permissible to a consumer having a contract demand of 1(one) MW and above connected at 11 KV or above and the generating plants:

Provided that for the purpose of unit conversion from MVA to MW, the unity power factor shall be considered for the consumers of distribution licensee:

Provided further that Quantum for Open Access demanded may be less than 1 MW:

Provided also that the quantum of open access shall not be allowed more than sanctioned load of the consumer.

(2) A person having been declared insolvent or bankrupt or having outstanding dues against him for more than one month billing of distribution/transmission licensee at the time of application shall not be eligible for open access:

Provided that in case a dispute regarding outstanding dues is pending with any Forum or Court and stay is granted by the competent authority, the person shall be eligible for seeking open access.

2. **Connectivity:**

(1) The consumer/buyer or generating station/sellers seeking Short Term Open Access shall be connected to Transmission/Distribution System of STU / Distribution Licensees at 11KV or above:

Provided that an Open Access Consumer shall be eligible to obtain connectivity at the voltage level specified in the Conditions of Supply of the licensee approved by the Commission, unless already connected, and shall apply for connectivity in accordance with the State Grid Code.

(2) In case of Generators, besides fulfilling the connectivity requirement to Licensee's system, they shall also be required to furnish copy of compliance report to the feasibility clearance issued by STU or Distribution Licensees, as applicable, along with any other statutory clearance.

3. **Metering Requirements:**

(1) It shall be the responsibility of Distribution Licensee to provide Availability Based Tariff (ABT) compliant Special Energy Meters at the point (s) of drawl if not already provided, except wherever the applicant, if so desires, may procure the meter on his own. However, the distribution Licensee shall charge the cost of Main meter from the open access consumer, wherever provided by the distribution licensee.

(2) Special Energy Meters installed shall be of the make approved by STU / Distribution Licensees and shall be capable of time-differentiated measurements for time-block-wise active energy and voltage differentiated measurement of reactive energy in accordance with the Metering Code drawn out as per provisions of Delhi Grid Code / CEA guidelines.

(3) The distribution licensee shall provide Check Meter of the same specifications as Main Meter.

(4) The meters shall be duly tested and sealed in the presence of STU, Distribution Licensee and Consumer.

(5) All Open Access Consumers shall abide by the Central Electricity Authority (installation and operation of meters) Regulations, 2006 (as amended from time to time) in respect of special energy meters or interface meters (Main, Check and Standby meters) to be installed by STU or any other utility authorized to install meters at interface points.

(6) Main meter and Check meter shall be periodically tested and calibrated by State Transmission Utility / Distribution Licensee once in a year.

(7) The broad specification and procedure for installation of metering equipment shall be as per Schedule-I.

(8) **Communication Facility:**
Main and Check Meters shall have facility to communicate their readings/data to the State Load Dispatch Centre (SLDC) on real time basis. In case of generators/sellers and Open Access Consumers who have sought Open Access for 10 MW or above, the facilities/equipments for communication/transfer of metering parameters to SLDC control room on real time basis through two independent channels are to be provided by them at their cost at their end.

(9) **Control Room:**
To communicate with SLDC & Area Load Despatch Centre (ALDC) of Distribution Licensee, an Open Access Consumer having connected load of 10MW or more shall be required to provide a round the clock control room at its premises with following facilities:
(i) Telephone/Mobile with STD.
(ii) Transmission and receipt of fax and e-mail.

4. Procedure for Submission of Application:

(1) **Application Format:**
The applicant shall submit an application to the Nodal Agency as per Format-ST1 for approval of Short Term Open Access.

(2) **Application Fee:**
The application shall be accompanied by a non refundable processing fee as under:
(i) When location of drawal & injection points are within same distribution licensee i.e. without involving STU @ Rs 2500/- per application.
(ii) When location of drawal & injection point in the intrastate transmission system within the State i.e. involving STU @ Rs 10,000/- per application.
(iii) inter- state STOA (Collective transaction/ bilateral) @ Rs 10,000/- per application.

(3) **Registration of Open access Customer:**
An Open Access Customer connected with Intrastate Transmission System shall be registered with SLDC on prescribed format ST-7A for generator & ST-7B for the Purchaser & onetime registration charges of Rs. 10,000/- shall be payable to the 'Delhi SLDC R&E' Account through Bank draft/cheque payable at Delhi. This registration charge is valid for a specified injection / drawal point with respect to Intrastate Transmission System. Any change in the injection / drawal point shall be

treated as a new connection and the charges for registration shall have to be paid by the applicant.

(4) **Documents required:**
The application shall be submitted alongwith following documents:

(i) **Self-attested documents:**
- (a) Copy of latest energy bill issued by distribution licensee, in case applicant is a consumer of distribution licensee.
- (b) Copy of stay granted by the competent authority, in case of dispute regarding outstanding dues pending with any Forum or Court.
- (c) Clearance by the competent authority in case of Power producers/ CPPs/Generators using Non-Conventional Energy Source. Generators using Non-Conventional Energy Source shall also certify that no REC/RPO claim for this power has been made.
- (d) Connectivity details with Transmission / Distribution Licensee in case of generators or Open Access Consumer.
- (e) Single Line Diagram of the electrical system showing details of metering equipments installed.

(ii) **Undertakings by the applicant for:**
- (a) having not been declared insolvent or bankrupt.
- (b) having no outstanding dues against them for more than one month billing of distribution / transmission licensee at the time of application.
- (c) to accept rostering restrictions imposed by the utility in case of mixed industrial feeder.
- (d) to open an irrevocable letter of credit or Bank Guarantee as per Format ST-8 in favour of the agency responsible for collection of various charges.
- (e) towards acceptance to the terms and conditions for short term Purchase/sale of Power through Open Access, as per Format –ST 6.

(5) **Period of Short Term Open Access:**
The applicant may apply for grant of conditional consent for short term open access for a period of one year or less at a time.

(6) All applications for Short term Open Access complete in all respects shall be submitted in duplicate on all working days during 10.00 AM to 05.00PM at the following office address.

Manager (System Operation – Energy Accounting)
State Load Despatch Centre,
SLDC Building, 33KV Sub Station Minto Road, Delhi-110002.
(E-mail: "oasldcdelhi@ gmail.com")

(7) A copy of the application shall be endorsed by the applicant to the transmission licensee and nodal office of the distribution licensee involved in the transaction.

(8) The application complete in all respect on receipt shall be duly acknowledged and shall be allotted application sr. no. and unique Open Access ID No. (Account Number) to the applicant. Date of receipt of application complete in all respects in SLDC, Delhi shall be considered as the date of application.

(9) In case of incomplete or defective application, SLDC, Delhi shall communicate the deficiency or defect to the applicant through registered e-mail or fax, or any other usually recognized mode of communication, within two (2) working days of receipt of application. In such cases, the date of receipt of application shall be the date on which the application has been received duly completed, after removing the deficiency or rectifying the defects, as the case may be.

5. PROCESSING / APPROVAL OF APPLICATION:

(1) Consent by Distribution Licensee:

(i) On receipt of application, SLDC shall forward one set of application to the nodal office of the Distribution Licensee on whose distribution system the applicant is connected, within two working days of its receipt for verification of field data/information:

Provided that if Open Access applicant who is connected in Distribution Licensee's area say 'D1', desires to sell power to another Distribution Licensee 'D2' (through transmission network), the consent from D1 has to be obtained:

Provided further that if open access applicant who is connected in distribution licensee area say D1, desires to sell power to a consumer in another distribution licensee D2 (through transmission network), the consent from D1 & D2 has to be obtained.

(ii) After verification of the information/field data, the nodal office of Distribution Licensee shall convey its initial consent to SLDC, Delhi on the Format ST-5A within 12 working days, from the date of receipt of application from SLDC, Delhi:

Provided that in case of incomplete or defective application, distribution licensee shall communicate the deficiency or defect to the applicant through registered e-mail or fax, or any other usually recognized mode of communication, with a copy to SLDC, Delhi:

Provided further that in such cases, the date of receipt of application with the distribution licensee shall be the date on which the application has been received duly completed, after removing the deficiency or rectifying the defects, as the case may be.

(2) Conditional consent by State Load Despatch Centre

SLDC shall give conditional consent as per the format-ST 5B within 3 working days from receipt of consent from concerned Distribution Licensee. The same shall be conveyed to the Consumer and Nodal Office of the Distribution Licensee.

6. Payment Security Mechanism:

(1) The applicant shall open an irrevocable and revolving Letter of Credit (LC) or Bank Guarantee (BG) in favour of the Licensee responsible for collection of applicable charges as per prescribed format ST-8.

(2) Payment security mechanism specified above is intended to ensure recovery of the applicable payment in case of payment default and not as a mechanism for regular payments.

(3) The LC or BG shall be opened in a Scheduled Bank mutually agreed between applicant and the licensee.

(4) The LC or BG shall be valid for at least two months beyond the entire duration of period specified in conditional consent in form ST-5B.

(5) The LC or BG shall be opened by the applicant before issuance of the compliance report for completion of metering formalities.

(6) In case of renewal of conditional consent before expiry of existing conditional consent, the Licensee shall accept extension of LC or BG for the proportionate amount for the corresponding period:

Provided that in case renewal of contract is for lower quantum, LC or BG for proportionate amount shall be accepted after expiry of period of existing LC or BG.

(7) The LC or BG shall be operated by the Licensees in case of default in payment.

(8) All costs/expenses/charges associated with LC or BG shall be borne by the applicant/consumer.

7. Installation and testing of metering equipment:

After receipt of conditional consent for grant of short term open access as per format-ST-5B, the meter shall be installed and tested as per the following timelines:

i)	Procurement of Metering Equipment By the authorized agency	within 30 days
ii)	Testing by Authorized agency	within 10 days
iii)	Installation at site by applicant/ Distribution Licensees	within 10 days
iv)	Testing by Distribution Licensee /STU & issue of Point wise compliance report	within 10 days

8. Issue of Approval or concurrence or No Objection or Prior standing clearance:

(1) Submission of Application

(i) An application for scheduling for short term open access shall be submitted to the SLDC, Delhi.

(ii) The application for scheduling shall be submitted in the prescribed form containing the details such as name and location of supplier and buyer, contracted power (MW) where supplier is located, point of injection, point of drawl, capacity needed, starting time block and date, ending time block and date, peak load, average load and such other additional information as may be required by the SLDC, Delhi.

(iii) An application made for scheduling shall be accompanied by a non refundable fee payable to State Load Despatch Centre, Delhi as prescribed:

Provided that fee for first application submitted for scheduling shall not be levied by SLDC Delhi from the applicant who has paid the fee for getting conditional consent.

(iv) SLDC shall acknowledge receipt of the application by indicating time and date on 'Acknowledgement' to the applicant.

(v) A copy of the application shall be endorsed by the applicant to the nodal office of the distribution licensee.

(2) The applicant shall apply for approval or concurrence or No Objection or Prior standing clearance as the case may be, from the SLDC in advance as under:

(i) In case of bilateral intersiate transaction, concurrence shall be given and conveyed to Nodal RLDC with copy to applicant and Distribution Licensee.

(ii) In case of Open Access transaction through power exchange, No Objection or Prior Standing clearance shall be issued and conveyed to the Power Exchange with a copy to applicant and Distribution Licensee.

(iii) In case of intrastate Open access transaction, an approval shall be issued and conveyed to the consumer with copy to Distribution Licensee.

(3) After verification of compliance of various conditions and receipt of additional documents, if any, the Nodal Agency shall allow to operationalize the Short term Open Access, as per the request of the Open Access consumer, from the intended date of start.

(4) Involving inter-State transmission system:

(i) Notwithstanding anything contained in clauses (5) herein below, procedure for inter-State short-term Open Access shall be as per Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008, or its statutory re-enactments, as amended from time to time.

(ii) SLDC, Delhi shall issue concurrence or No Objection or Prior standing clearance, as the case may be, within 5 working days in case of first time transaction and 2 working days on subsequent transactions, as the case may be, from the receipt of application.

(iii) In case of refusal of concurrence or No Objection or Prior standing clearance, as the case may be, on the specified grounds like non availability of surplus transmission or distribution capacity or any operational constraints, such refusal shall be conveyed to the applicant, through registered e-mail or fax, or any other usually recognized mode of communication, within five (5) working days in case of first time transaction or two (2) working days on subsequent transactions as the case may be, from the date of receipt of application.

(iv) In case of any operational constraints or congestion is anticipated in any of the Transmission /distribution corridor, it shall also be immediately conveyed by STU / Distribution Licensee to the SLDC as well as Short term Open Access Consumer including the reduced transmission /distribution capacity which can be offered for Open access. The concerned applicant must inform the nodal agency, the acceptance of reduced Open Access capacity within 24 hours. In case of non-receipt of revised information in time, it will be presumed that the applicant is no longer interested in revising it and SLDC will process the application accordingly.

(5) Without involving inter-State transmission system:

(i) **Procedure for advance Scheduling**

(a) An application for advance scheduling may be submitted to the SLDC, Delhi seeking short-term open access upto the second month, considering the month in which an application is made being the first month.

(b) A separate application shall be made for each month and for each transaction in a month in a suitable cover marked "Application for Short-Term Open Access- advance scheduling for <<*Month- Year's name*>> " upto 15th day of the preceding month. For example, application for grant of open access commencing in the month of Aug-2016 shall be received upto 15th day of July-2016.

(c) All applications received upto last day as mentioned under sub-clause (b) above shall be taken up together for consideration. Applications received beyond prescribed time shall not be considered under advance scheduling. The applications shall be processed as per allotment priority criteria specified under Regulation 8(1) to 8(4) of Delhi Electricity Regulatory Commission (Terms and conditions for Open Access) Regulations, 2005 as amended from time to time.

(d) SLDC, Delhi shall convey its approval or otherwise along with schedule of payments to the consumer within four days from the applicable last date for submission of application. In case, SLDC Delhi rejects an application, it shall convey its specific reasons to the applicant in writing.

(ii) **Procedure for Scheduling on "first come first served" basis:**

(a) An Application shall be submitted to the SLDC, Delhi in a cover marked "Application for scheduling on - First-come-first-served basis".

(b) Application received under the following categories shall be treated as "First-Come-First-Served" application:-

i. Application received under "First Come First Served" category for Short-Term Open Access shall be considered only when transactions are commencing and terminating in the same calendar month.

ii. Application received after the date specified in clause (5)(i)(b) of the first month, for scheduling of transactions in the second month.

(c) Application for scheduling which is commencing in the same month, in which Application is made, shall be submitted to SLDC, Delhi at least four (4) days in advance from the date of commencement of the transaction.

(d) All such Application shall be processed and decided within three days of their receipt:

Provided that the applications received under sub clause (b)ii. above, shall be processed only after completing the process for advance scheduling.

(e) Pro-rata scheduling acceptance shall be given in case scheduling requests of the applicants is for more than the margins available.

(iii) **Procedure for Scheduling on Day-Ahead basis:**

(a) An application for day ahead scheduling shall be received by SLDC, Delhi within three days prior to the date of scheduling and upto 1300 hours of the day immediately preceding the day of scheduling for

such transaction. For example, application for day-ahead transaction on 25th day of July shall be received on 22nd day or 23rd day or upto 1300 hours on 24th day of that month.

(b) SLDC, Delhi shall convey approval or otherwise by 18:00 hours of the day immediately preceding the day of scheduling.

(c) Pro-rata scheduling acceptance shall be given in case scheduling requests of the applicants is for more than the margins available.

(iv) **Procedure for scheduling in a contingency:**

(a) In the event of contingency, the buyer or his representative shall make an application to SLDC, Delhi on any working day.

(b) SLDC, Delhi shall take steps to incorporate such transactions in Day Ahead schedules/ Same day Schedule, as the case may be. In case of same day, the transactions shall be scheduled from 6th time block, counting the block in which acceptance is accorded as first time block.

(c) Pro-rata scheduling acceptance shall be given in case scheduling requests of the applicants is for more than the margins available.

(v) **Bidding Procedure/Congestion Management:**

(a) If the capacity sought by the consumers for Open Access for advance scheduling is more than the available capacity or SLDC perceives congestion of any element of transmission and distribution system involved in the transaction, the allocation shall be made through electronic bidding procedure.

(b) The decision of SLDC, Delhi in respect of an expected congestion shall be final and binding.

(c) SLDC, Delhi shall convey information of congestion and decision for invitation of bidding to the applicants through an email/SMS notice, indicating floor price, bid closing date.

(d) The floor price of transmission and wheeling charges determined on the basis of relevant order of the Commission shall be indicated in the notice.

(e) The bids shall be accepted on the prescribed format, to be notified by SLDC, Delhi and shall be received up to the scheduled "bid closing time" as indicated in bidding invitation notice. Modification / amendment to a bid, once submitted, including submission of a second or subsequent bid by an applicant, shall not be entertained.

(f) In case the applicant does not participate in bidding process, his application shall be considered as withdrawn and shall not be processed.

(g) SLDC, Delhi shall also display bidding information on its website.

(h) The bidders shall quote price in Rs./MWh above the floor price.

(i) The quoted price shall be arranged in descending order and approval for allocation of available capacities shall be accorded in descending order of price quoted.

(j) In case of equal price quoted by two or more successful bidders, the approval for scheduling shall be made pro-rate to the scheduling request sought by them.

(k) The applicant, who gets approval for scheduling less than the scheduling request sought by him, shall pay the charges quoted by him. The applicant getting approval for scheduling equal to the

scheduling request sought by him shall pay the charges quoted by the last applicant getting approval of its full scheduling request.

Note: Till SLDC, Delhi establishes infrastructure for electronic bidding, such applications shall be dealt on manual basis.

(6) Within same distribution system:

The procedure specified in clause (5) above, mutatis mutandis, shall apply to cases of short-term open access when the point of injection and the point of drawl are located in the area of the same distribution licensee.

9. Revision of Schedule:

(1) The short-term open access schedules accepted by SLDC, Delhi in advance or on first come first served basis, may be cancelled or revised downwards on an application to that effect made to the SLDC, Delhi by the applicant by giving minimum two (2) days notice. The notice period shall be excluding the day on which notice is served and the day from which revised schedules are to be implemented:
Provided that application fee shall not be levied in case of cancellation or downward revision of schedule.

(2) The accepted schedules for Day-Ahead transactions and transactions in a contingency shall not be revised or cancelled.

(3) The Applicant, who has requested for cancellation of the accepted schedule as above, shall pay the Operating Charges as per the originally accepted schedule, if the period of revision or cancellation is upto two (2) days. If the period of cancellation exceeds two(2) days, the Operating Charges for the period beyond two (2) days shall not be payable:

Provided that the open access consumer shall be liable to pay transmission charges and wheeling charges as per Open Access quantum approved by the SLDC, Delhi in conditional consent on format-5B:

Provided that transmission charges and wheeling charges shall be revised as per Clause 10 below.

(4) The margins becoming available as a result of such revision or cancellation shall be available for scheduling to any other Applicant in accordance with relevant provisions of Regulations on Open Access.

10. Downward Revision or cancellation of Conditional Consent:

(1) In case of downward revision or cancellation of Open Access quantum approved by the SLDC, Delhi in conditional consent on format-5B, the applicant shall submit an application to Nodal Agency with a copy to concerned distribution license:

Provided that application fee shall not be levied in case of cancellation or downward revision of schedule.

(2) The downward revision or cancellation of Open Access quantum shall be effective after expiry of two (2) days excluding the date of receipt of application or the date for which revision is sought whichever is later.

(3) In case of cancellation or downward revision by the consumer, the applicant shall pay transmission charges and wheeling charges for first two days of the period for which the cancellation or downward revision has been sought in accordance with the originally approved open access quantum in conditional consent by the SLDC, Delhi and thereafter as per the revised open access quantum accepted by the SLDC, Delhi during the period of such cancellation or downward revision.

11. Renewal of conditional consent:

(1) The applicant shall submit an application to SLDC, Delhi for renewal of conditional consent for open access at least 7 working days before the expiry of existing conditional consent:

Provided that the application for renewal of conditional consent shall have same terms and conditions as mentioned in existing conditional consent.

(2) SLDC, Delhi shall forward the application to distribution licensee within 2 working days.

(3) The distribution licensee shall give its consent within 3 working days from receipt of application from SLDC, Delhi.

(4) SLDC, Delhi shall convey its conditional consent within 2 working days from receipt of consent from distribution licensee:

Provided that where the distribution licensee has not communicated any deficiency or defect in the application within three(3) days from the date of receipt of application or refusal within the specified period of three (3) working days from the date of receipt of the application, the consent shall be deemed to have been granted:

Provided further that where consent is deemed to have been granted by the State Load Despatch Centre, Delhi the applicant while making application shall submit to the nodal agency an affidavit, duly notarised, declaring that:

(i) the distribution licensee has failed to convey any deficiency or defect in the application or its refusal within the specified time,
(ii) necessary infrastructure for metering and accounting is in place,
(iii) enclosing a copy of the complete application after removal of deficiency or rectification of defects, if any communicated, made to the distribution licensee,
(iv) enclosing a copy of the acknowledgement, if any, given by the distribution licensee, or any other evidence in support of delivery of the application.

12. Failure of Evacuation System for Open Access by a Generator:

The period from failure of Evacuation System of the distribution licensee to revision of schedule shall be dealt as under:

(1) Deviation settlement mechanism for the generator shall be suspended during this period.
(2) The purchaser will pay to the generator at the tariff agreed to between them.
(3) The generator will pay to the licensee for the energy supplied by the licensee to the purchaser, at the rate agreed between the generator and the purchaser.

(4) The generator will be compensated by the licensee for payment of Open Access transmission and wheeling charges, if any, paid by the generator during non-evacuation of power till its revisions.

13. Meter Reading & Energy Accounting:

(1) In case of Open Access consumers, Meter data downloading / reading of Special Energy Meters shall be taken by concerned Distribution Licensee for billing purpose.

(2) In case of generator/seller, Meter data downloading / reading of Special Energy Meters shall be taken by generator/Licensee on monthly basis. Any change in Multiplication factor / CT / PT ratio setting shall also be recorded.

(3) The downloaded data in the form of CD and hardcopy printout along with a statement of consumption as recorded by Main, Check Special Energy Meter, duly authenticated by concerned Licensees shall be sent to SLDC, Delhi, within two (2) days of its downloading for further necessary action, such as preparation of monthly DSM Account wherever applicable.

(4) SLDC, Delhi shall prepare energy account within seven (7) days of its receipt.

(5) In case any co-generation, renewable energy source of energy and other non-conventional energy sources based plants does not supply electricity to the distribution licensee of its area, DSM would be applicable. This will also hold good in case such generating plant supplies electricity to more than one person including the distribution licensee of the area where such plant is located.

(6) The entitlement at the drawl point will be worked out after considering the Transmission and Distribution losses, as determined by the commission in the Tariff order or any subsequent order for that year.

(7) The Open Access Consumer shall give unhindered access at premises for inspection or reading of special Energy Meter / Interface meters by any authorized person of transmission licensee or the distribution licensee.

14. Arrangement for supply of electricity in case of fault in metering apparatus:

(1) In case of fault in metering equipment, the distribution licensee shall provide the supply of electricity through temporary meter.

(2) In case supply cannot be restored through temporary meter or there is a fault in the other equipment, the licensee shall restore the supply directly:

Provided that the assessment of energy consumption during this period shall be computed based on actual consumption recorded by the meter in the previous month.

(3) The settlement of energy shall be as per the methodology prescribed by the Commission under imbalance charges.

15. Charges For Open Access:

The Short Term Open Access Consumer shall pay the charges for Open Access as notified by the Commission in its Delhi Electricity Regulatory Commission (Terms and conditions for Open Access) Regulations, 2005 as amended from time to time and as determined by the Commission under these Regulations/ Tariff Order from time to time.

16. Energy Losses:

(1) **Inter-State Open Access:**
The buyers and sellers of electricity shall absorb apportioned energy losses in the transmission system in accordance with the provisions specified by the Central Regulatory Electricity Commission (CERC) from time to time.

(2) **Intra-State Open Access:**

(i) The Transmission & Distribution losses for the Intra-State system determined by the Commission in its Tariff Orders or any specific order(s) shall be absorbed separately which shall be apportioned in proportion to the actual energy drawl by the Open Access consumer. The energy losses shall be compensated by additional injection at the injection point(s).

(ii) The Energy losses shall also be applicable to Non Conventional Fuel Source based Generators.

17. Billing & Payments:

(1) The Distribution Licensee shall raise bill to Open Access consumer on monthly basis.

(2) The monthly bill towards Open Access Charges for intrastate transactions or supplementary bill towards interstate transaction not covered in remittances received through power exchange and Nodal RLDC, if any, shall be prepared & issued by Nodal Agency on monthly basis.

(3) The Short Term Open Access consumer shall make payments as raised in the bills by due date through electronic transfer (RTGS/NEFT) or Bank Draft.

(4) The distribution licensee, transmission licensee and SLDC, Delhi shall maintain the separate Bank Account for the amount collected from open access consumers. The same shall be reconciled with SLDC, Delhi on monthly basis.

(5) All the payments shall be accepted up to 3.00 P.M on working days only. In case due date of bill falls on holiday, it shall be accepted on the next working day.

(6) The Short Term Open Access consumer shall make the payment in full as mentioned in the bill:

Provided that in case of any dispute in bill, the open access consumer shall pay the self assessed amount.

18. Due Date of Payment:

Due date for payment of bills raised by distribution licensee shall be fifteen days from the date of issue of bill.

19. Late payment surcharge:

In case the payment of any bill for charges payable under Delhi Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2005 is delayed by an open access consumer beyond the due date, without prejudice to any action under the Act or any other regulation there under, a late payment surcharge at the rate of 1.50% per month. The late payment surcharge shall be charged for the number of days of delay in receiving payment from the consumer.

20. Default in Payment:

(1) Non-payment of any charge or sum of money payable by the open access consumer under the Delhi Electricity regulatory Commission (Terms and conditions for open access) Regulations shall be considered as non-compliance and shall be liable for action under Electricity Act 2003.
(2) The Transmission licensee or the distribution licensee may discontinue open access after giving consumer an advance notice of fifteen days without prejudice to its right to recover such charges as per applicable laws.
(3) In case of default in payment of charges relating to the SLDC, Delhi, the SLDC, Delhi may refuse to schedule power to the defaulting open access consumer and direct the concerned licensee to disconnect the supply to such consumer.

21. Collection and Disbursement of Charges:

(1) In case of collective transactions through power exchange, the customer shall pay applicable charges toward open access transaction to the concerned power exchange and all the distribution charges to the concerned Distribution Licensee directly. The concerned Power Exchange shall remit the STU charges & SLDC Operation charges to SLDC, Delhi.

(2) In case of bilateral Interstate transactions, the customer shall pay applicable charges towards open access transaction to the concerned RLDC & all the distribution charges to the concerned Distribution Licensee directly. The concerned RLDC shall remit the STU charges and SLDC Operation charges to STU/SLDC.

(3) In case of Intra state transactions, customer shall pay applicable charges towards open access transaction to SLDC, Delhi & all the distribution charges to the concerned Distribution Licensees directly.

(4) When the intra state transmission system and distribution system is used in conjunction with inter-state transmission system, the provisions regarding collection and disbursement of transmission, wheeling and operating charges contained in Central Electricity Regulatory Commission (Open Access in interstate Transmission) Regulations, 2008 as amended from time to time will apply.

(5) All the charges except distribution charges (DISCOM wheeling, cross subsidy surcharge, additional surcharge, reactive energy etc.) in first instance will be

collected by SLDC directly or through RLDC/Exchange. The Transmission Charges as received by SLDC shall be remitted to STU within 15 days of its receipt by SLDC.

22. Curtailment Priority:

(1) The State Load Despatch Centre, Delhi may curtail power flow on any transmission corridor by cancelling or rescheduling any transaction, if in its opinion cancellation or curtailment of such transaction is likely to relieve any transmission constraint on the corridor or to improve grid security. However, in all such cases of cancellation or curtailment, the SLDC, Delhi will, as soon as practicable, intimate the reasons in writing to the consumer.

(2) Subject to provisions of the State Grid Code, cancellation/curtailment will be affected as under: -

(i) Short term transaction(s) will be cancelled or curtailed first, followed by long term transaction(s).

(ii) Among short term transactions, bilateral transaction will be cancelled or curtailed first, followed by collective transactions.

(iii) Open Access to a distribution licensee will be the last to be curtailed within a category.

(iv) Curtailment will be effected on a pro-rata basis amongst the consumers of a particular category.

(3) In case of curtailment of the approved schedule by the State Load Despatch Centre, Delhi transmission and wheeling charges shall be payable pro-rata in accordance with the curtailed schedule.

(4) The SLDC Operating charges shall be payable irrespective of curtailment, if any.

(5) SLDC, Delhi shall endeavour to give priority to must run plant for scheduling in merit order in line with the guidelines of Central Electricity Regulatory Commission.

Schedule-I

GUIDELINES FOR INSTALLATION OF METERING EQUIPMENT AND ARRANGEMENTS AT THE PREMISES OF OPEN ACCESS CONSUMER.

The following guidelines are to be followed for installation of metering equipment including ABT compliant special energy meters (SEM) of accuracy class 0.2S/0.2 and connecting arrangements for metering of open access consumers.

(1) Open Access Consumer's Premises (To be complied by OA Consumer):

(i) Open Access Consumers injecting power in to the Distribution Licensee / STU system shall provide separate line bay with line protection scheme at both ends to take care of any fault on line.

(ii) Meters are to be installed directly on line without any isolator in between line and metering CTs/PTs.

(iii) Metering CTs/PTs should be exclusively for Distribution licensee metering. Consumers may install any additional meter with separate CT/PT.

(iv) CTs of 0.2S and 0.2 accuracy class is to be installed where CT output is 5A (in case of 11kV) and 1A (in case of 33/66/132/220kV) respectively. However PTs of accuracy class 0.2 are to be used.

(v) Metering CT/PT should be exclusive for metering purpose. These will not be allowed for protection purpose. However metering CT/PT are to be provided with minimum two metering cores, one core to be used for main ABT meter & 2nd core to be used for check meter & TPT meter.

(vi) The meter should be installed nearest to the CT/PT in separate enclosure, with easy/free access by Dist licensees/STU staff.

(vii) All connecting cables from CT/PT to meters should be routed through conduit pipe duly welded.

(viii) Un-climbable fencing around metering, CT, PT area is to be provided which will be sealed by STU.

(ix) Use of only single ratio metering CTs will be allowed. Multi ratio CTs are not to be used in any case.

(x) Metering CTs/PTs, bottom plate needs to be welded after testing/installation at site.

(xi) Open access consumer (non-consumer of Distribution Licensees) is required to provide two communication channels at his own cost for communication of metering data to SLDC control room as applicable.

(xii) Consumers who have already installed CT / PT without witness/checking of Distribution Licensee / STU shall get the same tested in the presence of Distribution Licensee / STU representative.

(xiii) Meter is not to be installed in the control room of consumer's sub-station.

(2) Compliance by DISCOM/STU:

(i) Installation of check Meter

(ii) ABT meter installed for consumers injecting & drawing power to be import/export type of accuracy class 0.2S.

(iii) Supply should not be tapped from Bus PT. Exclusive line CTs and PTs are to be installed for metering at Sub Station end. CT/PTs provided shall have two metering cores.

(iv) Meters are to be installed near line bay in Sub Station Yard.

Formats for Short-Term

FORMAT - ST1

APPLICATION FOR GRANT OF SHORT-TERM OPEN ACCESS

*(to be sent by consumer to **Nodal Agency**)*

To: Nodal Agency

1	Consumer Application No:	<self generated by Consumer>	Date:	
2	Period of Transaction:			
3	Name of Consumer*	< seller/buyer/captive user/trader (on behalf of seller/buyer/captive user >		

<* In terms of power transfer>

4	Consumer Name			
5	Registered email id and phone no. of the consumer			
6	Registration Code		Valid up to	

< Registration code shall be as providea by Nodal Agency >

7	Details of Transaction Party's to Grid		
	Name of Entity	Injecting Entity	Drawee Entity
	Status of Entity*		
	Utility in which it Embedded		

<* In terms of Ownership-State Utility/CPP/IPP/Discom/Consumers/Specify. if any other>

8	Details of Transaction Party's to Grid			
			Injecting Entity	Drawee Entity
	Name of Sub-Station	Transmission		
		Distribution		
	Status of Entity*	Transmission		
		Distribut on		
	Name of Licensee (Owner of S/S)			
	Intervening intra-State Licensee			
	Intervening inter-State Licensee			

< Distribution licensee if required, may treat interface periphery as its connectivity points >

9	Open Access Sought for (Period from date to)					
	Date		Hours		Capacity	
	From	To	From	To	MW*	

< MW* at point of injection>

10	Details of PPA/PSA/MoU					
	Name & Address of parties		Date of PPA/PSA/MoU	Validity Period		Capacity MW*
	Seller	Buyer		Commencement	Expiry	

11	Details of Non-Refundable Application Fee Made				
	Bank Details	Instrument Details			Amount(Rs.)
		Type(Draft)	Instrument No.	Date	

12	I hereby authorized Nodal Agency to process said application, in case open access capacity allotted, for day ahead scheduling in accordance with the provision of intra-State ABT

13	Declaration All Entities/Utilities to transaction shall abide by provisions of the Electricity Act 2003(the Act), SERC (Terms and Conditions for Intra State Open Access) Regulations and any other relevant regulation/order/ code as amended from time to time.

Place :
Date :

Signature (With Stamp)
Name & Designation

Enclosures:

1) Non-refundable application fee by Demand draft or cash receipt (if payment by cash).
(2) Self-certified copy of PPA/PSA/MoU entered between the parties (buyer and seller) of transaction stating contracted power, period of transaction, drawal pattern, point(s) of injection and drawal etc.
(3) Self-certified copies of unconditional concurrence of STU and/or transmission licensee and/or distribution licensee.
(4) Any other.

Copy to:

(1) General Manager (Commercial) of Transmission Licensee involved in transaction.
(2) Concerned officer of Distribution Licensee involved in transaction
(3) Any other concerned

For use of SLDC (with Reference to Enrolment of Application)	
SLDC Reference ID No.	
Nodal SLDC Approval No.	*< if approved >*
Or Reason of Refusal* (If Refused)	

< Nodal Agency may also enclosed supporting documents for the reasons of refusal duly signed on each page >*

ACKNOWLEDGEMENT

(for office use only)

APPLICATION FOR GRANT OF SHORT-TERM OPEN ACCESS

(A) *< to be filled by the consumer >*

1	Consumer Application No:	*<self generated by Consumer>*	Date:	
2	Period of Transaction:			
3	Name of Consumer*	*< seller/buyer/captive user/trader (on behalf of seller/buyer/captive user >*		

< In terms of power transfer>*

4	Consumer Name			
5	Registration Code		Valid period	

< Registration code shall be as provided by Nodal Agency >

(B) *< to be filled by **Nodal Agency**>*

Date and time of Receipt of Application	

Place: Signature (With Stamp)

Date: Name & Designation

FORMATE ST1: APPLICATION FOR GRANT OF SHORT-TERM OPEN ACCESS (Page- 3 of 3)

----------X----------X----------X----------X----------X----------

ACKNOWLEDGEMENT

*(to be issued by **Nodal Agency** to the consumer within 24 hours on receipt of application duly filled in)*

APPLICATION FOR GRANT OF SHORT-TERM OPEN ACCESS

(A) *< to be filled by the consumer >*

1	Consumer Application No:	*<self generated by Consumer>* Date:		
2	Period of Transaction:			
3	Name of Consumer*	*< seller/buyer/captive user/trader (on behalf of seller/buyer/captive user >*		

< In terms of power transfer>*

4	Consumer Name			
5	Registration Code		Valid period	

< Registration code shall be as provided by Nodal Agency >

(B) *< to be filled by **Nodal Agency**>*

Date and time of Receipt of Application	

Place: Signature (With Stamp)

Date: Name & Designation

N.B:

This counterfoil may be scored out and issued to the consumer.

FORMATS for Short-Term

FORMAT-ST2

APPROVAL FOR SHORT-TERM OPEN ACCESS

(to be issued by SLDC)

	Nodal SLDC Approval No.	/(R-0)	Date	

<'R-0' states original approval with revision no. - zero>

1	Consumer Application No.	*<as provided by consumer on FORMAT-ST1>*	Date	
2	Period of Transaction			
3	Nature of Consumer*	*<seller/buyer/captive user/trader(on behalf of seller/buyer/captive user)>*		

< In terms of power transfer>*

4	Consumer Name		
5	Registration Code	Valid period	
6	Details of Transaction Party's to Grid		
		Injecting Entity	Drawee Entity
	Name of Entity		
	Status of Entity*		
	Utility in which it is Embedded		

*<*In terms of ownership- State Utility/CPP/IPP/ISGS/Discom/Consumer/specify, if any other>*

7	Details of Injecting/Drawee Connectivity with intra-State System			
			Injecting Entity	Drawee Entity
	Name of Sub-station	Transmission		
		Distribution		
	Voltage Level	Transmission		
		Distribution		
	Name of Licensee (Owner of S/S)			
	Intervening intra-State Licensee			
	Intervening inter-State Licensee			

<Distribution licensee, if required, may treat interface periphery as its connectivity points>

8	Open Access Sought for (Period from date ___ to date ___)				Revision No.		0
	Date		Hours		Capacity(MW)		MWh
	From	To	From	To	Applied	Allotted	
					Total MWh		

9	Details of Bidding *<only in case of Bidding>*					
	Details of Intra-State System	Date		Hours		Applicable Rate (Rs./kWh)
		From	To	From	To	
	Transmission System					
	Distribution System					

10. The approved transaction shall be incorporated in day-ahead scheduling in accordance with the provisions of intra-State ABT. *<only in case of approval>*
11. Please submit following to SLDC with details on format [FORMAT-ST5] in the manner as specified in procedure: *<only in case of approval>*
    (a) SLDC Fee Amount Rs. _____ Due Date: _____
    (b) Security Amount Rs. _____ Due Date: _____

12. The approval is subject to provisions of SERC (Terms and Conditions for intra State Open Access) Regulations, 2010 and any other relevant regulation/order/code as amended and applicable from time to time. *< only in case of approval >*

13. No approval is being granted on account of *<only in case of rejection>*

< SLDC shall convey specific reasons if open access is denied and may also enclose supporting documents to support the same duly signed on each page >

Place **Signature (with stamp)**
Date **Name & Designation**

Enclosures
(1) Schedule of payments *< only in case of approval >*
(2) If any other
Copy to along with enclosures
(1) Consumer
(2) Transmission Licensee involved in transaction.
(3) Distribution Licensee involved in transaction.
(4) Any other concerned.

FORMATS for Short-Term

ENCLOSURE to FORMAT- ST2

SCHEDULE OF PAYMENTS

(to be enclosed for each month by SLDC along with FOMAT–ST2)

	Nodal SLDC Approval No.	/ (R-0)	Date	

< 'R-O' states original approval with revision no. - zero>

1	Consumer Application No.	<as provided by consumer on FORMAT-ST1>	Date	
2	Period of Transaction			
3	Nature of Consumer*	< seller/buyer/captive user/trader(on behalf of seller/buyer/captive user) >		

<* In terms of power transfer>

4	Consumer Name				
5	Registration Code			Valid period	
6	Tentative* Monthly Payment Schedule for Short-Term Open Access Charges(Period: date to date)			Month	
	Payment Chargeable for	Rate (Rs./kWh)	MWh	Total (Rs.)	
	(1) Intra State Network				
	(a) Transmission Charges				
	concerned Transmission Licensee				
	Intervening intra-State Licensee(if any)				
	(b) Wheeling Charges				
	concerned Distribution Licensee				
	Intervening intra-State Licensee(if any)				
	(c) Cross subsidy Surcharge				
	concerned Distribution Licensee				
	(d) Additional Surcharge				
	concerned Distribution Licensee				
	(e) SLDC Charges				
	SLDC				
	(2) Inter-State Network				
	Transmission Charges				
	Intervening inter-State Licensee (if any)				
	Total Monthly Payment Amount (Rs.)				

Place

Date

Signature (with stamp)

Name & Designation

* Tentative on the basis of MWh mentioned in application which may due to cancellation or downward revision subject to approval of Nodal Agency.

75

FORMAT- ST3

CONGESTION INFORMATION AND INVITATION OF BIDDING

(to be invited by SLDC)

SLDC Bidding Invitation No. _____

Date ____

1	Consumer Application No.	<as provided by consumer on FORMAT-ST1>	Date	
2	Period of Transaction			
3	Nature of Consumer	<seller/buyer/captive user/trader(on behalf of seller/buyer/captive user) >		

<* In terms of power transfer>

4	Consumer Name			
5	Registration Code		Valid period	

6. The anticipated congestion (transformer and electric line/link) is as follow:

Network Corridor		Congestion Period				Margin/ Capacity Available	Total Capacity Applied by all the Consumers
Sub-station with Transformation Capacity	Electric Line/Link with Capacity	Date		Hours			
		From	To	From	To	MW	MW
Intra-State Transmission System							
Intra-State Distribution System							
Inter-State Transmission System							

7. In view of above please submit bid on format [FORMAT-ST4]. The details for bidding are hereunder

(a) Bid Invitation Date		Time	
(b) Bid Submission Date		Time	
(c) Bid Opening Date		Time	

(d) Bids invited for

Network Corridor		Congestion Period				Margin/Capacity Available for Bidding	Floor Price
Sub-station	Electric Line/Link with Capacity	Date		Hours			
		From	To	From	To	MW	Rs./kWh
Name of Transmission System							
Name of Distribution System							

8. In case of non submission of bid, application shall be deemed to have been withdrawn and shall not be processed.

Place

Signature (with stamp)
Name &
Designation

Date

To: Consumers with their reference's (as provided by consumers at sl.no. 1 on FORMAT-ST1)

FORMATS for Short-Term

FORMAT- ST4

BID PROPOSAL

(to be submitted by the consumer to NODAL AGENCY)

Ref: NODAL AGENCY Bidding Invitation No. _____ Date _____

To: **NODAL AGENCY,**

1	Consumer Application No.	<as provided by consumer on FORMAT-ST1>	Date	
2	Period of Transaction			
3	Nature of Consumer*	< seller/buyer/captive user/trader(on behalf of seller/buyer/captive user) >		

<* In terms of power transfer>

4	Consumer Name			
5	Registration Code		Valid period	

6. In reference to above bidding invitation, I hereby submit my bid as follows:

Bidding Details as provided by NODAL AGENCY								Bid Price to be Quoted by Bidder
Intra-State Network Corridor		Congestion Period				Margin/Capacity Available for Bidding	Floor Price	
Sub-station	Electric Line/Link	Date		Hours				
		From	To	From	To	MW	Paise./kWh	Paise/kWh *
Name of Transmission System								
Name of Distribution System								

< * Bidder shall quote price (rounded-off to whole number) in denotation of floor price >

7. I do hereby agree that determined bid price(s) shall be transmission and/or wheeling charges.

Place
Date

Signature (with stamp)
Name & Designation

FORMATS for Short-Term
FORMAT- ST 5A

FORM FOR THE CONSENT OF OPEN ACCESS BY DISTRIBUTION LICENSEE TO SLDC

Memo. No: ..... Date:.....

Distribution Licensees Reference No.....
Date.....

Name of the firm	.....
Account No	.....
Address of the firm	.....
Open Access admissible during off peak hrs	.....
Open Access admissible during peak load hrs	.....
Period /Duration for Open access Conserted	.....
From : (Date/Time)	.....
To: : (Date/Time)	.....
Consent Valid up to :	.....
Any other Specific Conditions for OA Consumer	.....
	.....
	.....

Concerned Official/Open Access
Distribution licensees

FORMATS for Short-Term
FORMAT- ST-5B

SAMPLE LETTER FOR CONDITIONAL APPROVAL FOR GRANT OF SHORT TERM OPEN ACCESS

To

M/s _____
_____
_____

Memo No. ___/SO/OA
Dated:

Sub : Grant of Open Access for purchase/sale of power by M/s _____.
A/C No.: _____.

This refers to your application received in this office on dated _____ for grant of Short Term Open Access for Purchase/Sale of power through Bilateral / power exchange.

The short term open access for purchase/sale of power up to ___ MW (at applicant's periphery) is hereby allowed., as requested by you, in line with Open Access Regulations,2005, as amended from time to time, as per agreed terms & conditions by you and subject to compliance of conditions/ formalities as under*: -

1. The applicant will get ABT compliant special energy meter of accuracy class 0.2S installed at premises at his own cost in addition to TOD meter already installed as per prescribed metering guidelines and the state grid code. The applicant will provide copy of test report of the meter from concerned official of Distribution Licensee and installation report along with site report by STU and compliance report for completion of formalities as per metering guidelines.

2. The applicant will restrict its total demand to be within its sanctioned contract demand during non-peak load hours and during peak load restriction hrs, the applicant will be eligible only to draw total power admissible as per peak load exemption granted by Licensee. This implies that during peak load restriction hours the total drawl from all sources will be limited to peak load exemption allowed.

3. No relaxation in monthly minimum charges, peak load exemption charges etc. shall be admissible against grant of this Open Access and the applicant will be liable to pay all the charges as consumer of Licensees and all the charges and levies applicable on power purchased under Open Access.

4. The applicant will be liable to pay cross subsidy surcharge, additional surcharge, voltage surcharge, reactive energy charges and any other charges applicable on Open Access consumers in accordance to Open Access regulations, 2005 as amended from time to time.

5. The applicant shall abide by all applicable provisions of CERC/DERC open access Regulations as well as IEGC/State Grid Codes during short term open access.

6. The applicant will restrict its power purchase under open access keeping in view the regulatory measures/power cuts imposed by Licensees on feeders supplying power to your unit. In case the scheduled power as per capacity in MW reserved for open access as per NOC / Standing Clearance / Concurrence of an embedded open access consumer is curtailed or cancelled by SLDC as per Regulation 13 of DERC (Terms and Conditions for Open Access) Regulations, 2005, the embedded open access consumer shall immediately reduce / stop the drawl of power through open access.

8. In case the applicant is connected to Mixed feeder, open access shall be allowed subject to the condition that the applicant agrees to rostering restrictions imposed by Licensee / STU on such feeders.

9. The applicant will supply copy of the agreement signed with the traders for purchase of power through open access.

10. The applicant will ensure that this short term open access approval shall not, in any case, violate the terms and conditions of the PPA(s) signed by you with any other agency.

11. The applicant shall be required to furnish a security deposit towards Open Access charges in the form of irrevocable revolving self-recouping Letter of Credit (LC) or Bank Guarantee valid for at least 2 months beyond the period of Open Access transaction in favour of concerned agency.

12 .....(Any other specific condition) imposed by SLDC/STU/Dist. Licenses

The applicant is requested to complete the above formalities and furnish requisite documents along with acceptance to the above condition so that further necessary action on your request can be taken by this office.

This approval is subject to compliance of formalities within 60 days of issue of this letter failing which the approval will be deemed to be cancelled.

This issues with the approval of competent authority.

Manager./Open Access,
for: GM(SLDC),
SLDC, Delhi.

End st. No.___/SO/OA Dated _____

Copy of the above is forwarded to Concerned official w.r.t. his office memo no. _____ dated _____ for further necessary action.

Manager./Open Access,
for: GM(SLDC),
SLDC, Delhi.

CC:
Concerned Official of Distribution Licensees / STU

81

UNDERTAKING TO BE FURNISHED BY THE CONSUMER FOR SHORT TERM PURCHASE/SALE OF POWER UNDER OPEN ACCESS

(To be stamped on Rs.100/- non judicial stamp paper)

I/ We, ...*(name)* on behalf of M/s .....*(name of the firm)*....., A/c No.....having its Registered office .....at *(address)* and Works at .....(address) undertake as under:-

1. I/We will get installed ABT compliant special energy meters of accuracy class 0.2S as main meter at our premises at our own cost in addition to TOD meter already installed as consumer of Licensees& minimum, double core CT/PT's of accuracy class 0.2S/0.2 as per prescribed metering guidelines. I/ We will supply copies of test report of the meter from Licensees / STU and installation report along with site report and compliance report for completion of formalities as per guidelines.
2. I/We will restrict our total demand to be within our sanctioned contract demand during non peak load hours and during peak load restriction hrs. I / We will be eligible only to draw Total power admissible as per peak load exemption granted by Licensees. This implies that during peak load restriction hours the total drawl from all sources will be limited to peak load exemption allowed.
3. I/We will restrict our power purchase under open access keeping in view the regulatory measures/power cuts imposed by Licensees /STU on feeders supplying power to our unit. I / We agree that in case the scheduled power as per capacity in MW reserved for open access as per NOC / Standing Clearance/Concurrence is curtailed or cancelled by SLDC as per Regulation 13 of DERC (Open Access) Regulations, 2005, I/We shall immediately reduce/stop the drawl of power thro' open access failing which SLDC may suspend the NOC/Standing Clearance/Concurrence for 3 days for each day's default.
4. I/We agree that all equipment connected to the State Transmission/Distribution System shall be of such design and construction to enable to meet the requirement of performance standards as specified in Grid Codes for the concerned inter connection point(s). I/We shall ensure that our loads do not cause violation of these standards. Open access on the transmission system and wheeling on distribution system shall be subject to transmission and distribution system constraints. The provision of Open access shall remain suspended / curtailed during such period at the absolute discretion of SLDC / STU/Dist. Licensees.
5. I/We shall not be liable for any claim for any loss or damage whatsoever arising out of failure due to force majeure events such as fire, rebellion, mutiny, civil commotion, riot, strike, lockout, forces of nature, accident, act of God and any other reason including grid's failure beyond the control of STU/Dist. Licensees.
6. I/We agree to rostering restrictions imposed by Dist. Licensees / STU on our feeders (Applicable only for consumers connected to Mixed feeder).
7. I/We undertake that Short Term Open access to be granted or allowed to us is liable to be rejected or cancelled/withdrawn in the event of default but not limited to the following: -

i) Having being declared as insolvent or bankrupt.
ii) having defaulted in clearing outstanding dues of SLDC,STU/Distribution Licensee for more than two months.
iii. Feeder status falling under ineligible category for grant of Open Access.
iv. Withdrawal of consent by Distribution Licensee

8. I/We will supply copy of the agreement signed with the traders for Sale/ Purchase of power through open access. Any change of name / agreement with the trader, advance intimation shall be given by the consumer which shall be allowed subject to the prescribed business rules of the power exchange only after the grant of permission of competent authority of SLDC.
9. I/We will book the Open Access corridor on intra state and interstate transmission system and seek alterations, if required, as per Open Access Regulations and procedure(s).
10. I/We will abide by the provisions of the State Grid Code and Open Access Regulations issued by DERC& CERC, as amended from time to time.
11. I/We will operate a 24 hour control room and communicate real time power purchase data through fax / telephone to control room of SLDC as well as Concerned Dist. licensees
12. I / We understand that no relaxation in Monthly minimum charges or peak load exemption charges as consumer of Concerned Dist licensees is admissible to us for purchase of power under Open Access.
13. I/We shall keep STU and SLDC indemnified at all times and shall undertake to indemnify, defend and keep STU and SLDC harmless from any and all damages, losses, claims and actions including those relating to injury to or death of any person or damage to property, demands, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from open access transaction
14. I/We will be liable to pay cross subsidy surcharge, Additional surcharge, voltage surcharge, reactive energy charges and any other charges applicable on Open Access consumers in accordance to DERC Open Access regulations, 2005, as amended from time to time.
15. In case any difference in wheeling, transmission, operating or any other charges remitted by the power exchange and actual applicable charges, SLDC/STU/Dist. Licensees reserves the right to charge the difference in bill raised to the consumer. I/We undertake to pay the total bill including these charges.
16. I/We will make all payments associated with Short Term Open Access to the concerned office SLDC/STU/Dist. licensees remitted only by Bank Draft or RTGS / NEFT in favour of concerned Official/SLDC payable at Delhi up to 4.00 P.M on working days. After due date I/we agree to pay LPS (Late payment surcharge) @ 1.50% per month or part thereof on total amount of the bill. In case of non-payment of dues Nodal Agency reserves the right to cancel NOC for Open Access.
17. I/We will bear the transmission and distribution losses for the Intra-State/ inter-State system, as notified by the State/Central Electricity Regulatory Commission (DERC/CERC) from time to time.
18. Any taxes / levies applicable on Open Access transaction as imposed by Central and State Governments from time to time shall be borne by me/us.
20. I/We will apply for Standing Clearance/ No Objection Certificate / Concurrence / Consent for purchase of power through Power Exchange or through bilateral agreement minimum 3 workin days before the commencement of deemed date of purchase of power thro ower Exchange. I/We have noted that Standing Clearance will be allowe C maximum upto one month.
21. I/We agree to provide and meet with all metering, protection and communication requirements, as specified by the Commission /STU/SLDC/Licensees from time to time.
22. I/We may surrender the capacity allotted to me/us by serving a notice to Licensees / RLDC as per DERC/CERC regulations, if I/We are unable or not in position to utilize the full or substantial part of the capacity allotted tome/us. In case our capacity has been reduced or cancelled or surrendered, I/We shall bear Open Access charges as per prevalent CERC/DERC open access regulations.

23. I/We undertake to co-ordinate with concerned officials of SLDC/Licensees to ensure meter data reading/downloading as per fixed schedule
24. I/We undertake to maintain grid discipline and ensure the energy drawls as per the energy scheduled at the delivery point.
25. I/We agree that the disputes and complains regarding metering and billing etc. will be first referred to the Commercial and Metering Committee under the State Grid Code. The Committee shall investigate and endeavor to resolve the grievance and in case of its non re-dressal within stipulated period or any dispute it shall be referred to the commission
26. I/We agree that SLDC/Distribution Licensees reserves their right to amend the above terms and conditions within the prescribed Regulatory framework.

Authorized Signatory
Name: _____
Place: Designation:
Date: Seal:

Note:

i) The undertaking is to be signed by the applicant/consumer on each and every page. Two set of the undertaking are to be furnished to this office. One copy will be retained in the office of SLDC and second copy will be supplied to Distribution Licensees while operationalising the Open Access.
ii) Copy of company/Board resolution or authority letter in favour of authorized signatory to be attached.

FORMATS for Short-Term
FORMAT- ST-7A

Format of Application for Registration with SLDC as user of intra-state Transmission System (for generator)

Sr.No.	Particulars Applicant's Details	
1	Name of the Generating Company	.....
2	Address of the Generating Company/ Authorized Person	.....
	Name :	.....
	Designation :	.....
	Address :	.....
	Contact Details :	
	Office No : 1) .....2)	.....
	Fax No. :	.....
	Mobile No :	.....
	Email ID :	.....
3	Location of the Generating Station	.....
4	Location of Interface with Grid (Enclose a layout of switch yard)	.....
5	Total Installed Capacity	.....
6	Commercial Operation Date (COD) Of the Generating station	.....
7	Nature of use of Energy Supply to Licensees /wheeling to 3rd parties /wheeling for captive use	.....
8	Transmission capacity contracted as on (Please enclose details of Licensees)	
	(a) For supply to Licensees	.....
	(b) For wheeling to 3rd parties	.....
	(c)For wheeling for captive use	.....
9	Agreement period for supply to licensees	.....
10	Details of communication system installed for communication of data to SLDC	.....
11	Establishment in-charge of control room for communication with SLDC	.....
12	Details of Registration fee paid	.....
13	Any other information useful for assisting efficient Grid Operation (Please enclose separate sheets for additional information)	.....

Signature of the Authorized Officer

FORMATS for Short-Term
FORMAT- ST-7B

Format of Application for Registration with SLDC as user of intra-state Transmission System
(For Open Access Consumer)

Sr.No.	Particulars Applicant's Details
1	Name of the Open Access Consumer .....
2	Address of the Open Access Consumer .....
	Authorized Person
	Name : .....
	Designation : .....
	Address : .....
	Contact Details :
	Office No : 1) ..... 2) .....
	Fax No. : .....
	Mobile No : .....
	Email ID : .....
3	Location of Interface with Grid (Attach a list of voltage-wise Grid substations/lines along with details of location, capacity, No. of bays, line length, type of line, date of commissioning etc.)
4	Total capacity (Max. Demand that can be served)
5	Transmission capacity contracted from Transmission Licensees (Enclose list of Transmission Licensees with details)
6	Capacity contracted to Open Access consumers.
7	Details of communication system available for communication of data to SLDC / ALDC (Enclose substation-wise details)
8	Designation of the personnel responsible for operation of Grid substations at which Open Access Consumer is connected.
9	Details of the registration fee paid
10	Any other information useful for assisting efficient Grid Operation: (Please enclose separate sheets for additional information)

Signature of the Authorized Officer

FORMATS for Short-Term
FORMAT- ST-8

FORMAT FOR THE UNCONDITIONAL AND IRRECOVABLE BANK GURANTEE FOR BILATERAL TRANSACTION / COLLECTIVE TRANSACTION

(To be stamped on Rs.100/- non judicial stamp paper)

Whereas M/s. _____*(Name of consumer/applicant)*, a Company registered under the Companies Act, 1956 and having Registered Office at _____*(Address)*, hereinafter called the 'consumer/applicant' submitted open access application for intending bilateral transaction / collective transaction, inter alia for sale / trade/ purchase of power of ___MW on short term basis to _____ *(Name of Licensee)* through Inter State / Intra State Open Access as per applicable relevant regulations issued by appropriate Regulatory Commission and procedure devised by the State Transmission Utility, Delhi Transco Ltd. for Short Term Open Access in intra State network in the State of Delhi in the condition which inter alia are subject matter of the application of short term transaction herein referred, agrees to furnish this Bank Guarantee for an amount of Rs. _____*(in figures)* Rs._____*(in words)* equivalent to charges as per Schedule-II to this format.

We, _____*(Name of the Bank)* Bank, _____*(Branch, City)* Branch hereinafter called 'The Bank' in consideration of the premises, do hereby agrees unequivocally, irrevocably and unconditionally to pay _____ (the State Load Dispatch Centre or concerned Distribution Licensee) having its registered office at _____.

Forthwith on demand in writing from _____ (the State Load Dispatch Centre or concerned Distribution Licensee) or any officer authorized by it in this behalf at any time upto _____ *(date up to Open Access transaction + two additional months)*, any amount and not exceeding Rupees _____ *(in words)* only as may be claimed by _____ (the State Load Dispatch Centre or concerned Distribution Licensee) by way of failure of the Consumer/applicant to pay any charges within stipulated time limit towards obligation laid down under Short Term Open Access approval granted.

It is, hereby, agreed and acknowledge that the decision of the ____ _____ (State Load Dispatch Centre or the Distribution Licensee) as the case may be, as to whether any money is payable by the Consumer/applicant or whether the Consumer/applicant has made any such default or defaults as aforesaid and the amount or amounts to which_____ (the State Load Dispatch Centre or the Distribution Licensee) is entitled to by reason thereof will be binding on the Bank and the Bank shall not be entitled to ask _____(the State Load Dispatch Centre or the Distribution Licensee) to establish its claim or claims under this Guarantee or to claim any such amount from the consumer/applicant in the first instance but shall pay the same to _____(the State Load Dispatch Centre or the Distribution Licensee) forthwith on demand without any demur, reservation, recourse, contest or protest and / or without any reference to consumer/applicant. Any such demand made by ___ (the State Load Dispatch Centre or the Distribution Licensee) on the Bank shall be conclusive and binding notwithstanding any difference between _____ (the State Load Dispatch Centre or the Distribution Licensee) and the consumer/applicant or bank and consumer/applicant or any dispute pending before any Court, Tribunal, Arbitrator or any other authority.

The Bank further undertakes not to revoke this Guarantee during its currency except with the previous consent of _____(the State Load Dispatch Centre or the Distribution Licensee) in writing and this Guarantee shall continue to be enforceable till the aforesaid

date of its expiry or the last date of the extended period agreed upon as the case may be.

Subject to the maximum limit of the Bank's liability as aforesaid, this Guarantee shall cover all claim or claims of _____ (the State Load Dispatch Centre or the Distribution Licensee) against the consumer/applicant from time to time arising out or under condition stipulated under the said letter of Short Term Open Access approval and Charges payable in exercise of said approval of Short Tem Open Access and in respect of which _____ (the State Load Dispatch Centre or the Distribution Licensee) demand or notice in writing be served on the Bank before the date of expiry of this Guarantee mentioned above or of further extended period agreed upon, as the case may be.

The Guarantee shall not be affected by any change in the constitution of the said consumer/applicant in any manner by reason or merger, amalgamation, restructuring or any extension or forbearance to the consumer/applicant or any other change in the constitution of the Guarantor and the Bank will ensure for and be available to and guarantee enforceable by _____ (the State Load Dispatch Centre or the Distribution Licensee).

The Guarantee shall be a primary obligation of the Guarantor Bank and accordingly _____ (the State Load Dispatch Centre or the Distribution Licensee) shall not be obliged before enforcing this bank guarantee to take any action in any court or arbitral proceedings against the consumer/applicant, to make any claim against or any demand on the consumer/applicant or to give notice to the consumer/applicant to enforce any security held by the procurer or to exercise, levy or enforce any distress, diligence or other process against the consumer/applicant. The bank guarantee shall be interpreted in accordance with the laws of India and settlement of any dispute arisen between the parties shall be subjected to the legal jurisdiction of Delhi.

And, whereas, in case violation of the terms of the Bank Guarantee, penalty will be levied on the claimed amount as per the bank's penalty rates. It will not be opened to the consumer/applicant to challenge the said clause on any ground whatsoever including formation of opinion but default as to the amount guarantee or part thereof remaining payable under the contract and such opinion of __(the State Load Dispatch Centre or the Distribution Licensee) shall be final and binding thereof for the purpose of invocations of this Bank Guarantee.

Notwithstanding anything contained herein:-

1 Our liability under this Bank Guarantee shall not exceed Rs._____*(in Figures)* (Rupees _____) *(in words)*

2 This Bank Guarantee shall be valid till _____*(date to be inserted as per approval of Open Access transaction allowed by SLDC with an additional claim period of two months thereafter).*

3 We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only if _____ (the State Load Dispatch Centre or the Distribution Licensee) serve upon us a written claim or demand on or before _____

The Bank has power to issue this Bank Guarantee under the statute and the undersigned has full power to sign this Guarantee on behalf of Bank.

Signature _____

Name _____

Power of Attorney No._____

For _____ (name of bank)

Witness (two authorized officers of the Bank with name, designation and employee number)

1 _____

2 _____

Schedule II

Submitted By	Applicable Charges	Submitted to
Consumer	2 Months wheeling charges, cross subsidy surcharge, & additional surcharge (@ average of additional surcharge for the approved period) on approved OA Quantum in concitional consent format 5B.	Concerned Distribution Licensee
	2 Months STU charges on approved OA Quantum in conditional consent format 5B and SLDC Operation Charges as applicable (if the payment is not submitted in advance).	SLDC
Seller/ Generator	2 Months wheeling charges and seven days Deviation Settlement Mechanism charges @ of 105% of maximum Deviation Settlement Mechanism rate on approved OA Quantum in conditional consent format 5B.	Concerned Distribution Licensee
	2 Months STU charges on approved OA Quantum in conditional consent 5B and SLDC Operation Charges as applicable (if the payment is not submitted in advance).	SLDC

Annexure-B

GUIDELINES/PROCEDURE FOR IMPLEMENTATION OF LONG TERM OPEN ACCESS (LTOA)

1. OUTLINE

1.1 This procedure shall apply to the application made for long-term open access for a period of more than five years as per principal regulation 2005 clause 7(2) for use of intra-State transmission system and/or distribution system with associated facilities for transmission and/or wheeling of electricity, with or without inter-State transmission system.

Provided that procedure made hereunder shall be in addition to and not in derogation to open access regulations or any procedure made there under by the Central Electricity Regulatory Commission for use of inter-State transmission system.

1.2 All correspondences shall be addressed to the following Officer of State Transmission Utility (STU): General Manager (Planning), DTL, E-mail: *(STU to specify on its website)*

2. GRANT OF OPEN ACCESS

2.1 SUBMISSION OF APPLICATION

2.1.1 The long-term open access consumer (hereinafter referred to as "consumer") intending to avail long-term access shall make an application on format *[FORMATLT1]* with STU in a cover marked "Application for Long-Term Open Access".

2.1.2 In case electricity system strengthening is involved, the consumer shall apply for long-term access 2 to 4 years in advance (based on nature and quantum of work involved). If, system strengthening is not required, an application can be made by the consumer one year in advance.

Note: 'System strengthening' shall mean to include augmentation or renovation or modernization or expansion of any equipment or substation and/or electric line and construction of new substation and/or electric line.

2.1.3 In case in the opinion of the consumer, system strengthening is not involved, he shall normally request STU for necessary actions or studies, however, such request is not mandatory and STU may take necessary action even in absence of such request.

2.1.4 The application shall be accompanied by non-refundable processing application fee of Rs.1,00,000/- & Rs. 25000/- for Distribution System (or as determined by the Commission from time to time by an order) by demand draft in favour of STU/Dist. Licensees payable at Delhi.

2.1.5 STU shall acknowledge receipt of the application by indicating time and date on an *"ACKNOWLEDGEMENT"* to the consumer.

2.1.6 The application may be submitted by post or in person.

2.2 PROCESSING OF APPLICATION

2.2.1 The application shall be taken up for consideration immediately but not later than seven days by STU on first come first served basis and it shall seek system feasibility reports from transmission licensee and/or distribution licensee involved in transaction for permitting open access. STU shall also make endorsement of the same to SLDC, if considered necessary.

2.2.2 The transmission licensee and/or distribution licensee, as the case may be, shall carry out system feasibility study within thirty days. The licensee's reports shall invariably include site drawings, schedule of site responsibility and any other information necessary for consideration of STU. The feasibility reports may suggest that:

(a) System strengthening is not required. In such case STU / Distribution Licensees shall assess the capacity available and communicate provisional decision to SLDC with copy to STU/Distribution licensee, as the case may be, and thereafter follow provisions of sub-clause 2.3.1.

(b) There is a constraint in electricity system and system strengthening is necessary. The licensee shall submit adequate data and drawings in support of suggestion of system strengthening for consideration of STU.

2.2.3 STU shall assess requirement of system strengthening, under sub-clause 2.2.2(b), and on being satisfied, communicate decision to the consumer within fifteen days requiring him to pay fee difference of fee for system studies, if not paid earlier under sub-clause 2.1.4. The fee shall be paid within fifteen days failing which the application shall be deemed rejected at the discretion of STU. STU may also cause the consumer to furnish any additional information required for system studies and thereafter follow provisions of sub-clause 2.3.2. If the opinion is that system strengthening is not required, STU may seek clarification or additional information from such licensee and/or the consumer and reassess the requirement of system strengthening. On final decision that system strengthening is not required, the matter shall be decided under sub-clause

2.3 CONFIRMATION OF RESERVATION OF CAPACITY

2.3.1 Where electricity system strengthening is not required

(i) STU shall communicate provisional decision, under sub-clause 2.2.2(a) to SLDC within seven days along with the consumer's application and licensee's report(s).

(ii) STU, in consultation with SLDC, shall check transaction for congestion of any element (electric line and transformer) of transmission and/or distribution system involved in open access transaction.

(iii) STU shall confirm grant of open access on format *[FORMAT-LT2]* within Sixty days of receipt of the application with direction to the consumer to enter into Bulk Power Transmission Agreement (BPTA) and/or Bulk Power Wheeling Agreement (BPWA) with concerned transmission licensee and/or distribution licensee within thirty days.

(iv) STU shall not permit open access if transaction may cause congestion of any element of involved transmission and/or distribution system.

(v) In the event of an offer becomes invalid for any reason or rejected by the consumer, STU shall not be required to consider any further application from the same consumer within twelve months from the date of issue of *FORMAT-LT2* unless new application substantially different from the original application is made.

2.3.2 Where electricity system strengthening is involved

(i) STU shall carry out studies to assess requirement of system strengthening and may require the consumer, any other transmission licensee and/or distribution licensee to furnish additional information/study/data for further studies within fifteen days. They shall submit information to STU

within a month. Based on above information, STU shall prepare preliminary report of system study covering all aspects of Delhi EGC and communicate the same to all concerned within next two month.

Provided that if there are more than one application for long-term access, STU shall undertake joint studies and prepare one consolidated preliminary report. STU shall invariably send a copy to SLDC,/Distribution licensees, as the case may be.

(ii) The preliminary report shall be communicated along with specific information on *FORMAT- LT2* to all concerned not later than sixty days from the date of receipt of application and such communication shall be deemed to be grant of open access. However in case of more than one application, the condition of Sixty days shall not apply and STU shall fix such date which shall not be more than one hundred fifty days.

The consumer shall enter into Bulk Power Transmission Agreement (BPTA) and/or Bulk Power Wheeling Agreement (BPWA) with concerned transmission licensee and/ or distribution licensee within sixty days and the copy of such agreements shall be sent to SLDC.

(iii) Notwithstanding anything contained in sub-clause 2.3.2(i), any other transmission licensee and / or distribution licensee shall also be required by STU to identify system strengthening requirements at their end and communicate the same to STU with relevant details in respect to inter-connection, cost estimates, construction milestones / schedule and, site responsibility schedule, drawings and any other information as may be necessary for consideration of STU within forty five days from the date of receipt of preliminary report of system study under sub-clause 2.3.2(i).

(iv) The requirement of system strengthening brought out in preliminary report shall be integrated with the transmission plan with the provisions of Delhi EGC. The plan so prepared shall be approved by CEA in its standing committee meeting of Power System planning. .

(v) Based on approved transmission plan, STU shall finalize strengthening requirements in transmission and distribution systems, in consultation with SLDC and concerned Transmission and/or Distribution licensees as the need be.

System strengthening requirements should clearly identify expansion, augmentation, renovation, modernization of existing sub-stations and/or electric lines and/or construction of new substations and electric lines. It also includes decision regarding who will construct, own, maintain and operate different parts of the system strengthening scheme.

The final report shall be communicated to all concerned to take up the work of the system strengthening as per the schedules finalized or decisions taken therein.

(vi) After final report is prepared, the consumer, STU, any other transmission licensee and distribution licensee or any other person associated with transaction shall comply with such instructions, obligations, duties, time schedules or any other matter as may be specified by STU in final report.

Provided that STU has not changed system strengthening requirements on the basis of any subsequent study carried out on its own motion or on an application of any other consumer, any other transmission licensee and distribution licensee and in such event, the changes carried out by STU shall be binding on the consumer, any other transmission licensee and distribution licensee or any other person associated with transaction.

3. Bulk Power Transmission Agreement (BPTA) and/or Bulk Power Wheeling Agreement (BPWA)

3.1 Bulk Power Transmission Agreement (BPTA) and/or Bulk Power Wheeling Agreement (BPWA) shall be signed by the consumer with STU, any other transmission licensee and distribution licensee, as the case be, agreeing therein to pay transmission and wheeling charges for use of existing transmission and/or distribution system. These agreements shall be signed within time communicated to the consumer under sub-clause 2.3.1(iii) or under sub-clause 2.3.2(ii).

3.2 A supplementary BPTA and/or BPWA to the principal agreements signed under clause 3.1 shall also be signed by the consumer with STU, any other transmission licensees and distribution licensees, as the case be, agreeing therein to pay additional transmission and wheeling charges for use of additional transmission and/or distribution system created due to system strengthening. These agreements shall be signed within period specified by STU under sub-clause 2.3.2(vi).

3.3 At the instance of STU, agreements shall include provisions in respect to :

(a) requirement of protection system, metering, operational and safety criteria, data and communication system;

(b) conditions of interconnection/connectivity, technical requirements thereof;

(c) relevant drawings covering all aspects in relation to (a) and (b) above;

(d) 'Site Responsibility Schedule' in relation to ownership, control, operation and maintenance of plant and apparatus and safety of persons;

(e) procedure for site access, site operational activities and maintenance standards for equipment of concerned transmission licensee and/or distribution licensee and/or consumer's premises;

(f) premature termination of agreement and its consequences on the contracting parties;

(g) compliance with the provisions of Delhi Electricity Grid Code, Indian Electricity Grid Code, regulations / norms / standards / codes specified by CEA / DERC or any provision of planning criteria / any covenants / deeds / regulations by which STU / Transmission licensee /distribution licensee are bound;

(h) details of system strengthening requirements including inter-connection, approximate cost estimates, construction and commissioning milestones / schedule, schedule of commissioning and commercial operationalization;

(i) provisions for payment security, payment, rebate and surcharge as per DERC (Terms and condition of transmission tariff) Regulations and DERC (Terms and condition of distribution tariff) Regulations and orders of the Commission made there under;

(j) Any other relevant necessary information.

3.4 For execution of work where electricity system strengthening is involved, the parties should note the following:

(i) System strengthening work shall be taken up after signing of BPTA and/or BPWA under clause 3.1 and 3.2.

(ii) The consumer and concerned licensees shall furnish progress of system strengthening works on quarterly basis to each other with a copy to STU/SLDC.

(iii) The consumer and concerned licensees shall inform, in writing, at least ninety days ahead of schedule, commercial operation date of additional systems of their part to STU with a copy to concerned/affected persons.

(iv) Based on information received under sub-clause 3.4(iii), STU shall confirm the consumer and concerned licensees at least sixty days ahead of scheduled date of commencement of long-term transaction and directed the consumer to:

(a) establish adequate payment security within thirty days; and

(b) submit a request for scheduling of transaction to SLDC within thirty days.

3.5 Whenever any equipment and/or drawing are proposed to be changed, the consumer or licensee shall intimate necessary changes to STU and all other concerned. When changes are implemented, revised single line diagram shall be circulated by the consumer or licensee to STU and all concerned.

4. SCHEDULING AND REVISION OF SCHEDULES

4.1 Open access transaction shall be carried out under the provisions of DERC Order dated 31.03.07 passed in matter of Availability Based Tariff and any other order passed from time to time, read with Delhi Electricity Grid Code, Indian Electricity Grid Code, DERC (Terms and Conditions of Generation/Transmission tariff) Regulations and any other relevant regulation/order/code, as the case may be, and as amended and applicable from time to time.

Provided that consumer, having premises in area of a distribution licensee, contracts for supply of electricity from such distribution licensee in addition to supplies from other source; energy accounting of electricity supplied from other source shall be carried out first and electricity supplied from such distribution licensee later. In case other source is more than one, the source that comes into open access transactions first, in chronological order of dates of approval of nodal agency, shall be booked for energy accounting first and thereafter subsequent sources shall be taken up until all are exhausted and supply from distribution licensee shall be at last.

5. COMMERCIAL CONDITIONS

5.1 SLDC shall issue an energy account, statement of UI and corresponding UI charges and reactive energy and its charges, on the basis of data received from ABT meters along with data relating to declared capability and schedules etc., in accordance with the provisions of DERC Order dated 31.03.07 (the ABT Order) passed in matter of Availability Based Tariff and as amended from time to time.

5.2 Energy account prepared by SLDC shall be used for billing purposes.

5.3 The consumer shall pay a fee to SLDC as specified in DERC (Procedure, terms and conditions for payment of fee & charges to State Load Despatch Centre and other related provisions) Regulations and amendment thereof.

5.4 The consumer shall make payments in the following manner:

(i) STU, any other transmission licensee and/or distribution licensee, as the case be, shall prepare a bill on monthly basis as per energy account issued by SLDC on the basis of transmission charges, wheeling charges determined by the Commission from time to time. Surcharge and additional surcharge, if any, shall also be recovered through such bill:

(ii) The consumer shall pay charges directly to STU, any other transmission licensee and / or distribution licensee, as the case be, within time provided in BPTA and/or BPWA or in relevant order of the Commission.

(iii) The payment shall be made by mode agreed in BPTA and/or BPWA.

(iv) The SLDC charges shall be recovered from the consumer through bill directly raised by SLDC to Consumer on monthly basis.

(v) Cross Subsidy Surcharge shall be leviable as determined by the Commission in its Order /Tariff Order which shall be payable to Distribution Licensee on per unit basis by the open access consumers (except those availing power from their captive power plants) based on the actual energy consumed during the month through open access.

(vi) Additional surcharge will be applicable as determined by the Commission as per Regulation 12 of DERC (Open Access) Regulations, 2005 as amended from time to time.

(vii) The payment for the reactive energy charges for the Open Access consumers shall be calculated in accordance with DERC (Terms and Conditions for Determination of Generation, Transmission, Wheeling and Retail Supply Tariff) Regulations approved by the Commission. Provided that no additional power factor surcharge / incentive shall be leviable on the energy drawn through open access. These charges are to be recovered by concerned Licensee.

(viii) In cases of outages of generator supplying to open access consumer under open access, standby arrangements should be provided by the distribution licensee for a maximum period of 42 days in a year, subject to the load shedding as is applicable to the embedded consumer of the licensee and the licensee shall be entitled to collect tariff under Temporary rate of charge for that category of consumer in the prevailing rate schedule.

Provided also that open access consumers would have the option to arrange standby power from any other source. Standby charges would be applicable from 00.00Hrs after the 24 hrs of serving the notice by Open Access Consumer till that time consumer have to pay the charges as per UI rate for drawal plus Rs 1/unit for that energy to distribution licensees. The Standby Charges for the power availed by the Open Access Consumer beyond the notice period would be paid to Distribution company, similarly, placed consumers of Discoms availing temporary connection the Distribution Company

(ix) In addition to the above charges, the Utilities who are authorized to installed meters for Open Access Consumer are entitled to recover charges from the consumer as under:-

a) Estimated cost of ABT Meter with AMR facility =Rs.50000/-
b) Estimated expenditure involves in testing /installation/commissioning of Energy Meter=Rs.20000/-
c) Estimated expenditure for data downloading of Energy Meter per visit=Rs.2500/-

The above rates /expenditure are without VAT/Service Tax if any applicable.

NOTE-Procurement/installation of CT/PT /Metering Cubicle & its wiring upto the terminal block to be arranged by the consumer.

After installation of meters, the licensees shall recover the actual cost and shall adjust the estimated cost.

5.5 Based on energy account, the consumer shall make payments of Unscheduled Interchange (UI) Charges as provided under ABT Order and at rates of UI specified by the Central Electricity Regulatory Commission. However, in case of captive users and the consumer other than a distribution licensee, the following provision shall apply:

(a) For Captive generating plant supplying electricity to its captive user connected or not connected with grid and a consumer, such captive user or a consumer shall ensure to draw power as per schedule during each 15-minute time block. The drawal more than schedule shall be considered as 'back up supply' ('back up charges' shall be constituted accordingly) to such captive generating plant or its captive user or consumer from distribution licensee of his area. Such over drawal shall be charged at frequency linked rate 25% higher than UI rate specified by CERC form time to time.

(b) Above charges shall be without prejudice to penalty which may be imposed by the Commission, for non-compliance of the provision of the Act, regulation or code or order made there under, on recommendation of SLDC.

(c) The billing of the 'back up charges', under sub-para (a) above, shall be carried out with the billing of UI charges.

5.6 Reactive Energy Charges associated with transaction shall be paid as per the provision of Delhi Electricity Grid Code or ABT Order or otherwise specified by the Commission by an Order.

5.7 Non-payment of any charge or sum of money payable by the consumer under the Regulations shall be considered non-compliance of the Regulations and Section 56 of the Act, the generating company or STU or any other transmission licensee or a distribution licensee may disconnect supply after giving consumer an advance notice of fifteen days without prejudice to his right to recover such charges by suit.

Provided that non-payment or delayed payment of UI bill shall be considered as default on part of consumer and for such continued defaults, STU/SLDC may bring a case before the Commission for non-compliance of the Regulations under Section 142 of the Electricity Act, 2003.

5.8 Payment Security Mechanism

(i) The applicant for open access shall open an irrevocable and revolving Letter of Credit (LC) in favour of the Licensee responsible for collection of applicable charges. The value of LC shall be equivalent to the estimated amount of various charges for a period of Two months as per prescribe format LT-8. The applicant can also open Bank Guarantee (BG) for an equivalent amount.

(ii) Payment security mechanism specified above is intended to ensure recovery of the applicable payment in case of payment default and not as a mechanism for regular payments.

(iii) The LC/BG shall be opened in a Scheduled Bank mutually agreed between consumer and the licensee.

(iv) The LC/BG shall be valid for at least two months beyond the entire duration of the transaction.

(v) The LC/BG shall be opened by the consumer before issuance of the compliance report for completion of metering formalities.

(vi) In case of renewal of contract during the currency of existing contract for same quantum, the Licensee shall accept extension of LC/BG for the corresponding period.

(vii) In case of renewal of contract during the currency of existing contract for different quantum, the Licensee shall accept extension of LC/BG for the corresponding period for proportionate amount.
Provided that in case renewal of contract is for lower quantum, LC/BG for proportionate amount shall be accepted after expiry of period of existing LC/BG.

(viii) In case of upward revision of quantum during the currency of existing contract, the licensee shall accept the extension of LC/BG for proportionate amount.
[Explanation:- The word 'existing contract' for the purpose of revision of quantum shall mean where point of injection and point of drawl are same.]

(ix) The LC/BG shall be operated by the Licensees in case of default in payment.
(x) All costs/expenses/charges associated with LC/BG shall be borne by the applicant/consumer.

6. METERING

6.1 Metering arrangements shall be guided by the chapter VI clause 33 of DEGC.

6.2 All other matters which are not covered in Regulation regarding type, standards, ownership, location, accuracy class, installation, operation, testing and maintenance, access, sealing, safety, meter reading and recording, meter failure or discrepancies, anti tampering features, quality assurance, calibration and periodical testing of meters, additional meters and adoption of new technologies etc. shall be governed by the Central Electricity Authority (Installation and Operation of Meters) Regulations, Delhi Electricity Grid Code and amendments thereof.

7. ENERGY LOSS

7.1 Energy loss, estimated by SLDC for State transmission and by the Commission for distribution systems, shall be apportioned for all transactions (long-term and short-term transactions).

8. TRANSMISSION AND DISTRIBUTION SYSTEM CONSTRAINTS

8.1 When for the reason of constraints or to maintain grid security, it becomes necessary to curtail power flow on transmission and/or distribution corridor, the transaction already reserved / scheduled may be curtailed by SLDC, if in its opinion such curtailment is likely to relieve transmission and/or distribution constraint or is likely to improve grid security.

8.2 In case of curtailment becoming necessary as result of deviation by the consumer from final despatch and drawal schedule intimated to SLDC, the use of such intra-State system shall be curtailed first, to the full extent of such deviation, following which the principle specified in following clause 8.3 shall apply.

8.3 When because of transmission and/or distribution systems constraint or otherwise, it becomes necessary to curtail the transmission and/or distribution services, curtailment shall be affected in the following order:

(i) Other captive power plant
(ii) Other generating company
(iii) Other distribution licensee
(iv) Existing captive power plant
(v) Existing generating company
(vi) Existing distribution licensee

"Existing" means that existing prior to the date of publication of DERC (Terms and Conditions for Open Access) Regulations, 2005.

8.4 Notwithstanding the provisions of the Regulations, SLDC may, in cases of emergency and in order to maintain system security, follow such other principles of curtailment of use as it considers appropriate.

8.5 In case of curtailment of capacity by SLDC, transmission charges and/or wheeling charges payable shall remain unaffected.

8.6 In case of a force majeure, as determined and notified by SLDC, any schedule transaction may be curtailed or suspended at sole discretion of SLDC and its decision shall be final and binding, and

under such event, transmission charge and/or wheeling charge, payable by any user of transmission and/or distribution system, shall remain unaffected.

9. GENERAL

9.1 STU shall designate an officer as 'Nodal Officer' who shall make correspondence in the matter of open access and be responsible for processing and arranging long term access.

9.2 SLDC shall maintain up-to-date records of consumers, long-term transactions and any other relevant information/data and other decisions taken by it on its web-site

9.3 STU / SLDC may modify formats specified under this procedure as the need be under intimation to the Commission. These formats shall also be kept on web-site.

9.4 STU, SLDC, any other transmission licensee, distribution licensee, generating company (generating station, captive generating plant, non-conventional sources of energy) or any other person supplying electricity within the State, trader and open access consumer shall comply with the Electricity Act, 03 and the following orders, regulations and codes as amended from time to time and as applicable.

9.5 The consumer shall keep STU and SLDC indemnified at all times and shall undertake to indemnify, defend and keep STU and SLDC harmless from any and all damages, losses, claims and actions including those relating to injury to or death of any person or damage to property, demands, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from open access transaction.

9.6 All complaints regarding unfair practices, delays, discrimination, lack of information, supply of wrong information or any other matter related to Long Term Open Access in intra-State transmission shall be directed to the Chairman, Commercial Sub Committee. In case the committee is unable to resolve the matter, it shall be reported to the GCC / Commission for a decision.

9.8 An application involving inter-State transaction shall be governed by the regulations issued by the Central Electricity Regulatory Commission (CERC).

FORMAT - LT1

APPLICATION FOR GRANT OF LONG-TERM OPEN ACCESS

(to be sent by consumer to STU)

To: GM (Planning),DTL

1	Consumer Application No:	*<self generated by Consumer>*	Date:	
2	Name of Consumer			
3	Nature of Consumer*	*< seller/buyer/captive user/trader (on behalf of seller/buyer/captive user >*		
4	Trading License No & type			

< In terms of power transfer>*

5	Period of Open Access Sought for					
	Proposed date/Month of Commencement of Open Access					
	Details of proposed Open Access					
	Date		Hours		Capacity	
	From	To	From	To	MW*	

< MW at point of injection>*

6	**Electricity System Strengthening is Involved (Yes/No)**	***< refer sub-clause 2.1.2/2.1.3 of procedure >***
7	**Registered Address**	***< if registered as per Companies Act 1956 >***
8	**Authorised Person(s)**	
	a) Prime Contact Details for the Purpose of Correspondences	
	Name	
	Designation	
	Phone/Mobile	***Residence/Office***
	Fax No	
	Email	
	(b) Alternate Contact Details	
	Name	
	Designation	
	Phone/Mobile	***Residence/Office***
	Fax No	
	Email	

9	Details of PPA/PSA/MoU					
	Name & Address of parties		Date of PPA/PSA/MoU	Validity Period		Capacity MW*
	Seller	Buyer		Commencement	Expiry	

< MW at point of injection>*

10	Details of Non-Refundable Application Fee Made				
	Bank Details	Instrument Details			Amount(Rs.)
		Type(Draft/Cash)	Instrument No.	Date	
11	Involvement of Grid System during Transaction			Injecting Entity	Drawee Entity
	(a)Intra State Transmission Network(Yes/NO)				
	(b)Intra State Distribution Network(Yes/NO)				
	(c) Inter State Transmission Network(Yes/NO)				

100

12	Details of injecting Entity	
	1)Name	
	2)Status(in terms of Ownership)	<State utility/CPP/IPP/Discom/ consumer/ specify, if any other>
	3) Whether existing or New Entity	
	4) Utility in which it is Embedded	
	5) Whether Existing Long-term Consumer	<yes/No>
	6)Open Access Requirement Of Entity	
	(i)Existing Capacity in Use(Contracted)	
	(ii)Open Access Capacity sought for	
	(iii)Total Capacity(i+ii)(MW)	
	7) Point of Grid connectivity	< existing/proposed >
	(i) Name of Sub-Station	
	(ii)Voltage level of Injection	
	(iii)Name of Licensee(owner of S/S)	
	8) ABT Interface Metering*	
	(i) Type	
	(ii) Make	
	(iii) Rating	
	9) Other relevant information to support processing of application	
	10) other information as notified by STUon its Web-site	

<*Only in case if system strengthening is not involved and enclose supporting documents duly signed on each page>

13	Details of Drawee Entity	
	1)Name	
	2)Status(in terms of Ownership)	<State utility/CPP/IPP/Discom/consumer/specify, if any other>
	3) Whether existing or New Entity	
	4) Utility in which it is Embedded	
	5) Whether Existing Long-term Consumer	<yes/No>
	6)Open Access Requirement Of Entity	
	(i)Existing Capacity in Use(Contracted)	
	(ii)Open Access Capacity sought for	
	(iii)Total Capacity(i+ii)(MW)	
	7) Point of Grid connectivity	< existing/proposed >
	(i) Name of Sub-Station	
	(ii)Voltage level of Injection	
	(iii)Name of Licensee(owner of S/S)	
	8) ABT Interface Metering*	
	(i) Type	
	(ii) Make	
	(iii) Rating	
	9) Other relevant information to support processing of application	
	10) other information as notified by STUon its Web-site	

<*Only in case if system strengthening is not involved and enclose supporting documents duly signed on each page>

14	In case of Generating Station (Existing/Extension of Existing Station)	
	Existing Details of Station	
	1)Name	
	2)Name of promoter	
	3) Location	
	4) Generation Capacity	
	5) Details of Units with Capacity in MW	
	6)Type	<Thermal/Non-conventional / specify if any other>
	7) Fuel	
	8)Previous Three Year generation in MUs	
	9) Whether Captive Plant	<Yes/no, if yes F.Y. wise utilization during last 3 year>
	10) Base Load or Peaking Load Station	<if peaking load, details of estimated hours of running>
	11) Interfacing Voltage level with grid S/S	
	12) provision of Reactive Power	
	13)Other relevant information	
	14)Augmentation/Renovation/Modernization/Extension Details of Station (if any)	
	(i) Specific Details	
	(ii) Commissioning schedule	
	(iii) Other relevant information	
	15) Description of 'Electricity System' along with single line diagram(connected &/or proposed)	
	10) other information as notified by STU on its Web-site	
15	In case of New Generating Station	
	1)Name	
	2)Name of promoter	
	3) Location	
	4) Generation Capacity	
	5) Details of Units with Capacity in MW& Commissioning schedule	
	6)Type	<Thermal/Non-conventional specify, if any other>
	7) Fuel	
	8) Whether Captive Plant	<Yes/no>
	9) Base Load or Peaking Load Station	<if peaking load, details of estimated hours of running>
	10) Interfacing Voltage level with grid S/S	
	11) provision of Reactive Power	
	12) whether identified Station of CEA	<yes/NO>
	13) status of Clearance(Yes/No)	
	(i) Land Requisition	
	(ii) Fuel agreement	
	(iii) Environment & Forest	
	(iv) TEC	<if required>
	(v) PPA with beneficiaries	
	14)Other relevant information	
	15) Description of 'Electricity System' along with single line diagram	
	16) other information as notified by STU on its Web-site	

16	Details of final beneficiary (to whom Power is to be Transmitted &/or wheeled	
	<Consumer may enclosed supporting document as considered appropriate, duly signed on each page)	
	A)In case of Distribution Licensees	
	1)Name of Entity	
	2)Address of Entity	
	3) Utility in which embedded	
	4) Allocation of Power (MW)	
	5)Other Relevant Information	
	B) In case of other than Distribution Licensees	
	1)Name of person/Entity	
	2)Address of Person/Entity	
	3) Utility in which embedded	
	4) Allocation of Power (MW)	
	5) Place of Installation to be Benefited	
	6)Reactor/capacitor Installed	
	7)Beneficiary is consumer of distribution Licensees	<Yes/No>
	If yes, Then (i) Name of distribution Licensees	
	(ii Existing Contracted Capacity	
	8)Other relevant Information	
	9) other information as notified by STUon its Web-site	
17	Other Relevant Information	

Undertaking on behalf of Consumer/User's involved in transaction

18	**Declaration** **a)All Entities/Utilities to transaction shall abide by provisions of the Electricity Act 2003(the Act), DERC (Terms and Conditions for Intra State Open Access) Regulations and any other relevant regulation/order/ code as amended from time to time.** **b) M/s_____ have a valid license (no._____, type _____and valid upto_____) issued by _____ for Inter-State/Intra-State trading and will abide by CERC Regulation on inter-State trading License, as amended from time to time/DERC (procedure, term and conditions for grant of Trading License for Intrastate Electricity Trader and other related provisions) Regulation and amendments thereof .** **<this clause is applicable in case consumer is a trader>** **c) The electricity system(involved in Transaction) shall abide by provisions of DEGC,IE Rules 1956 made under section 37 of Indian Electricity Act 1910 whichever applicable, Technical Standards for Construction of electricity plants, Electric Lines and Connectivity to Grid specified by CEA, measures relating to safety and Electric supply made by CEA under section 57 and 58 of the Act, and Installation and Operation of meters Regulations made by CEA.** **d) I hereby agree to keep STU and SLDC indemnified at all times and shall undertake to indemnify, defend and keep STU and SLDC harmless from any and all damages, losses, claims and actions including those relating to injury to or death of any person or damage to property, demands, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from open access transaction**

Place:
Date :

Signature (With Stamp)
Name & Designation

Enclosures

1) Non-refundable application fee by Demand draft or cash receipt (if payment by cash).
(2) Self–certified copy of PPA/PSA/MoU entered between the parties (buyer and seller) of transaction stating contracted power, period of transaction, drawal pattern, point(s) of injection and drawal etc.
(3) Self-certified copies of Trading licensee .(if applicable).
(4) Detailed description of 'electricity system' of injecting and drawee entities(involved in the transaction) already connected and/or proposed to be connected with intra-state transmission system along with single line diagrams.
(5) Connectivity and interface metering related supporting document including outdoor and indoor layout single line diagrams.(if existing user's of intra-state System)
(6) If any other.

Copy to along with relevant enclosures [except (1) & (2)]:

(1) General Manager (Commercial) of Transmission Licensee involved in transaction.
(2) Concerned officer of Distribution Licensee involved in transaction
(3) SLDC.
(4) Any other concerned

For use of STU (with Reference to Enrolment of Application)	
STU Reference ID No.	
Nodal STU Approval No.	*< if approved >*
Or Reason of Refusal* (If Refused)	

< Nodal Agency may also enclosed supporting documents for the reasons of refusal duly signed on each page >*

ACKNOWLEDGEMENT

(for office use only)

APPLICATION FOR GRANT OF LONG-TERM OPEN ACCESS

(A)< to be filled by the consumer >

1	Consumer Application No:	*<self generated by Consumer>*	Date:	
2	Period of Transaction:			
3	Name of Consumer*	*< seller/buyer/captive user/trader (on behalf of seller/buyer/captive user >*		
4	Trading License No. & Type	*<If Trader>*		

< MW at point of injection>*

5	Period of Open Access Sought for				
	Proposed date/Month of Commencement of Open Access				
	Details of proposed Open Access				
	Date		Hours		Capacity
	From	To	From	To	MW*

<MW*at point of injection>

(B) < to be filled by STU>

Date and time of Receipt of Application	

place **Signature (With Stamp)**
Date **Name & Designation**

----------X----------X----------X----------X----------X---

(to be issued by STU to the consumer immediately on receipt of application duly filled in)

APPLICATION FOR GRANT OF LONG-TERM OPEN ACCESS

(A)< to be filled by the consumer >

1	Consumer Application No:	*<self generated by Consumer>*	Date:	
2	Period of Transaction:			
3	Name of Consumer*	*< seller/buyer/captive user/trader (on behalf of seller/buyer/captive user >*		
4	Trading License No. & Type	*<If Trader>*		

< MW at point of injection>*

5	Period of Open Access Sought for				
	Proposed date/Month of Commencement of Open Access				
	Details of proposed Open Access				
	Date		Hours		Capacity
	From	To	From	To	MW*

<MW*at point of injection>

(B) < to be filled by STU>

Date and time of Receipt of Application	

place : **Signature (With Stamp)**
Date **Name & Designation**

N.B: This counterfoil may be scored out and issued to the consumer.

FORMATS for Long-Term
FORMAT- LT-2A

Format of Application for Registration with SLDC as user of intra-state Transmission System (for generator)

Sr.No.	Particulars Applicant's Details	
1	Name of the Generating Company	.....
2	Address of the Generating Company/ Authorized Person	.....
	Name :	.....
	Designation :	.....
	Address :	.....
	Contact Details :	
	Office No : 1) .....2)	.....
	Fax No. :	.....
	Mobile No :	.....
	Email ID :	.....
3	Location of the Generating Station	.....
4	Location of Interface with Grid (Enclose a layout of switch yard)	.....
5	Total Installed Capacity	.....
6	Commercial Operation Date (COD) Of the Generating station	.....
7	Nature of use of Energy Supply to Licensees /wheeling to 3rd parties /wheeling for captive use	.....
8	Transmission capacity contracted (Please enclose details of Licensees)	
	(a) For supply to Licensees	.....
	(b) For wheeling to 3rd parties	.....
	(c)For wheeling for captive use	.....
9	Agreement period for supply to licensees	.....
10	Details of communication system installed for communication of data to SLDC	.....
11	Establishment in-charge of control room for communication with SLDC	.....
12	Details of Registration fee paid	.....
13	Any other information useful for assisting efficient Grid Operation (Please enclose separate sheets for additional information)	.....

Signature of the Authorized Officer

FORMATS for Long -Term
FORMAT- LT-2B

Format of Application for Registration with SLDC as user of intra-state Transmission System
(For Open Access Consumer)

Sr.No.	Particulars Applicant's Details
1	Name of the Open Access Consumer .....
2	Address of the Open Access Consumer .....
	Authorized Person
	Name : .....
	Designation : .....
	Address : .....
	Contact Details :
	Office No : 1) .....2) .....
	Fax No. : .....
	Mobile No : .....
	Email ID : .....
3	Location of Interface with Grid (Attach a list of voltage-wise Grid substations/lines along with details of location, capacity, No. of bays, line length, type of line, date of commissioning etc)
4	Total capacity (Max. Demand that can be served)
5	Transmission capacity contracted from Transmission Licensees (Enclose list of Transmission Licensees with details)
6	Capacity contracted to Open Access consumers.
7	Details of communication system available for communication of data to SLDC / ALDC (Enclose substation-wise details)
8	Designation of the personnel responsible for operation of Grid substations at which Open Access Consumer is connected.
9	Details of the registration fee paid
10	Any other information useful for assisting efficient Grid Operation (Please enclose separate sheets for additional information)

Signature of the Authorized Officer

FORMATS for Long-Term
FORMAT- LT-8

FORMAT FOR THE UNCONDITIONAL AND IRRECOVABLE BANK GURANTEE FOR BILATERAL TRANSACTION / COLLECTIVE TRANSACTION

(To be stamped on Rs.100/- non judicial stamp paper)

Whereas M/s. _____*(Name of consumer/applicant)*, a Company registered under the Companies Act, 1956 and having Registered Office at _____*(Address)*, hereinafter called the 'consumer/applicant' submitted open access application for intending bilateral transaction / collective transaction, inter alia for sale / trade/ purchase of power of ___MW on long term basis to _____ *(Name of Licensee)* through Inter State / Intra State Open Access as per applicable relevant regulations issued by appropriate Regulatory Commission and procedure devised by the State Transmission Utility, Delhi Transco Ltd. for Long Term Open Access in intra State network in the State of Delhi in the condition which inter alia are subject matter of the application of long term transaction herein referred, agrees to furnish this Bank Guarantee for an amount of Rs. _____*(in figures)* Rs._____ _____ *(in words)* equivalent to charges as per Schedule-I to this format.

We, _____*(Name of the Bank)* Bank, _____*(Branch, City)* Branch hereinafter called 'The Bank' in consideration of the premises, do hereby agrees unequivocally, irrevocably and unconditionally to pay _____ (the State Load Dispatch Centre or concerned Distribution Licensee) having its registered office at _____.

Forthwith on demand in writing from _____ (the State Load Dispatch Centre or concerned Distribution Licensee) or any officer authorized by it in this behalf at any time upto _____ *(date up to Open Access transaction + two additional months)*, any amount and not exceeding Rupees _____ *(in words)* only as may be claimed by _____ (the State Load Dispatch Centre or concerned Distribution Licensee) by way of failure of the Consumer/applicant to pay any charges within stipulated time limit towards obligation laid down under Long Term Open Access approval granted.

It is, hereby, agreed and acknowledge that the decision of the _____ (State Load Dispatch Centre or the Distribution Licensee) as the case may be, as to whether any money is payable by the Consumer/applicant or whether the Consumer/applicant has made any such default or defaults as aforesaid and the amount or amounts to which_____ (the State Load Dispatch Centre or the Distribution Licensee) is entitled to by reason thereof will be binding on the Bank and the Bank shall not be entitled to ask _____(the State Load Dispatch Centre or the Distribution Licensee) to establish its claim or claims under this Guarantee or to claim any such amount from the consumer/applicant in the first instance

but shall pay the same to _____(the State Load Dispatch Centre or the Distribution Licensee) forthwith on demand without any demur, reservation, recourse, contest or protest and / or without any reference to consumer/applicant. Any such demand made by ___ (the State Load Dispatch Centre or the Distribution Licensee) on the Bank shall be conclusive and binding notwithstanding any difference between _____ (the State Load Dispatch Centre or the Distribution Licensee) and the consumer/applicant or bank and consumer/applicant or any dispute pending before any Court, Tribunal, Arbitrator or any other authority.

The Bank further undertakes not to revoke this Guarantee during its currency except with the previous consent of _____(the State Load Dispatch Centre or the Distribution Licensee) in writing and this Guarantee shall continue to be enforceable till the aforesaid date of its expiry or the last date of the extended period agreed upon as the case may be.

Subject to the maximum limit of the Bank's liability as aforesaid, this Guarantee shall cover all claim or claims of _____ (the State Load Dispatch Centre or the Distribution Licensee) against the consumer/applicant from time to time arising out or under condition stipulated under the said letter of Long Term Open Access approval and Charges payable in exercise of said approval of Long Tem Open Access and in respect of which _____ (the State Load Dispatch Centre or the Distribution Licensee) demand or notice in writing be served on the Bank before the date of expiry of this Guarantee mentioned above or of further extended period agreed upon, as the case may be.

The Guarantee shall not be affected by any change in the constitution of the said consumer/applicant in any manner by reason or merger, amalgamation, restructuring or any extension or forbearance to the consumer/applicant or any other change in the constitution of the Guarantor and the Bank will ensure for and be available to and guarantee enforceable by _____ (the State Load Dispatch Centre or the Distribution Licensee).

The Guarantee shall be a primary obligation of the Guarantor Bank and accordingly _____ (the State Load Dispatch Centre or the Distribution Licensee) shall not be obliged before enforcing this bank guarantee to take any action in any court or arbitral proceedings against the consumer/applicant, to make any claim against or any demand on the consumer/applicant or to give notice to the consumer/applicant to enforce any security held by the procurer or to exercise, levy or enforce any distress, diligence or other process against the consumer/applicant. The bank guarantee shall be interpreted in accordance with the laws of India and settlement of any dispute arisen between the parties shall be subjected to the legal jurisdiction of Delhi.

And, whereas, in case violation of the terms of the Bank Guarantee, penalty will be levied on the claimed amount as per the bank's penalty rates. It will not be opened to the consumer/applicant to challenge the said

clause on any ground whatsoever including formation of opinion but default as to the amount guarantee or part thereof remaining payable under the contract and such opinion of ___(the State Load Dispatch Centre or the Distribution Licensee) shall be final and binding thereof for the purpose of invocations of this Bank Guarantee.

Notwithstanding anything contained herein:-

1 Our liability under this Bank Guarantee shall not exceed Rs._____*(In Figures)* (Rupees _____) *(in words)*

2 This Bank Guarantee shall be valid till _____*(date to be inserted as per approval of Open Access transaction allowed by SLDC with an additional claim period of two months thereafter).*

3 We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only if _____ (the State Load Dispatch Centre or the Distribution Licensee) serve upon us a written claim or demand on or before _____

The Bank has power to issue this Bank Guarantee under the statute and the undersigned has full power to sign this Guarantee on behalf of Bank.

Signature _____

Name _____

Power of Attorney No._____

For _____ (name of bank)

Witness (two authorized officers of the Bank with name, designation and employee number)

1 _____

2 _____

Schedule I

Submitted By	Applicable Charges	Submitted to
Consumer	2 Months wheeling charges, cross subsidy surcharge, & additional surcharge (@ average of additional surcharge for the approved period) on approved OA Quantum.	Concerned Distribution Licensee
	2 Months STU charges on approved OA Quantum and SLDC Operation Charges as applicable (if the payment is not submitted in advance).	SLDC
Seller/ Generator	2 Months wheeling charges and seven days Deviation Settlement Mechanism charges @ of 105% of maximum Deviation Settlement Mechanism rate on approved OA Quantum.	Concerned Distribution Licensee
	2 Months STU charges on approved OA Quantum and SLDC Operation Charges as applicable (if the payment is not submitted in advance).	SLDC

111

Statement of Objects & Reasons

1. Introduction

1.1 The Electricity Act 2003 (EA 2003) enables eligible consumers to have non-discriminatory Open Access (OA) to the network of a Licensee (except that of a local authority engaged in the business of distribution of electricity before the appointed date) on payment of applicable charges. The EA 2003 and National Electricity Policy (NEP) formulated there under, mandates the State Electricity Regulatory Commissions to frame the terms and conditions and timeframe for introduction of OA in the State.

1.2 Section 2 (47) of the Electricity Act, 2003 defines Open Access, while Section 42 of the Electricity Act, 2003 mandates the Distribution Licensees to provide open access to eligible consumers subject to payment of cross-subsidy surcharge, additional surcharge and other applicable charges.

1.3 The Commission in exercise of the power vested in it under section 39, 42, 86 (1) (c) read with Section 181 of the Electricity Act, 2003 and all other powers enabling the Delhi Electricity Regulatory Commission (hereinafter referred to as Commission) in this behalf, notified the Delhi Electricity Regulatory Commission (terms and conditions for Open Access) Regulations, 2005 (hereinafter referred to as Open Access Regulations). In the aforesaid Regulations, notified in the official gazette on 03rd January, 2006, open access was allowed to the Intra State Transmission System in the State, immediately, subject to the satisfaction of the conditions contained in the Act or in these Regulations.

1.4 Regulation 12 and Regulation 17 of Open Access Regulations empowers the Commission to determine the applicable charges and issue of orders and practice directions time to time. Pursuant to these Regulations, the Commission had issued Orders dated 24.12.2013, 18.05.2015 and 09.12.2015, to decide Transmission and Wheeling Charges, Cross Subsidy Surcharge, Additional Surcharge and other applicable charges under Open Access and the procedure to be followed in various matters for implementation of Open Access Regulations. Ministry of Power, Government of India has issued the revised Tariff Policy changing surcharge formula which necessitates review of cross subsidy surcharge. Further, the Commission has received various proposals/ suggestions/ clarifications for revision of some of the provisions of existing Orders

1.5 Accordingly, the Commission has issued a draft proposal on 15.12.2016 on its website for determination of Open Access Charges and related matters, revising its earlier Orders dated 24.12.2013, 18.5.2015 and 9.12.2015 for seeking suggestions/objections/comments from stakeholders by 20.01.2017. The public notice was also issued in the following daily newspapers on 21.12.2016 for the information of the stakeholders to submit their suggestions/objections/comments:

(i) Hindustan Times (English)
(ii) Indian Express (English)
(iii) Times of India (English)
(iv) Navbharat Times (Hindi)
(v) Dainik Jagran (Hindi)
(vi) Milap (Urdu)
(vii) Educator (Punjabi)

2. Views of Stakeholders

2.1 The Commission has considered the comments and suggestions of the stakeholders on the various provisions of the draft proposal in response to notice dated 15th December, 2016. The Commission has taken all written and oral submissions on record. The Commission has also considered the comments submitted by BRPL & BYPL in Appeal No. 164 of 2015 & IA No.264 of 2015 and Appeal No.165 of 2015 & IA No.267 of 2015 filed before the Hon'ble Appellate Tribunal for Electricity. As directed by Hon'ble Appellate Tribunal for Electricity in its daily Order dated 9.1.2017, a meeting was also convened with the distribution companies to deliberate the issues. A meeting with other stakeholders was also held on 20.2.2017 and 21.2.2017 alongwith State Load Despatch Centre, Delhi to discuss their comments. The final Order has been made by the Commission after due consideration of the responses of the stakeholders, the provisions of the Act, the National Electricity Policy, Tariff Policy, current scenario of the electricity industry. The issue-wise comments/suggestions of the stakeholders, the Commission's analysis of the issues, and findings of the Commission thereon have been discussed in the subsequent paragraphs.

2.2 The major comments and views expressed by the stakeholders through their written submissions and the Commission's views thereon have been summarized and discussed in the following paragraphs. It may be noted that all the responses on record given by the stakeholders have been considered, and the Commission has attempted to elaborate these responses/comments/suggestions, and arrived at a conclusion in this

"Statement of Objects and Reasons". However, in case any suggestion is not specifically elaborated, it does not mean that the same has not been considered. Further, some stakeholders have suggested changes in regard to syntax/phrase/addition of word(s)/rewording related changes, which have been suitably incorporated, wherever found necessary.

3. Cross Subsidy Surcharge {Clause 10(1)}:

3.1 Clause on cross subsidy surcharge of the draft Order stipulates as under:

i. The Cross Subsidy surcharge shall be calculated based on the surcharge formula laid-down in Para 8.5 of the National Tariff Policy issued by the Government of India from time to time with some assumptions taking into account some state specific issues, as specified in this order.

ii. Since the tariff for each category of consumers is fixed by the Commission on year-to-year basis, the surcharge shall also be decided on a year-to-year basis.

iii. For the calculation of the surcharge, the losses shall be considered based on average figures as projected in the respective Tariff Order and the Commission is not in favour of post-facto correction of the surcharges or the energy transactions based on the actual losses.

iv. The Wheeling charges shall also be varying from year-to-year on account of investments being made in the sector for meeting the load growth, AT&C loss reduction and improving the performance standards.

v. Keeping in view all the above points, it is felt that it shall be appropriate to determine the surcharge on a yearly basis. The nodal agency shall compute Cross Subsidy Surcharge and shall display it on its website within one month of issue of Tariff Orders.

vi. Based on the data available in Tariff Order for the distribution Licensees issued by the Commission, the Commission has calculated the Cross Subsidy surcharge applicable to different consumers at different voltages/and different class of consumers along with certain assumptions which are indicated in **Annexure – 1.** Accordingly, the charges indicated in **Annexure – 2, 3 & 4** shall be payable by the Open Access consumers by way of Cross Subsidy surcharge in the TPDDL, BRPL & BYPL areas respectively. Wherever the cross subsidy surcharge worked out in Annexure 2, 3 & 4 is negative, no cross subsidy surcharge shall be payable by the OA consumer.

vii. Cross subsidy surcharge determined on Per Unit basis shall be payable, by the open access customers based on the actual energy drawn through open access, limited to a maximum of scheduled open access energy during that time block.

Stakeholders' Comments/Suggestions

3.2 Stakeholders submitted that

(i) Open access charges like cross subsidy surcharge, additional surcharge (determined on per unit basis) shall be levied on the actual energy drawn during the month through open access and not on the scheduled quantum.

(ii) The Commission in exercise of its powers under National Tariff Policy may review the formula for determination of cross subsidy surcharge in National Tariff Policy as cross-subsidy surcharge shouldn't be more than the current level of cross subsidy, which is the difference between the cost of supply COS and ABR is the current level of subsidy.

(iii) In the case of Delhi DISCOMs, the cross subsidy surcharge has taken a quantum jump as compared to that of 2015-16.

(iv) In the formula, top 5% power purchase cost has been replaced with the weighted average power purchase cost, thereby increasing the cross subsidy surcharge across all categories. The new formula is so flawed that, if implemented, the subsidizing category like domestic will also pay CSS, if they opt for open access.

(v) Not to increase the cross subsidy surcharge from the existing levels of cross subsidy for HT consumers as licensee is already getting its more than true compensation through the lower power procurement cost and the existing cross subsidy levels on HT consumers.

3.3 TPDDL submitted that

(i) A proviso shall be added specifically mentioning that the Cross Subsidy Surcharge determined by the nodal agency shall be applicable from the date from which the Tariff Order is effective.

(ii) To remove "R" (the per unit carrying cost towards regulatory assets) component from the surcharge formula laid-down in Para 8.5 of the National Tariff Policy issued by the Government of India as the Open Access Consumers have also contributed to creation of the said regulatory assets and that that past obligations of these consumers cannot be waived off at the cost of other consumers who will have to bear the burden of the same.

(iii) The quantum to be considered while charging the Cross subsidy surcharge should be the Open Access quantum cleared by the Nodal Agency on daily basis.

(iv) The cases which are exempted from payment of cross subsidy shall also be specified upfront.

3.4 BRPL & BYPL submitted that 20% capping on the cross subsidy surcharge would fail to compensate from the loss of cross subsidy that it would suffer by reason of the consumers taking Open Access. The loss of cross subsidy of

approximately Rs. 300 Crore will either have to be made good by recovery from the Open Access consumers or from an increase in the retail supply tariffs for the subsidized consumers.

Commission's Views

Modification in the formula for Cross Subsidy Surcharge and capping of 20% of tariff

3.5 As regards the modification in the formula for determination of cross subsidy surcharge in National Tariff Policy notified by Government of India, the Commission noted that distribution licensees has proposed to modify the formula such that it increases the cross subsidy surcharge and whereas the open access consumers has suggested for reduction in cross subsidy surcharge. The Commission further noted from National Tariff Policy that the formula prescribed may not work for all distribution licensees particularly for those having power deficit. Delhi being power surplus state, the above provision may not be applicable to Delhi.

Therefore, the Commission is of the view that the formula prescribed in National Tariff Policy for determination of cross subsidy surcharge does not require any revision. Capping of 20% of tariff applicable to the category of consumers seeking open access for determination of cross subsidy surcharge has also been maintained.

Date of Applicability of Cross subsidy surcharge

3.6 As regards the issue of date of applicability of cross subsidy surcharge determined subsequent to revision of Tariff Orders, the Commission felt that as the tariff is applicable to consumers from the date of applicability of tariff schedule, the same should also be applicable to the open access consumers.

Therefore, the Commission is of the view that cross subsidy surcharge should be applicable from the date of applicability of Tariff Schedule. Accordingly, the same has been incorporated.

Exemption Categories from Cross subsidy surcharge

3.7 As per sub-section (2) of Section 42 of the Electricity Act, 2003, cross subsidy surcharge is also not leviable on the person who has established a captive generating plant for carrying the electricity to the destination of his own use. Further as per National Tariff Policy, Railways, as defined in Indian railways Act, 1989 being a deemed licensee on electricity purchased for its own consumption has also been exempted from levy of cross subsidy charge. The Commission in its draft Order at clause 10 (8) (ii) has specified that no

cross subsidy surcharge shall be payable in cases specifically exempted under the Act and National Tariff Policy notified by Government of India.

The Commission received the suggestion that the cases which are exempted from payment of cross subsidy shall also be specified upfront. Accordingly, the Commission has specified these cases for exemption of cross subsidy surcharge.

Quantum on which cross subsidy surcharge to be levied

3.8 As regards the issue of charging the cross subsidy surcharge on the open access quantum cleared by the Nodal Agency on daily basis, the Commission felt that an embedded consumer of the distribution licensee is paying fixed charges and energy charges for its consumption. The fixed charges are payable corresponding to sanctioned load/contract demand and the energy charges are payable corresponding to actual energy consumed by the consumer.

The fixed charges are levied to recover the fixed cost element of the distribution business. In fact, the other component of tariff i.e energy charges is compensating for cross subsidy, which is levied on actual consumption of energy. If a consumer opts to purchase power through open access, the mode of purchase of power is changed. The open access consumer is liable to pay wheeling charges corresponding to its open access quantum reserved.

Therefore, in order to maintain the parity, the Commission is of the view that cross subsidy surcharge shall be levied on the actual energy drawn through open access, limited to a maximum of scheduled open access energy during that time block.

4. Transmission and Wheeling Charges {Clause 10(2)}:

4.1 Clause on transmission and wheeling charges of the draft Order stipulates as under:

i. The transmission charge for Open Access consumers availing Open Access from the Delhi Transco Limited's transmission system shall be regulated in terms of the provisions of applicable MYT regulations.

ii. The Wheeling charges leviable by the distribution licensees shall be in accordance with the charges determined by the Commission in the respective Tariff Orders in paisa/KWhr. The Open Access consumers shall also be governed by the Scheduling Process being adopted by the distribution licensees as per the Intra-State ABT Order of the Commission and subsequent clarification thereof in the matter. The Open Access consumer

shall also be liable for payment of the SLDC charges, Reactive energy charges etc. as per the prevailing orders of the Commission, as amended from time-to-time.

iii. The Transmission charges, wheeling charges shall be levied on open access quantum cleared by the nodal agency. The charges payable to the other States/PGCIL etc. for Open Access by using Inter-State or Inter-regional links shall be payable extra by the Open Access consumers in accordance with the applicable regulations, rules/orders in the matter.

iv. Wherever system strengthening/augmentation of distribution system is involved, any associated cost for this purpose would have to be borne by the long term Open Access consumers.

Stakeholders' Comments/Suggestions

4.2 Some of the stakeholders have suggested that wheeling charges are to be levied on actual energy or the energy scheduled and not on the energy corresponding to full open access quantum accorded by nodal agency in its consent letter. The distribution licensees have suggested that transmission charges, wheeling charges shall be levied on open access quantum cleared by Nodal Agency and mentioned in the approval/conditional approval provided by it.

Commission's Views

4.3 The Commission noted that the wheeling charges are levied to meet the fixed cost of such distribution licensee arising out of his obligation to supply. If a consumer is taking direct supply from the distribution licensee, he is required to pay the fixed charges corresponding to sanctioned load/contract demand. If such consumer is taking supply through open access, the licensee is required to block such capacity in his network. The open access consumer is free to schedule the power corresponding to his allocated capacity. If the transmission and wheeling charges are levied corresponding to his daily schedule, the licensees may not be able to recover full wheeling charges.

Therefore, the Commission is of the view that transmission and wheeling charges shall be levied corresponding to open access quantum approved in conditional consent form ST-5B. Accordingly, the clause of the Order has been modified.

5. Additional Surcharge {Clause 10(3)}:

5.1 Clause on additional surcharge of the draft Order stipulates as under:

(i) 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, in addition to wheeling charges and cross-subsidy surcharge, to meet out the fixed cost of such distribution licensee arising out of his obligation to supply as provided under sub-section (4) of section 42 of the Act.

(ii) This additional surcharge shall become applicable only if the obligation of the 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. However, the fixed costs related to network assets would be recovered through wheeling charges.

(iii) Additional surcharge determined on Per Unit basis shall be payable, by the open access consumer based on actual energy drawn through open access, limited to a maximum of scheduled open access energy during that time block:

Provided that such additional surcharges shall not be levied in case open access is provided to a person who has established a captive generation plant for carrying the electricity to the destination of his own use.

(iv) It is noted that the Licensees have surplus power during all months of the year. However, based on actual demand and availability, additional power is required to be purchased during some time blocks in all months of the year. It is noted that during the months of May to September, such additional power purchased is higher than other months. The embedded consumers of the Licensees are bearing the average fixed cost of power purchase as the allocation of power purchase is not linked with the tariff category of consumers. If a consumer is opting for open access, it means a liability corresponding to average fixed cost is to be borne. Accordingly the Commission has determined additional surcharge as average fixed cost per unit based on the projections given in the Tariff Order for the months from October-April. The additional surcharge during the months of May to September has been kept half of average fixed cost per unit.

(v) The additional surcharge shall be payable as per Annexure-5.

Stakeholders' Comments/Suggestions

5.2 Some of the stakeholders have stated that DISCOMs buy power across the year which clearly demonstrates that the generation capacity is not stranded. Hence, there is no rationale to impose additional surcharge.

5.3 TPDDL submitted that the Commission shall determine DISCOM specific additional surcharge as the demand supply scenario of DISCOMs vary. Further, the additional surcharge shall be levied on the open access quantum cleared by the Nodal Agency which is mentioned in NOC issued by the Nodal Agency.

5.4 BRPL & BYPL submitted that additional surcharge during the months of May to September be 2/3rd of the average fixed cost per unit. The exemption of additional surcharge in case of captive generation plant for carrying the electricity to the destination of his own use would be ultra vires to the Electricity Act, 2003. BRPL & BYPL further submitted that transmission charges paid by the distribution licensee to DTL or PGCIL may also be included in the computation of additional surcharge as it is also the fixed cost liability of the distribution licensee.

Commission's Views

Quantum on which additional surcharge to be levied

5.5 The Commission has already explained the reason in its draft Order for charging the additional surcharge. As regards the issue for charging additional surcharge on the open access quantum cleared by Nodal Agency, the Commission is of the view that additional surcharge shall be levied on actual energy drawn on the premise for reasons as already explained above for cross subsidy surcharge.

Different additional surcharges for different DISCOMs

5.6 The Commission agrees to suggestion for having different additional surcharge specific to the DISCOMs as demand supply scenario of DISCOMs vary. Accordingly, the charges for additional surcharge are modified.

Exemption of additional surcharge for captive power plants

5.7 As per sub-section (4) of Section 42 of the Electricity Act, 2003, the levy of Additional Surcharge arises where the State Commission permits a consumer or class of consumers to receive supply of electricity from a person other than the Distribution Licensee of his area of supply. However, as per Section 9 of the Electricity Act, 2003, Captive Power Plants have been given the right to carry

electricity from the Generating Plants to the destination of their own use. The question of 'permit' and 'supply' does not arise to the extent of 'self-consumption' by Captive Users of the Captive Power Plants.

Thus, the Commission is of the view that Additional Surcharge is not applicable to the open access users of Captive Power Plants to the extent of their self-consumption from such Plants.

As per the second proviso to Section 9(1), the electricity generated from a Captive Power Plant may be supplied to any consumer subject to regulations made under sub section (2) of Section 42. Therefore, Additional Surcharge shall be applicable in case of such supply from a Captive Power Plant to Open Access Consumers.

Inclusion of transmission charges in additional surcharge

5.8 The Commission noted that the consumer who has availed open access is also liable to pay transmission charges to DTL for use of intra-state transmission system and to central transmission utility for use of inter-state transmission system. The charges collected by transmission utility are reduced from their annual revenue requirement as per the provisions of the Tariff Regulations. Inclusion of transmission charges in additional surcharge will make open access consumer to pay twice.

Therefore, the Commission is of the view that transmission charges should not be included in the computation of additional surcharge.

6. Imbalance Charges {Clause 10(4)}:

Stakeholders' Comments/Suggestions

6.1 BRPL & BYPL submitted that partial open access/intra-day variation allowed by the Commission is untenable because:

a) It would not be correct in allowing partial drawl / partial Open Access/ intra-day variation in a deemed manner ignoring that Section 42 which mandates that Open Access is subject to being introduced in phases and subject to such conditions including operational constraints and without considering the practical difficulties, resulting in substantial adverse effect on the licensee and burden of the expensive power on the remaining consumers for meeting the partial load of the Open Access consumers.
b) Any excess drawl above "scheduled Open Access Quantum" but limited to "Admissible Drawl of electricity by Open Access consumer" shall be billed at temporary tariffs.

c) The Commission ought to introduce partial drawl / partial Open Access/ intra-day variation in phases but instead of the mandate of the statute, the draft Order has introduced and allowed partial Open Access in a deemed manner.

The stakeholder has further submitted that partial Open Access/ intra-day variation should not be allowed because of the following reasons:

a) Partial Open Access/ intra-day variation enable Open Access consumers to involve in gaming,
b) Difficulty in arranging Standby power if essential utilities opt for partial Open Access.
c) Identification of energy supplied under contract demand from that supplied under Open Access is difficult as energy measurement is done through single meter.

6.2 TPDDL submitted to add following proviso after the clause 4.1 (B) for clarity:

"Provided that the slot wise open access schedule posted on Delhi SLDC website shall be used for preparation of slot wise bill."

"Provided that the abovementioned clause on Imbalance Charges shall also be applicable to consumers procuring 100% power from Renewable Sources".

Commission's Views

Partial Open Access

6.3 The Commission vide its Delhi Electricity Regulatory Commission (Terms and Condition of Open Access) Regulations, 2005 has introduced the open access in phased manner in line with the provisions of Electricity Act, 2003. The relevant extract of the regulations is as under:

5(2) The Open Access to the Distribution System in the state shall be allowed in the Distribution system subject to the absence of operational constraints in the following phases:

S.No.	Particulars	Date of Introduction
a.	Delivery of electricity for use by the Consumers with the connected load of five MW and above	1st July 2007
b.	Delivery of electricity for use by the consumers with the connected load of three MW and above	1st January 2008
c.	Delivery of electricity for use by the consumers with the connected load of one MW and above	1st July 2008

BRPL & BYPL are wrongly interpreting the Section 42 of Electricity Act, 2003 for implementation of open access in phased manner with implementation of partial drawl in phases.

6.4 The Commission noted that as per sub-section (2) of Section 42 of the Electricity Act, 2003, State Commission to facilitate the open access to the consumers who require a supply of electricity where maximum power to be made available at any time exceeds one megawatt. The provisions of the Act have not stipulated that the demand has to be above 1MW constantly. Further the consumption demand of the consumer may vary according to his requirement and may not have constant demand for any value.

The Commission is of the view that Open Access Consumer can maintain some demand with the Distribution Licensee in whose area of supply he is located in order to cater to his load requirement. Therefore, partial open access is allowed. Other states like Maharashtra Electricity Regulatory Commission have also introduced partial open access.

Therefore, the commission introduced a concept of "Admissible Drawl of electricity by Open Access consumer", which will allow the consumer to take partial open access.

Billing of excess drawl above "scheduled Open Access Quantum" but limited to "Admissible Drawl of electricity by Open Access consumer"

6.5 As regards the issue of any excess drawl above "scheduled Open Access Quantum" but limited to "Admissible Drawl of electricity by Open Access consumer" shall be billed at temporary tariffs, it may be noted that the distribution licensee is aware beforehand that the consumer will require some quantum of power from the distribution licensee. Therefore, this quantum is required to be charged at applicable energy charge rates.

Gaming

6.6 Under the imbalance charges, the Commission has described a methodology for settlement of energy, which will minimize/eliminate the chances of gaming. Further, the Commission has stipulated for violation of provisions of the Regulations/Orders which will also take care of gaming.

Applicability of Imbalance charges and uploading of schedule on website

6.7 The Commission agrees to the suggestion that the open access schedule may also be posted on the website of SLDC, Delhi. Further the Commission has not exempted any class of open access consumer from the settlement of energy. Therefore, the same is applicable to all type of consumers. Further, writing for applicability of these charges to one class of consumers may create confusion.

7. Standby Charges {Clause 10(5)}:

7.1 Clause on standby charges of the draft Order stipulates as under:

(i) In the event of non-availability of power supply due to any reason including outage of generator supplying the Open Access consumer, the distribution licensee shall provide the power to such Open Access consumers on payment of tariff for temporary connection to that category of consumers as specified in applicable tariff schedule:

Provided that open access consumers shall have the option to arrange standby power from any other source.

Provided further that standby power from any other source shall be scheduled from 00hrs. of the day, after giving the notice to the distribution licensee.

(ii) The arrangement for standby power supply by distribution licensee shall be subject to load shedding as is applicable to the embedded consumer of the distribution licensee.

Stakeholders' Comments/Suggestions

7.2 Some of the stakeholders have suggested that bid failure at power exchange may also be included in the category of non-availability of power which can be charged at temporary tariff by the licensee. It has also been suggested instead of scheduling standby power from 00 hrs. of the day, there should be a definite/fixed time, say 2 hours after giving notice to the distribution licensee, for scheduling of power from standby source.

7.3 BRPL and BYPL have submitted that the Commission has put a limit of 3% for UI drawls from the grid. In an event, when source of Open Access consumer fails, his drawl would be added to distribution licensee's over drawl. Therefore, a limit of 3% for UI drawls imposed upon distribution licensees should be waived off and any penalty imposed upon distribution licensee have to be paid by such Open Access

consumer to the extent it has drawn power from distribution licensee during such period.

Standby supply once commenced shall be applicable for all 96 time blocks for the day.

Commission's Views

7.4 The Commission agrees to the suggestion that bid failure at exchange may also be included in the event of non availability of power supply.

7.5 As regards the suggestion of scheduling of power within 2 hours of the intimation in case of contingency, it was discussed that State Load Despatch Centre, Delhi is not having sufficient infrastructure to incorporate such schedules. State Load Despatch Centre, Delhi is directed to develop necessary infrastructure including the manpower to incorporate such schedules in contingency within 6 months of issue of the Order. However, this suggestion to some extent has been incorporated that if the scheduling is requested on a working day in contingency, the State load dispatch Centre shall take necessary steps to incorporate as soon as possible latest by 00Hrs of the day.

7.6 As regards the issue of imposition of penalty on the open access consumer during the event of failure of power supply, the Commission has already imposed the drawl of power from the distribution licensee at temporary tariff. Therefore, additional penalty may not be imposed on the open access consumers.

8. Quantum of Renewable Purchase Obligation (RPO) {Clause 10 (7)}:

8.1 Clause on Quantum of Renewable Purchase Obligation (RPO) of the draft Order stipulates as under:

(i) Open Access consumer shall fulfill its RPO as per Delhi Electricity Regulatory Commission (Renewable Purchase Obligation and Renewable Energy Certificate Framework Implementation) Regulations, 2012 as amended from time to time.

(ii) Wheeling, transmission and additional surcharge shall not be applicable on open access consumers availing energy from all renewable energy sources. Open Access consumer receiving electricity from renewable energy sources shall be exempted from the cross subsidy surcharge to the extent of RPO. However, no banking facility shall be provided for supply of electricity from renewable energy sources through open access.

8.2 Some of the stakeholders suggested that if an open access consumer intends to purchase electricity beyond RPO, some suitable rebate / exemption may be allowed on cross subsidy surcharge.

8.3 TPDDL submitted that no exemption towards payment of cross subsidy surcharge even to the extent of RPO should be provided to open access consumer who is procuring 100% of its power from renewable energy sources as they are getting exemption from payment of wheeling, transmission and additional surcharge. Further, Delhi Electricity Regulatory Commission (Renewable Purchase Obligation and Renewable Energy Certificate Framework Implementation) Regulations, 2012 are not applicable to open access consumers procuring 100% power from renewable energy sources.

8.4 BRPL and BYPL submitted that there is no provision in the Electricity Act for exemption of wheeling, transmission, additional surcharge and cross subsidy charges.

Commission's Views

8.5 The Commission in order to promote the open access from renewable energy sources has exempted these charges to be levied as specified. Further, as per sub-section (2) of Section 42 of the Act, the open access is allowed on payment of surcharge in addition to the charges for wheeling as determined by the State Commission. Therefore, the Commission is of the view that it has power to decide about imposition of the charges.

9. Compensation/Penalty {Clause 10 (9)}:

9.1 Clause on Quantum of Renewable Purchase Obligation (RPO) of the draft Order stipulates as under:

In case of failure of Transmission System/ Distribution System

(i) In case open access customer is not able to draw power, due to failure of transmission /distribution system, the open access customer shall be compensated for scheduled open access quantum at lowest of, average rate at which power is procured by open access customer, charges for deviation corresponding to average frequency time block, and applicable tariff for that category. In such cases, open access consumer shall provide the details of procurement of power alongwith rates.

Provided that Open Access consumer shall file his claim before the distribution Licensee and the distribution licensee shall settle the matter within 30 days of receipt of claim:

Provided further that if open access consumer is not satisfied, he may approach the nodal agency.

(ii) In case if the timelines specified for providing open access are not met by the distribution licensee, the applicant shall be paid a compensation of Rs. 1000 per day of default by the distribution licensee:.
Provided that the applicant shall file his claim to Nodal Agency and the Nodal Agency after hearing the parties shall give a speaking order.

Stakeholders' Comments/Suggestions

9.2 Some of the stakeholders have suggested that a penalty of Rs.1Lac for each day of non-compliance be introduced. Further timelines and procedure shall also be specified for the Nodal Agency to deal such cases.

9.3 Distribution licensees suggested that the compensation may not be allowed in the case of failure in the system of open access consumer. The distribution licensee cannot be penalized for the fault in the system of the transmission licensees, as the same has also been exempted in the Delhi Electricity Supply Code and Performance Standards Regulations, 2007. Further, the Nodal Agency cannot be delegated the power to adjudicate on any dispute or claim raised by the Open Access consumer for compensation or any other matter concerning compensation/penalty. In this regard, stakeholder has referred to the Hon'ble APTEL's Judgment dated July 28, 2011 in Appeal No. 36 of 2011 [Reported in (2011) APTEL 117] and Section 32(2) of the Act.

Commission's Views

Redressal of Grievance by nodal agency

9.4 The Commission in its Delhi Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2005 has specifically stated that all grievances and disputes relating to open access shall be made to the State Transmission Utility or State Load Despatch Centre as the case may be which may investigate and endeavour to resolve the grievance amicably. In case State Transmission Utility or State Load Despatch Centre is unable to redress the grievance or complaint or dispute, the matter may be referred to the Commission

for adjudication. Therefore, the Commission has already granted the powers to the Nodal Agency for redressal of grievances. The judgement referred above may not be relevant to the case as Maharashtra Electricity Regulatory Commission in its Open Access Regulations have stated that any dispute under these Regulations between a Distribution Licensee and a person availing open access shall be adjudicated upon by the Consumer Grievance Redressal Forum. Accordingly, the Commission is of the view that Nodal Agency has the power to decide on the cases of settlement of claims.

Penalty on failure of Transmission system

9.5 The Commission agrees to the suggestion that distribution licensees shall not be penalized for the failure of transmission system over which they do not have any control. The Commission has exempted the licensees for payment of compensation to its affected consumers, if such violation is caused due to State Transmission Utility and/or Central Transmission Utility, grid failure, a fault on the transmission licensee's network over which distribution licensees has no reasonable control.

Therefore, the Commission is of the view that distribution licensee shall not be penalized for failure of transmission system of DTL over which they have no control. Accordingly, the clause has been modified.

Timelines and procedure for settlement of grievances and claims

9.6 The Commission agrees to the suggestion for incorporating timelines and procedure for redressal of grievances / settlement of claims. As regards the issue of imposition of penalty of Rs.1 Lac for each day of delay in granting open access, the Commission is of the view that the compensation levied shall be in commensurate with the violation caused and shall not be disproportionate. Therefore, the Commission did not find any merit in imposition of such higher compensation.

10. Recovery of the principal amount of past regulatory assets/past revenue gap from open access consumers:

Stakeholders' Comments/Suggestions

10.1 DISCOMs have requested to allow levy of regulatory asset charges along with carrying cost thereon on Open Access consumers as they have contributed to its creation by consuming power in the past for which tariffs at that point were not cost reflective. If the Open Access consumer is not levied surcharge to recover past gaps, the burden of the same shall come on the remaining consumers with the

subsidized consumers being impacted the most. DISCOMs have further requested that Regulatory assets charge can be divided into power purchase related and wheeling related costs and merged with energy charges and wheeling charges, so that Open Access consumers can pay their share of regulatory asset charges through the cross subsidy surcharge and wheeling charges respectively.

10.2 Some of the stakeholders suggested that the computation of Average Billing Rate includes regulatory surcharge. If regulatory surcharge is levied separately, will make the open access unviable and will die its own death.

Commission's Views

10.3 The Commission in its Tariff Order has allowed to recover 8% regulatory surcharge over and above the tariff applicable to the relevant category of the consumers.

The Commission has already expressed its view in Open Access Order dated 24.12.2013, that surcharge amount on account of past regulatory asset should be recovered from all consumers including open access consumers.

Therefore the Commission has levied this surcharge on open access consumers also. For the purpose of computation of regulatory surcharge, the distribution licensee shall compute the regulatory surcharge treating the total power consumption of the open access consumer as if taken from the distribution licensee.

Accordingly, the clause has been included in the Order.

11. Payment of statutory levies/taxes by open access consumers:

Stakeholders' Comments/Suggestions

11.1 DISCOMs suggested to provide a provision to levy E-Tax, service tax/GST and all other statutory levies from open access consumers. Other consumers purchasing power through DISCOMs are supposed to pay 5% of the energy charges as E-Tax as per the MCD Bye Laws.

Commission's Views

11.2 As per DMC (Assessment and collection of Tax on the consumption, Sale or Supply of Electricity) Bye Laws 1962, electricity tax can be levied on consumption, Sale or supply of electricity and also levies a tax on electricity generated for own consumption.

Electricity tax is levied and collected by respective DISCOMs on the basis of DMC (Assessment and collection of Tax on the consumption, Sale or Supply of Electricity) Bye Laws 1962.

The Commission is of the view that if statutory levies/taxes are applicable to the open access consumer, the same shall be levied by the DISCOM on the bill raised as per its applicability.

12. Time frame for processing Open access applications and deemed consent:

Stakeholders' Comments/Suggestions

12.1 Some of the stakeholders have suggested to reduce the time frame for processing of open access application and in case of renewal of STOA NOC, if no response is received from the distribution licensee/SLDC, the same shall be considered as deemed consent. It was also suggested that the time frame for renewal of such application may be increased from 3 days to 15 days.

Commission's Views

12.2 The Commission has revisited the timelines for processing of open access applications and also agrees to the concept of deemed consent in case of renewal of applications as the required arrangement is in place.

Therefore, the Commission is of the view that if no comments are received from the distribution licensee within the stipulated time frame on grounds of non-existence of necessary infrastructure or unavailability of surplus capacity in the network, the application for renew of consent may be treated as deemed consent subject to submission of affidavit by the applicant. Accordingly, the clauses are modified.

13. Arrangement for supply of electricity in case of fault in metering apparatus:

Stakeholders' Comments/Suggestions

13.1 Some of the stakeholders suggested that there shall be some arrangement for getting electricity from the distribution licensee in case of fault in metering system of the open access consumer. Disconnection of power supply in such case will be in contravention to the preamble of the Act.

Commission's Views 130

13.2 The Commission agrees to the suggestion of stakeholders that there shall be some arrangement for getting electricity from the distribution licensee in case of fault in metering system of the open access consumer. The licensee is required to provide the supply of electricity through temporary meter. In case supply cannot be restored through temporary meter or there is a fault in the other equipment, the licensee may restore the supply directly. In this case, the assessment of energy consumption shall be based as per the provisions contained in Delhi Electricity Supply Code and Performance Standards Regulations, 2007 and as amended from time to time. However, the settlement of energy shall be as per the methodology prescribed by the Commission under imbalance charges.

14. Metering guidelines:

Stakeholders' Comments/Suggestions

14.1 The stakeholder suggested that the main and check meter should be connected to same core of CT & PT in line with CEA Regulations. The Commission has specified that metering CT & PT are to be provided with minimum two metering cores, one core to be used for main ABT meter and second core to be used for check meter and TPT meter. Further, the clause regarding metering CT & PT to be used exclusively for metering purpose and not for protection purpose is also against the metering core specified by DTL where there is a provision to use the core of check meter for other purpose as long as there is no degradation of accuracy beyond the defined minutes.

Commission's Views

14.2 Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 where, the interface meters for the consumers connected to distribution system and permitted open access shall be as per the directions of the appropriate Commission. The Commission incorporated the provision for having two metering cores for reliability of the system. In case of any fault in the main meter core the billing can be done through check meter which is on the second CT & PT metering core.

15. Open Access in the area of New Delhi Municipal Council:

Stakeholders' Comments/Suggestions

15.1 The stakeholders have suggested to notify the detailed procedure for open access implementation for the consumers of New Delhi Municipal Council (NDMC).

Commission's Views

15.2 As per sub-section (3) of Section 42 of the Electricity Act, 2003, any person whose premises are situated within the area of supply of the distribution licensee (not being a local authority) engaged in the business of distribution of electricity before the appointed date are eligible for non-discriminatory open access. The word 'local authority' has also been defined in the Electricity Act which means any Nagar Panchayat, Municipal Council, municipal corporation, Panchayat constituted at the village, intermediate and district levels, body of port commissioners or other authority legally entitled to, or entrusted by the Union or any State Government with, the control or management of any area or local fund.

Further, Hon'ble Supreme Court in its judgement in Civil Appeal No.4223 OF 2012 Brihanmumbai Electric Supply & Transport Undertaking Vs. Maharashtra Electricity Regulatory Commission (MERC) & Ors has stated that '*when an application is made by a consumer to a distribution licensee for supply of electricity, such a distribution licensee for supply of electricity, such a distribution licensee can request other distribution licensee in the area to provide it network to make available for wheeling electricity to such consumers and this open access is to be given as per the provisions of section 42 (3) of the Act. It is here only that local authority is exempted from such an obligation and may refuse to provide makes it network available*'.

Therefore, the Commission is of the view that open access may not be made mandatory for the consumers of NDMC.

16. Computation of LC or BG:

Stakeholders' Comments/Suggestions

16.1 Some of the stakeholders suggested that the amount of payment security for LC or BG shall be based on past consumption pattern instead of whole open access quantum, as this data of past consumption is available with the DISCOM. Further, security deposit may also be added as an option for payment security mechanism as this option is a more secured one.

16.2 BRPL and BYPL have submitted that UI component should not be reduced while computing bank guarantee value.

Commission's Views

16.3 As per Delhi Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2005, short term open access is allowed for a period of one year or less. When the open access is allowed, the applicant is required to submit a payment security corresponding to the demanded open access quantum. The applicant is having an option to take short term open access of any period from one day to one year.

Therefore, linking the payment security mechanism with the past consumption pattern may not be a viable solution.

16.4 The provisions of Central Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2014 as amended from time to time are not applicable for settlement of energy at open access consumer meter. The excess energy above admissible drawal of electricity is settled at temporary tariff.

Therefore, the Commission is of the view that UI component should not be added for computation of bank guarantee value.

17. Applicability of Rostering on open access consumers availing power through dedicated feeder:

Stakeholders' Comments/Suggestions

17.1 BRPL & BYPL submitted that rostering shall also be allowed for open access consumers availing power through dedicated feeder.

Commission's Views

The Commission is of the view that in cases where all consumers are availing open access for full quantum of contract demand/ sanctioned load through mix load feeder or the consumer is availing open access through dedicated feeder from grid sub-station, rostering condition should not be imposed by distribution licensee. However, in case of mix feeder having consumers of open access category as well as consumers of licensee and the consumers availing partial open access through dedicated feeder, rostering should be applicab e for open access consumers also.

18. Inconsistency with Open Access Regulations.

Stakeholders' Comments/Suggestions

18.1 BRPL and BYPL have submitted that there are inconsistencies between Delhi Electricity Regulatory Commission (Terms and conditions for Open Access) Regulations, 2005 and the present draft Order. However, the Act requires the Commission to determine the various charges applicable to open access and therefore, the present order has to be restricted to these matters only and all other matters are required to be 'specified' through Regulations.

Commission's Views

18.2 The Commission has dealt all the comments/issues raised by the stakeholder on the above paragraphs.

The Commission has already issued Delhi Electricity Regulatory Commission (Terms and conditions for Open Access) Regulations, 2005. Regulation 12 provides the following:

"12. Applicable Charges
(1) The Open Access Customers shall pay the transmission charges, wheeling charges, surcharges, additional surcharges, scheduling charges (payable to State Load Dispatch Centre), unscheduled inter-change (uI) charges, reactive energy charges and such other charges as the Commission may determine from time to time, as a part of the tariff under sections 61, 62 and 86 of the Act or otherwise decide or authorise the Nodal Agency to charge in exercise of its regulatory powers under the Act."

Regulation 17 provided that the Commission has the powers to issue Orders and Practice Directions. The relevant extract of Regulation 17 is as under:-

Issue of Orders and Practice Directions: *Subject to the provisions of the Act, 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 direct and matters incidental or ancillary thereto.*

Therefore, the Commission under Regulation 12 and Regulation 17 of Delhi Electricity Regulatory Commission (Terms and conditions for Open Access) Regulations, 2005 has the powers to issue the Order.

19. Registration of Open Access charges

Stakeholders' Comments/Suggestions

19.1 BRPL and BYPL submitted that the Open Access consumers shall also be liable to pay registration charges of Rs. 10,000 to DISCOMs in line with charges payable to SLDC Delhi.

Commission's Views

19.2 The Commission in its Delhi Electricity Regulatory Commission (Terms and conditions for Open Access) Regulations, 2005 has already specified non refundable processing fee for the applicants seeking long term and short term Distribution Open Access also.

20. Metering Requirement

Stakeholders' Comments/Suggestions

20.1 BRPL and BYPL submitted that metering should be the prime responsibility of an open access consumer as the same creates an alleged conflict repeatedly pointed out by the consumer in several cases.

Commission's Views

20.2 The Commission received various requests from the stakeholders regarding delay in installation of meters. Therefore, the Commission is of the view that in order to minimize delay in installation of meters and to have correct meters as per the specifications, the Licensee should install the meters. The Open Access consumer should remit the charges to the distribution licensee. In case the open access applicant wants to purchase his own meter, he may purchase as per the specifications.

21. Late Payment Surcharge

Stakeholders' Comments/Suggestions

21.1 BRPL and BYPL have submitted that late payment surcharge for delay in payment beyond due date should be levied @ 1.5% per month.

Commission's View

21.2 The Commission noted that the late payment surcharge imposed on the embedded consumers of the distribution licensee in the Tariff Order is 1.5% per month for delay in payment beyond due date. The Commission agrees to the suggestion of the stakeholders to levy late payment surcharge @1.5% per month.

Therefore, the late payment surcharge specified @ 1.25% per month or part thereof has been revised to 1.5% per month in line with late payment surcharge paid by the consumers of the licensee.

22. Open Access to be allowed from multiple sources

Stakeholders' Comments/Suggestions

22.1 The stakeholders have submitted that the applicant shall not be restricted to avail power from only one generating energy source. They may be allowed to take open access from multiple sources.

Commission's View

22.2 The Commission agrees to the suggestion of stakeholder that open access may be allowed from multiple generating energy sources.

Accordingly, the undertaking to be given by the applicant to get power from one energy source has been omitted from form ST-1.

23. Illustration for computation of charges

Stakeholders' Comments/Suggestions

23.1 The stakeholders have suggested that an illustration for computation of charges may also added with the Order for better understanding.

Commission's View

23.2 The Commission agrees to the suggestion of the stakeholders and accordingly added an illustration for computation of the charges.

ANNEXURE A-2 136

(TO BE PUBLISHED IN DELHI GAZETTE EXTRAORDINARY PART IV)
GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI

Delhi Electricity Regulatory Commission

Viniyamak Bhavan, C-Block, Shivalik, Malviya Nagar, New Delhi-110017

Notification

Delhi, the 3rd January, 2006

No. F.11(133)/2003/Power/12/ No. F. 8(18)/DERC/2005-06/3635. In exercise of powers conferred by sections 39, 40, 42 read with 181 of the Electricity Act, 2003, the Delhi Electricity Regulatory Commission, makes the following regulations for the introduction of open access to the Transmission and Distribution System and terms and conditions thereof:

1. Short Title and Commencement: -

(1) These regulations may be called the **Delhi Electricity Regulatory Commission (Terms and conditions for Open Access) Regulations, 2005.**

(2) These regulations shall come into force on the date of its publication in official gazette.

(3) These regulations shall extend to the National Capital Territory of Delhi.

2. Definitions:-

(1) In these Regulations, unless the context otherwise requires –

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

(b) "Central Commission" means the Central Electricity Regulatory Commission constituted under section 76 of the Act;

(c) "Commission" means the Delhi Electricity Regulatory Commission being the Commission for the National Capital Territory of Delhi in terms of the first proviso to sub-section (1) to section 82 of the Act;

(d) "Grid Code" means Grid Code specified by the Central Commission under clause (h) of sub-section (1) of section 79 of the Act and includes State Grid Code specified by the Commission under clause (h) of sub-section (1) of section 86 of the Act.

(e) "Nodal Agency" means for the purpose of arranging long-term open access in Transmission, the State Transmission Utility and for the purpose of arranging short-term open access the State Load

Despatch Centre. For the open access in Distribution, both for short term and long term, the " Nodal Agency" shall be the State Load Despatch Centre.

(f) "Open Access Customer" means a consumer permitted by the Commission to receive supply of electricity from a person, other than distribution licensee of his area of supply, and the expressions includes a generating company and a licensee, who has availed of or intends to avail of open access.

(g) "State" shall mean National Capital Territory of Delhi.

(h) "State Government" means the Lieutenant Governor of National Capital Territory of Delhi appointed by the President under article 239 and designated as such under article 239AA of the Constitution.

(i) "State Transmission Utility (STU)" means the State Transmission Utility operating as such, under the Act, in the State;

(j) "State Load Dispatch Centre (SLDC)" means State Load Dispatch Centre operating as such, under the Act, in the State;

(2) Words and expressions occurring in these Regulations and not defined herein above shall bear the same meaning assigned to them in the Act.

3. Extent of Application:

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

4. Eligibility for Open Access and Conditions:

(1) The Licensees, the Generating companies, including the persons who have established a captive generating plant and the intending consumers, shall be eligible for non discriminatory open access to the intra-state transmission system of the State Transmission Utility or any transmission licensee, subject to the availability of adequate transmission facility in the Intra-State Transmission System of the State and further, subject to the payment of the transmission charges, as may be determined by the Commission, from time to time:

Provided that in the event such open access is for the use by a consumer including, the transmission or for otherwise conveyance or wheeling of electricity, as required by any person for delivery to such consumer, in the area of supply of a Distribution Licensee in the

State, the open access to the intra-state transmission system shall be subject to payment of a surcharge, as may be determined by the Commission, from time to time, under sub-section (2) of section 42 of the Act.

(2) The Licensees, the Generating companies, including the persons who have established a captive generating plant and the intending consumer, shall be eligible for open access to Distribution System of the Distribution Licensee, in accordance with the phases for introduction of open access as provided under regulation 5, herein, and further subject to the absence of operational constraints in the Distribution System and also the payment of the wheeling charges and surcharge, as may be determined by the Commission from time to time:

Provided that in the event such open access is for the use by a consumer including the conveyance or wheeling of electricity as required by any person for delivery to such consumer in the area of supply of a Distribution Licensee in the State, the open access to the Distribution System shall be subject to payment of an additional surcharge as may be determined by the Commission as provided under sub-section (4) of section 42 of the Act.

Explanation: For the purpose of the open access under these regulations, the operational constraints in the Distribution System shall include the availability of the adequate capacity in the Distribution System, appropriate metering and energy accounting system where the electricity to be wheeled can be correctly measured and accounted for.

5. **Phases of Introduction of Open Access:**

(1) The Open Access shall be allowed to the intra-state transmission system in the State immediately, subject to the satisfaction of the conditions contained in the Act or in these Regulations.

(2) The Open Access to the Distribution System in the State shall be allowed in the Distribution System subject to the absence of operational constraints in the following phases:

S.No	Particulars	Date of Introduction
a.	Delivery of electricity for use by the Consumers with the connected load of five MW and above	1st July 2007
b.	Delivery of electricity for use by the Consumers with the connected load of three MW and above	1st January 2008

c.	Delivery of electricity for use by the Consumers with the connected load of one MW and above	1st July 2008

(3) The Commission may allow Open Access to consumers with capacity requirement less than one MW after the 1st July 2008, subject to review of the operational constraints and other factors.

6. Special Provisions for existing open access customers:-

The persons availing open access to the Intra State Transmission System and the Distribution System 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 and the applicable surcharges as may be determined by the Commission, from time to time.

7. Categorisation of Open Access Customers:-

(1) Subject to the provisions of regulation 6, the open access customers shall be divided into two categories, based on the duration of use of the Intra-State Transmission System or the Distribution System, namely:
   a) Long-term Open Access customers; or
   b) Short-term Open Access customers.

(2) The persons availing or intending to avail of the open access for a period of one year or less shall be categorise as the short-term open access customers.

(3) The persons availing or intending to avail of the open access for a period of more than five year shall be the long-term open access customers.

(4) Short-term open access customer shall be eligible to obtain fresh open access after the expiry of the term and shall be treated as a new applicant for capacity allocation.

8. Allotment Priority:-

(1) The priority for allowing open access shall be decided generally on the criteria that the long-term open access customer shall be given priority over the short-term open access customer.

(2) The open access shall be allowed only after determining the capacity available in the intra-state transmission system and the operational constraints, including the capacity available in the Distribution System, the utilisation thereof by the existing customers and the capacity already committed for Transmission, Distribution and Retail Supply of Electricity to the consumers of the Distribution Licensees in the State.

(3) Subject to the above, the decision to allow open access shall be made on the basis of first-come-first-serve.

(4) The Commission may in the public interest and for reasons to be recorded in writing, by a general or special order, deviate from the norms provided above and allow open access to any person in the Intra State Transmission System and /or the Distribution System.

9. Determination of Capacity:

(1) The availability of capacity in the Intra State Transmission System for long term open access shall be determined by the State Transmission Utility and for short term open access, it shall be determined by the State Load Despatch Centre, after considering the representation of the Transmission Licensees and the person seeking open access.

(2) The availability of capacity in the Distribution System, for long term and short term open access, including the existence or absence of operational constraints affecting the open access being allowed shall be determined by the State Load Despatch Centre after considering the representation of the distribution licensee and the person seeking the open access.

(3) In the event of any dispute on the capacity of the Transmission System available or the existence or absence of operational constraints in the Distribution System, to be determined by the State Transmission Utility or State Load Despatch Centre, as the case may be, the same shall be referred to the Commission for adjudication.

(4) The Commission may while deciding on the dispute under sub-regulation (3) above, or otherwise, by a general or special order, made from time to time, lay down the conditions to be complied by the persons seeking open access to the Distribution System in regard to operational constraints and the open access shall be allowed subject to the due satisfaction of such conditions.

(5) The conditions to be satisfied may include construction, operation or maintenance of dedicated electric lines or works from the sub-stations or feeder line or undertaking such other works as the Commission may decide to be necessary for open access without operational constraints.

10. Procedure for seeking Open Access:

(1) The persons seeking open access shall, apply to the concerned nodal agency. The application shall contain details regarding maximum power (MW/kW) to be transmitted or wheeled in the system and accordingly the capacity in the system to be earmarked for the applicant, the point of injection, the point of drawal, duration and hours of availing open access and any other additional information that may be required by the Nodal Agency.

(2) Application for open access should be accompanied by a non-refundable processing fee as given in table below:

Particulars		Amount (Rs.)
Transmission Open Access	Long Term	One lakh
	Short Term	Ten thousand
Distribution Open Access	Long Term	Twenty five thousand
	Short Term	Two thousand five hundred

(3) The Nodal Agency shall, in consultation with State Transmission Utility or State Load Dispatch Centre, as the case may be, assess the capacity available and the existence or absence of operational constrairts in permitting open access and communicate the decision to the applicant within the time frame prescribed below:

S.No.	Type of service/activity	Maximum processing time
1.	Short-term Service (for the period to be treated on first-come-first-serve basis)	
(a)	For the same day (Emergency only)	Four hours from receipt of the application
(b)	Up to one day (Request received at least one day in advance)	Eight hours from receipt of the application
(c)	Up to one week	Two days from receipt of the application

(d)	More than a week	Three days from receipt of the application
2.	Long-term Service	
(a)	Intimation regarding feasibility of access without system strengthening	Thirty days from receipt of the application
(b)	Intimation of results of studies for system strengthening with cost estimates and completion schedule	Sixty days from receipt of the application

(4) The Nodal Agency shall decide on the capacity available or the existence of operational constraints, consistent with the principles and guidelines as decided by the State Transmission Utility. The State Transmission Utility shall decide such principles within thirty days of publication of these Regulations.

(5) The Nodal Agency shall also inform the applicant of the pre-requisites required for the activation of open access. Such pre-requisites shall be as directed by the Commission from time to time.

11. Non-Utilisation of open access capacity:-

(1) In the event of inability of the short-term open access customer to utilize, continuously for more than four hours, on any day, full or substantial part of the capacity allocated to him, such a short-term open access customer shall inform the respective State Load Dispatch Centre of his inability to utilise the capacity, along with reasons, thereof, and may surrender the use of capacity allocated to him. However, such short-term open access customer shall bear full transmission and/ or wheeling charges based on the original reserved capacity till the time such capacity is allotted to some other customer.

(2) A long-term open access customer shall not relinquish or transfer his rights and obligations laid down in the long term open access agreement without prior approval of the Nodal Agency. The relinquishment or transfer of such rights and obligations by a long-term open access customer shall be subject to payment of compensation by the customer, as per the terms of the long term open access agreement.

(3) The State Load Dispatch Centre may cancel or reduce the capacity allocated to a short-term open access customer when such a short-term open access customer, frequently under-utilizes the allocated capacity or fails to inform of his inability to utilise the allocated capacity to the State Load Dispatch Centre, Transmission Licensee or Distribution Licensee, as the case may be:

Provided the capacity allotted shall not be reduced or cancelled under this clause without notice to such customer whose reserved allotted capacity is sought to be cancelled or reduced.

(4) The surplus capacity available as a result of its surrender by the short-term open access customer, under sub-regulation (1) above or reduction or cancellation of capacity by the State Load Dispatch Centre, under sub-regulation (3) above, may be allocated to any other short-term open access customer.

12. Applicable Charges:

(1) The Open Access Customers shall pay the transmission charges, wheeling charges, surcharges, additional surcharges, scheduling charges (payable to State Load Dispatch Centre), unscheduled inter-change (UI) charges, reactive energy charges and such other charges as the Commission may determine from time to time, as a part of the tariff under sections 61, 62 and 86 of the Act or otherwise decide or authorise the Nodal Agency to charge in exercise of its regulatory powers under the Act.

(2) The Commission, while determining the charges for open access to the Transmission System or the Distribution System, provide for adjustment of losses in the system either in terms of money or in the quantum of electricity to be delivered at the destination, after the transmission and/or wheeling of electricity as the Commission considers to be appropriate.

13. Curtailment Priority: When because of transmission constraints or otherwise, it becomes necessary to curtail the transmission service, the short-term open access customers shall be curtailed first followed by the long-term open access customers:

Provided that within a category, the open access customers shall have equal curtailment priority and shall be curtailed on pro-rata basis:

Provided further that in case of such curtailment, the transmission or wheeling charges paid by open access customers shall be reduced in proportion to their curtailed capacity.

14. Other Conditions: -

(1) The Open Access customers shall meet the metering requirements as the Commission may direct from time to time. The meters shall always be maintained in good condition and shall be open for inspection by any person authorised by the concerned Licensee.

(2) The Open Access customers shall abide by the Grid Code, the State Grid Code and instructions given by State Transmission Utility, the State Load Dispatch Centre and other authorities from time to time.

(3) The Open Access customer shall abide by the provisions of the Act, rules and regulations and the directions, guidelines and Orders of the Commission made from time to time

15. Information System: The State Load Despatch Centre shall maintain the following information on their websites in a separate web-page titled "Open Access Information":

(1) A status report on the current short-term customers indicating:-

(a) Name of the customer;
(b) Period of the access granted (start date/time and end date/time);
(c) Point(s) of injection;
(d) Point(s) of drawal;
(e) Transmission / Distribution system used (in terms of area and ownership);
(f) Reserved capacity; and
(g) Applicable rate (Rs per MW per day).

(2) Month-wise and year-wise report on past short-term customers indicating:-

a. Name of the customer;
b. Period of the access granted (start date/time and end date/time);
c. Point(s) of injection;
d. Point(s) of drawal;
e. Transmission / Distribution systems used;
f. Reserved capacity;
g. Applicable rate (Rs per MW per day); and
h. Actual load factor.

16. Dispute Resolution:

(1) The complaints regarding all grievances and disputes relating to open access shall be made to the State Transmission Utility or State Load Dispatch Centre, as the case may be, which may investigate and endeavour to resolve the grievance amicably.

(2) If State Transmission Utility or State Load Dispatch Centre is unable to redress the grievance or complaint or dispute, the matter may be referred to the Commission, by the State Transmission Utility or State Load Dispatch Centre as the case may be, for adjudication.

17. Issue of Orders and Practice Directions: Subject to the provisions of the Act, 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 direct and matters incidental or ancillary thereto.

18. Powers to Remove Difficulties:

If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may do or undertake to do things or by a general or special order, direct the Transmission or Distribution Licensee, to take suitable action, not being inconsistent with the Act, which appears to the Commission to be necessary or expedient for the purpose of removing difficulties.

19. Power to Amend:

The Commission may, at any time vary, alter or modify any provision of these regulations.

20. Inquiries and Investigations:

All inquiries, investigations and adjudication shall be done by the Commission through a proceeding as per the provisions of DERC (Conduct of Business) Regulations 2001.

(SOMIT DASGUPTA)

Secretary

ANNEXURE A-3

DELHI ELECTRICITY REGULATORY COMMISSION

Vinlyamak Bhawan, Shivalik,C-Block, Malviya Nagar, New Delhi-110017
Telefax : 26673608, website : www.derc.gov.in

PUBLIC NOTICE

STAFF PAPER ON DETERMINATION OF OPEN ACCESS CHARGES

1. In pursuance of the provisions of the Electricity Act, 2003 and the Tariff Policy of the Government of India, the Delhi Electricity Regulatory Commission (DERC), a statutory body set up by the Government of NCT of Delhi, has prepared a Staff paper on determination of Open Access Charges.
2. The Staff paper on determination of Open Access Charges can be downloaded from the website of the Commission www.derc.gov.in. Copies of the Staff Paper would be available for sale at the DERC office on any working day from 20th May, 2008 to 17th June 2008 between 11.00 a.m and 4.00 p.m against a payment of Rs. 25/- by Cash or Demand Draft/Pay Order/Indian Postal Order payable to the Secretary, DERC at New Delhi.
3. All stakeholders are requested to forward their comments of the " Staff Paper on Determination of Open Access Charges " latest by 17th of June 2008. Comments may be forwarded to the Secretary, Delhi Electricity Regulatory Commission either by post or through e-mail secyderc@nic.in.
4. The Commission will hold a Public Hearing before finalizing the Open Access Charges. The date of Public Hearing shall be notified later.

Secretary
Delhi Electricity Regulatory Commission

ANNEXURE A-4

147

3902
03-09-08

Delhi Electricity Regulatory Commission

Viniyamak Bhawan, C-Block, Shivalik, Malviya Nagar, New Delhi - 110 017

F. No.: F.3(176)/Tariff/DERC/2007-08/9166-2196 August 29, 2008

RCM-22a
5.9.08

To,

The Chief Executive Officer,
BSES Rajdhani Power Ltd.
BSES Bhawan
Nehru Place
Delhi-110 019.

Sub.: Determination of Transmission and Wheeling Charges, Cross Subsidy Surcharge, additional surcharge and other applicable charges under Open Access.

Sir,

Please find enclosed herewith a certified copy of the Order dated 29.08.2008 on Determination of Transmission and Wheeling Charges, Cross Subsidy Surcharge, additional surcharge and other applicable charges under Open Access.

Yours faithfully,

(Ajay K. Arora)
Dy. Director (Law)/
Bench Officer

Encl.: As above

Sh. RCM
Sh. Sushil Agarwal
Sh. Kamal Narain
Sh. Kamal Singha
Sh. Arvind Gujral

CC: Sh. A.K.
CC: Sh. C.M.

Delhi Electricity Regulatory Commission

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17.

In the matter of:

Determination of Transmission and Wheeling Charges, Cross Subsidy Surcharge, additional surcharge and other applicable charges under Open Access.

Before
Delhi Electricity Regulatory Commission

Coram:

Sh. Berjinder Singh, Chairman & Sh. K. Venugopal, Member.

Appearance:

1. Sh. Sunil Wadhwa, CEO, NDPL;
2. Sh. Satish Kumar, Director, DMRC;
3. Sh. R.K. Sharma, Chief Engineer (Electrical), MCD;
4. Sh. A.K. Kaul, GM, SLDC, DTL;
5. Sh. V. Venugopal, DGM, SLDC, DTL;
6. Sh. Prem Prakash, DGM, SLDC, DTL;
7. Sh. V.K. Salluja, Advisor (Elect), DMRC;
8. Sh. Sharat Sharma, CEE/Planning, DMRC;
9. Sh. Harish Ahuja, Dy. Secretary, GNCTD;
10. Sh. Satyavir Singh, Sr. Section Engineer, Northern Railway;
11. Sh. Varun Sharma, Sr. Executive, NDPL;
12. Sh. R.C. Natarajan, Head – RCM, BRPL;
13. Sh. Vivek Singla, HOD, NDPL;
14. Sh. Rajeev, DGM, BRPL;
15. Sh. Sai, Manager, BYPL;
16. Sh. Madanpal, AEE, NDMC;
17. Sh. Sushil Agarwal, Vice President (Business), BRPL;
18. Sh. Yoginder Saxena, Vice President (Business), BRPL;
19. Sh. Gopal K. Saxena, Vice President (Business), BYPL;
20. Sh. G.D. Gupta, DSVD&WS;
21. Sh. Ved Kumar, H/14-B, Saket, New Delhi;
22. Sh. S.R. Abrol, L-II-91 B, DDA, LIG flats, Kalkaji, New Delhi;

ORDER

(Date of Order: 29.08.2008)

The Electricity Act 2003 (EA 2003) enables eligible consumers to have non-discriminatory Open Access (OA) to the network of a Licensee (except that of a local authority engaged in the business of distribution of electricity before the

appointed date) on payment of applicable charges. The EA 2003 and National Electricity Policy (NEP) formulated thereunder, mandates the State Electricity Regulatory Commissions to frame the terms and conditions and timeframe for introduction of OA in the State.

2. Section 2 (47) of the Electricity Act, 2003 defines Open Access, while Section 42 of the Electricity Act, 2003 mandates the Distribution Licensees to provide open access to eligible consumers subject to payment of cross-subsidy surcharge, additional surcharge and other applicable charges. Section 86 (1) of the EA, 2003 mandates the Commission to determine the cross-subsidy surcharge.

3. The Delhi Electricity Regulatory Commission (hereinafter referred to as Commission) in exercise of the power vested in it under section 39,40,42, 86 (1) (c) read with Section 181 of the Electricity Act, 2003 and all other powers enabling the Commission in this behalf, notified the Delhi Electricity Regulatory Commission (terms and conditions for Open Access) Regulations, 2005 (hereinafter referred to as Open Access Regulations).

4. In the aforesaid Regulations, notified in the official gazette on 03rd January, 2006, open access was allowed to the Intra State Transmission System in the State immediately, subject to the satisfaction of the conditions contained in the Act or in these Regulations. The open access in the Distribution System was also allowed subject to the absence of operational constraints in following phases :-

Sl. No.	Particulars	Date of Introduction
a.	Delivery of electricity for use by the Consumers with the connected load of five MW and above	1st July, 2007
b.	Delivery of electricity for use by the Consumers with the connected load of three MW and above	1st Jan., 2008
c.	Delivery of electricity for use by the Consumers with the connected load of one MW and above	1st July, 2008

5. Regulation 12 of these open access regulations specifies the details of various charges payable by an Open Access Customer.

6. In order to make Open Access provisions operational in the State, it is essential to specify the following charges to be paid by the OA customers :

i. Transmission and Wheeling charges
ii. Cross Subsidy surcharge
iii. Additional surcharge
iv. Other applicable charges.

7. The Commission, to determine open access charges floated a staff paper (discussion paper) and posted it on the Commission's website (www.derc.gov.in), inviting comments/suggestions of the stakeholders. A public notice was also given in various newspapers, viz. The Times of India, Pioneer, Hindustan Times (all English), Hindustan (Hindi), Hamara Maqsad (Urdu) and the Daily Educator (Punjabi) on 20th May, 2008. The stakeholders were requested to forward their comments/suggestions latest by 17th June, 2008.

8. As a sequel to the public notice, the public hearing was held in the Commission's office on 27th June, 2008 wherein, the issues raised in the staff paper (discussion paper) were discussed at length and the stakeholders offered their comments / objections/ suggestions before the Commission. The comments were also received from NDPL, BRPL, BYPL, TNERC, MPERC, Ministry of New and Renewable Energy, CUTS (Jaipur), DMRC, Govt. Of NCT of Delhi and other consumers. It was observed that the comments were drastically different depending upon the specific interest of the individual stakeholders. The comments / suggestions given by various stakeholders are summarized below :-

(1). The Govt. of NCT of Delhi made the following suggestions :

(a) Provide incentives for bulk consumers to utilise the Open Access facility;
(b) Encourage bulk consumers to have choice regarding power supply;
(c) Additional surcharge should not become prohibitive so as to prevent open access. Cross Subsidy charge and additional

surcharge be kept at the minimum level so as to facilitate the decision making of the bulk consumers.

(2). The Ministry of New and Renewable Energy, Govt. of India, Proposed that :

Ministry of New and Renewable Energy, Govt. of India proposed that in case of renewable source of energy, no cross subsidy surcharge be levied for either captive use or sale to grid keeping in view that there is a need to promote renewable energy.

(3). The Discoms made following suggestions :

a) For calculation of cost of supply, it would be appropriate to use the average cost rather than the marginal cost of power as tariff is calculated based on the average cost of power procurement.

b) As regards supply to such consumers when their generating source breaks down, emphasis was laid-on charging the Open Access customers on the basis of UI charges or on the basis of provisions in the National Tariff Policy.

c) Necessity for adjustment of technical losses at actuals as well as correction for AT&C loss, installation of ABT Compliant Energy Meter, adhering to scheduling process with the SLDC on a day-ahead basis following the procedure laid-down by the Commission, were also raised.

d) Emphasis was also laid-on the principle of "Revenue neutrality" while deciding the Cross Subsidy Surcharge. At the same time concerns were also raised with regard to the impact on the embedded customers vis-à-vis the Open Access customers, if the surcharge is not appropriately decided.

e) The issues of strengthening/augmentation of the distribution system and the cost associated with it to be fully borne by the Long-term Open Access consumers were also raised.

f) It was further pleaded that the concept of differential costing in case of short-term access for certain hours will not be a feasible solution.

g) It was also suggested that besides wheeling charges, fixed charge may also be levied to prevent any gaming by Open Access customers. As an example, it was argued that an Open Access customer may tie-up 5 MW of power but may draw only 1 MW of power and if only wheeling charges are charged it may not be adequate to recover all the cost related to the wire business.

h) One of the DISCOM had also suggested that considering the power shortage scenario in Delhi, inter-DISCOM Open Access for customers within the Distribution licensees' of Delhi is best avoided at this stage.

i) The issue of wheeling charges on per MW per day basis or on a Rs./KWh basis was also raised.

j) A suggestion was also made regarding adjustment to the schedule based on actual loss level of each 15 minutes time block.

k) It was also suggested that only the distribution licensee should be authorised to collect all charges from the consumer for transmission, wheeling and surcharge and then the charges related to other entities could be paid by it to the respective agencies.

l) Identical comments have been received from the various DISCOMs regarding handling of the contract between Open Access customer and the generating source. A suggestion was made to enter into a tripartite agreement between the above referred 2 agencies and the DISCOMs as the DISCOMs would be in a better position to operationalise such a contract.

m) Other charges like Scheduling and System Operation charges, UI charges, Reactive Energy charges should be payable at actuals. Further, Security Deposit and Network Augmentation charges wherever the network is to be augmented, shall also be payable by the Open Access customer.

n) It was also suggested that the Open Access System to be introduced should also be covered by a set of rules governing Schedule and Dispatch of Open Access Generator including the Process of Meter reading, Energy Accounting, Settlement of deviation from schedule etc.

(4). Comments from other stake holders :

a) One of the stake holder proposed that the Wheeling charges be distance based and should not be based on the State as a whole;

b) It was further suggested that the Wheeling charges should be based on MW/time duration and not on the basis of MWh especially in view of the fact that ABT System is already functional in Delhi.

c) As regards prescribing the surcharge, extreme views have been expressed starting from minimal surcharge to a level of surcharge which will not create any burden on the subsidized categories.

d) A suggestion has also been made that all relevant information should be posted on the website and Commission should issue necessary directions to the utilities in this regard.

e) Some stakeholders have also suggested that keeping in view the excellent performance of some DISCOMs, open access may not be necessary.

f) DMRC pointed out that as their tariff is being fixed on the basis of cost to serve at higher voltages, the cross subsidy component indicated in the concept paper may not be correct and requested that this may be re-examined.

g) It was also suggested that Open Access will promote competition.

h) A suggestion was also made for the purpose of calculation of surcharge, the judgement of Appellate Tribunal dated 5.7.07 in Appeal No.169, 170, 171 and 172 of 2005 as well as 248 and 249 of 2006 may also be considered.

9. Parties heard.

10. The Commission has considered the comments / suggestions of Discoms, Govt. of NCT of Delhi and other stakeholders keeping in mind the provisions of the Electricity Act, 2003, National Electricity Policy, National Tariff Policy and the Open Access Regulations of the Commission, while determining the open access charges payable by open access customers under the following heads :

i. Transmission and Wheeling charges

ii. Cross Subsidy surcharge

iii. Additional surcharge

iv. Other applicable charges. 154

11. The Transmission Service Charges payable by Long Term Open Access customers shall be based on the Allotted Transmission Capacity or contracted capacity, as the case may be, in accordance with Regulation 6.6 of the Transmission Tariff Regulations of DERC. As Regards the Transmission Service charges payable for short term by the open access customers in transmission system, Regulations 6.7 and 6.8 of DERC's Transmission Tariff Regulations need to be referred. For the sake of ready reference, the same is reproduced below:

"6.7 In the case of Short Term Open Access Customers, charges payable shall be calculated in accordance to following methodology:

ST_Rate=0.25x (ATSC/Av_CAP)/365;
Where:
ST_Rate is the rate for short-term open access customer in Rs. Per MW per day;
ATSC is Annual Transmission Service Charge;
Av_CAP means the average capacity in MW served by the transmission system of the Transmission Licensee in the last Financial Year and shall be the sum of the generating capacities connected to the transmission system and contracted capacities of other transactions handled by the system of the Transmission Licensee;

6.8 25% of the charges collected from the Short Term Open Access customer shall be retained by the Transmission Licensee and the balance 75% shall be adjusted towards reduction in the transmission service charges payable by the Beneficiaries."

12. The Govt of India has notified the Tariff Policy (TP) under Section 3 (1) of the Electricity Act, 2003. Paragraph 8.5 (reproduced below) of the said Tariff Policy specifies the methodology for calculation of cross subsidy surcharge, additional surcharge and wheeling charges for open access consumers.

"8.5 Cross subsidy surcharges and additional surcharge for open access.

8.5.1 National Electricity Policy lays down that the amount of cross-subsidy surcharge and the additional surcharge to be levied from consumers who are permitted open access should not be so onerous that it eliminates competition which is intended to be fostered in generation and supply of power directly to the consumers through open access.

A consumer who is permitted open access will have to make payment to the generator, the transmission licensee whose transmission systems are used, distribution utility for the wheeling charges and, in addition, the cross subsidy surcharge, therefore, needs to be done in a manner that while it compensates the distribution licensee, it does not constrain introduction of competition through open access. A consumer would avail of open access only if the payment of all the charges leads to a benefit to him. While the interest of distribution licensee needs to be protected it would be essential that this provision of the Act, which requires the open access to be introduced in a time-bound manner, is used to bring about competition in the larger interest of consumers.

Accordingly, when open access is allowed the surcharge for the purpose of section 38, 39, 40 and sub-section 2 of section 42 would be computed as the difference between (i) the tariff applicable to the relevant category of consumers and (ii) the cost of the distribution licensee to supply electricity to the consumers of the applicable class. In case of a consumer opting for open access, the distribution licensee could be in a position to discontinue purchase of power at the margin in the merit order. Accordingly, the cost of supply to the consumer for this purpose may be computed as the aggregate of (a) the weighted average of power purchase costs (inclusive of fixed and variable charges) of top 5% power at the margin, excluding liquid fuel based generation, in the merit order approved by the SERC adjusted for average loss compensation of the relevant voltage level and (b) the distribution charges determined on the principles as laid down for intra-state transmission charges.

Surcharge formula:

$$S = T - [C (1+L/100) + D]$$

Where;

S is the surcharge;

T is the Tariff payable by the relevant category of consumers;

C is the weighted average cost of power purchase of top 5% at the margin excluding liquid fuel based generation and renewable power;

D is the Wheeling charge;

L is the system Losses for the applicable voltage level, expressed as a percentage;

The cross-subsidy surcharge should be brought down progressively and, as far as possible, at a linear rate to a maximum of 20% of its opening level by the year 2010-11.

8.5.2 No surcharge would be required to be paid in terms of sub-section (2) of Section 42 of the Act on the electricity being sold by the generating companies with consent of the competent government under Section 43(A)(1)(c) of the Electricity Act, 1948 (now repealed) and on the electricity being supplied by the distribution licensee on the authorisation by the State Government under Section 27 of the Indian Electricity Act, 1910 (now repealed), till the current validity of such consent or authorisations.

8.5.3 The surcharge may be collected either by the distribution licensee, the transmission licensee, the STU or the CTU, depending on whose facilities are used by the consumer for availing electricity supplies. In all cases the amounts collected from a particular consumer should be given to the distribution licensee in whose area the consumer is located. In case of two licensees supplying in the same area the licensee from whom the consumer was availing supply shall be paid the amounts collected.

8.5.4 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 the obligation of a licensee, in terms of existing 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 would be recovered through wheeling charges.

8.5.5 Wheeling charges should 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.

8.5.6 In case of outages of generator supplying to a consumer on open access, standby arrangements should be provided by the licensee on the payment of tariff for temporary connection to that consumer category as specified by the Appropriate Commission."

13. The Commission has considered the views of the stake holders submitted in writing as also during the course of public hearing. It appears that the subsidized category of consumers are generally opposing the Open Access on the ground that the Cross Subsidy which is existing today is likely to be removed thereby increasing the tariff of the subsidized categories immediately. Even the law recognizes this fact and provides for levy of Cross Subsidy Surcharge initially which is required to be reduced over a period of time along with the reduction of Cross Subsidy in the Tariff Design. The Tariff Policy also envisages that the Cross Subsidy in tariff shall be brought to a level of ±20% of average cost of supply by the year 2010-11. The Commission also notes that any increase in the tariff of domestic category was subsequently averted by the Govt. of NCT of Delhi by providing subsidy to domestic consumers. As far as the Distribution Companies are concerned, their main objective seems to be adoption of the principle of "revenue neutrality" thereby implying that any loss in revenue arising on account of the introduction of Open Access be passed on through the ARR. Keeping in view the contradictory views of different stake holders, which arises on account of the fact that each stake holder looks at the introduction of Open Access from his own perspective and tries to maximise his own benefit. The Commission's endeavour is to balance the interests of all the stake holders and

introduce Open Access to promote competition in the Electricity Sector. Further, the Commission would also make efforts to make Open Access non discrimatory not only between the Open Access (OA) consumers but also between the OA and all other existing consumers.

14. Considering all above factors, existing laws, Govt. policies and to promote competition in the Electricity Sector, the Commission decides the following open access charges :

(1) Cross Subsidy surcharge.

i. The Cross Subsidy surcharge shall be calculated based on the surcharge formula laid-down in Para 8.5 of the Tariff Policy issued by the Govt. of India with some assumptions taking into account some state specific issues, as specified in this order.

ii. Since the tariff for each category of consumers is fixed by the Commission on year-to-year basis, the surcharge shall also be decided on a year-to-year basis.

iii. The reduction in Cross Subsidy needs to be done duly taking into account the reduction in AT&C losses and improvement in the Performance Standards. The Commission observes that the primary aim in Delhi has been to reduce the AT&C losses from high level of 48% to 57% to a level of 17-22% by 31st March, 2011. The loss level varies between 18.44% to 29.88% amongst the 3 distribution companies as of 31.03.2008.

iv. The Wheeling charges shall also be varying from year-to-year on account of investments being made in the sector for meeting the load growth, AT&C loss reduction and improving the performance standards.

v. The power procurement cost is likely to stabilize by the year 2011-12 with the commissioning of many of the power stations for which Power Purchase Agreements have been signed commencing

from the year 2005. The power purchase cost will also be varying according to the actual commissioning of various power stations.

vi. Keeping all the above points in mind, it will be appropriate to determine the surcharge on a yearly basis either along with the tariff exercise or separately.

vii. For calculation of the Cross Subsidy surcharge using the formula stipulated in the Tariff Policy of the Govt. of India, the weighted average cost of power purchase of top 5% at the margin excluding Liquid Fuel based generation, Renewable Power and overdrawl at UI rates is to be considered. However, Merit Order Despatch of these stations is also required to be taken into account for calculating the surcharge.

viii. The Commission has not stipulated any merit order operation in the Tariff Order in view of the fact that all the Power Purchase Agreements which are operative at present, are being fully utilized for meeting the requirements of Delhi. Any surplus arising either during a day or during any season is mostly banked with others and re-used whenever shortages are faced in the Delhi system. However, optimum scheduling is being ensured at the time of scheduling, on a daily basis, by the SLDC, as stipulated in the Delhi Grid Code/Electricity Act, 2003.

ix. Any shortfall is made good by bi-lateral purchases. Since the power procurement in the year 2007-08 is not a representative one, especially in the context of allocation of Power Purchase Agreements to the distribution companies w.e.f. 1.4.07 and certain short-term contracts at high power procurement cost were inherited by the distribution companies, the Commission feels that it will be appropriate to consider the power procurement cost of the distribution companies for the year 2008-09 since they have gained some experience in power procurement after the introduction of Multi-buyer Model and Intra-State ABT w.e.f 1.4.07. It should also be noted that major power procurement for Delhi

takes place during summer months of May to August and at times in winter during December-January to meet the morning peak. Duly taking into account the banking arrangements made/envisaged by the distribution companies, the Commission has examined the power procurement cost of the DISCOMs based on the Tariff Order for 2008-09 and Power Procurement cost for the period April-June, 2008.

x. Based on the data made available by the DISCOMs to the Commission, the Commission has calculated the Cross Subsidy surcharge applicable to different consumers at different voltages/and different class of consumers along with certain assumptions which are indicated in **Annexure – 1.** Accordingly, the charges indicated in **Annexure – 2, 3 & 4** shall be payable by the Open Access customers by way of Cross Subsidy surcharge. Wherever the cross subsidy surcharge worked out in Annexures 2, 3 & 4 is negative, no cross subsidy surcharge shall be payable by the OA customer.

(2) Transmission and Wheeling Charges:

i. The transmission charge for Open Access customers availing Open Access from the Delhi Transco Limited's transmission system shall be regulated in terms of the provisions of the MYT regulations which is already discussed in Para 4 of this Order.

ii. The Wheeling charges leviable by the distribution licensees shall be in accordance with the charges determined by the Commission in the respective Tariff Orders in paisa/KWhr. The Commission has noted the concerns raised by the DISCOMs with regard to under-recovery of the charges if paisa/KWhr charges are envisaged for the purpose of wheeling. The Commission would over-see any such gaming i.e. the over-drawl and under-drawl by an Open Access customer without adhering to the contract, through the SLDC. Based on the complaints received from the SLDC,

necessary proceedings can be conducted by the Commission to restrict such gaming practices.

iii. As regards the procedure for settlement of deviations etc. the Open Access customers shall also be governed by the Scheduling Process being adopted by the licensees as per the Intra-State ABT Order of the Commission and subsequent clarification thereof in the matter. The Open Access customer shall also be liable for payment of the SLDC charges, UI charges, Re-active energy charges etc. as per the prevailing orders of the Commission, as amended from time-to-time.

iv. For the calculation of the surcharge, the system losses shall be considered based on average figures and the Commission is not in favour of post-facto correction of the surcharges or the energy transactions based on the actual losses, for the present. In case the issue gets complex, the Commission would review this at an appropriate time either suo-moto or on an application moved by any stake holder.

v. The charges payable to the other States/PGCIL etc. for Open Access by using Inter-State or Inter-regional links shall be payable extra by the Open Access customers in accordance with the applicable regulations, rules/orders in the matter.

vi. Wherever system strengthening/augmentation of distribution system is involved, any associated cost for this purpose would have to be borne by the long term Open Access customers.

vii. In the event of non-availability of power supply due to any reason including outage of generator supplying the Open Access customer, the distribution licensees shall provide the power supply to such Open Access consumers on payment of the charges leviable to similarly placed consumers of the DISCOMs availing temporary connection from the distribution company.

(3) Additional Surcharge

Payment of additional surcharge has been envisaged in the Electricity Act, 2003 as well as the Tariff Policy only if it is conclusively demonstrated that the assets of a licensee, in terms of existing Power Purchase commitment, has been and continues to be stranded, or there is an un-avoidable obligation and incidence to bear fixed cost consequent to such a contract. In the light of the provisions of the Act and the Tariff Policy, the Commission envisages that the additional surcharge shall be decided by the Commission on a case-to-case basis, by an application filed by the distribution licensees.

15. i. In order to ensure smooth implementation of Open Access within Delhi, the Commission may over-see all Intra-State Open Access transactions in consultation with SLDC, in the initial phase and until the system of Open Access gets stabilized.

ii. It is further clarified that no Cross Subsidy surcharge shall be payable in cases specifically exempted from payment of Cross Subsidy surcharge by the provisions of the Electricity Act, 2003 and the Tariff Policy of Govt. of India.

iii. Power from Renewable Sources has been dealt with in detail in the tariff order issued by the Commission. Open Access related issues in case of renewables will be reviewed by the Commission in due course based on the experience of Open Access transactions.

iv. Where a consumer opting for Open Access purchases electricity from a source other than the DISCOM of his area, he shall be liable to pay:-

a) Energy charges to the seller of electricity as per the contract entered into by him;
b) Wheeling charges to the DISCOM in whose area he is located, at the rate fixed in the Tariff Order;
c) Cross subsidy surcharge fixed in this order, if applicable;

d) Transmission charges to DTL at the rate fixed in the Tariff Order;
e) Scheduling and system operating charges to SLDC at the rate fixed by the Commission from time-to-time;
f) UI charges to SLDC at the prevalent rate;
g) Reactive energy charges to the DISCOM of his area at the rate fixed by the Commission from time-to-time;
h) Miscellaneous charges in respect of metering and other requirements as necessary under inter-State ABT mechanism, to be provided by DTL. These charges are to be paid to DTL as per actual cost incurred by DTL;
i) Any other charges not mentioned above, but covered by this order;

v. All the charges relating to Open Access Transactions shall be collected by the Distribution Licensee in whose area the Open Access consumer is located. Such of those charges which relates to other agencies involved in such open access transactions and collected by a particular Discom shall be paid within 3 working days to respective agencies failing which late payment surcharge @ 1.25% per month shall be payable.

vi. The DISCOMs shall not cater to any OA consumer by resorting to load shedding of its existing consumers.

vii. All the utilities are further directed to furnish details of Open Access transations, available capacity for Open Access etc. in their websites. The format for furnishing the above details shall be worked out by SLDC and submitted to the Commission for approval of the same after which the details shall be notified in the websites of DTL and DISCOMs.

16. As mandated in Section 42 (2) of the Electricity Act, 2003 and as provided in the DERC (Terms and Conditions for Open Access) Regulations issued on 03.01.2006, the Open Access, for the present, is applicable only to consumers with a load of 1 MW and above. However, the Commission may allow open access to consumers with capacity requirement less than one MW subject to

review of the Operational Constraints and other factors and the experience of open access for loads above 1MW.

17. This order shall be read in conjunction with the Delhi Electricity Regulatory Commission (terms and conditions for Open Access) Regulations, 2005.

18. Any dispute arising on account of open access transactions shall be dealt with in accordance with the Open Access Regulations issued by the Commission.

19. The Annexures enclosed with this Order shall form integral part of this order.

20. The words and expressions occurring in this Order and not explained or defined hereinabove shall have the same meaning assigned to them in the Open Access Regulations issued by the Commission or the Electricity Act, 2003 as the case may be.

21. The charges decided by this Order would be applicable from the date of issue of the Order and shall remain in force till 31.03.2009 or till it is revised, whichever is later.

22. Ordered accordingly.

Sd/-	Sd/-
(K. Venugopal)	(Berjinder Singh)
Member	Chairman

Annexure - 1

Assumptions

1) For calculation of cross subsidy surcharge, 5% of the marginal power purchase has been computed with the data available in the MYT order for FY 2008-09.

2) Top 5% of the costliest power has been allocated to various power procurement starting from the highest cost and going down to the level at which the top 5% quantum get completed.

3) While calculating the top 5% of power procurement, liquid fuel generation, renewable power as well as over drawal at UI rates have been ignored keeping in view their availability and unpredictability.

4) For calculation of the total energy received at the discom periphery losses have been assumed at 3% for PGCIL and 1% for DTL.

5) Net energy purchase from stations located in Delhi has been computed after allowing 1% loss in the DTL system.

6) The average cost of power purchase in the above calculation has been arrived at after grossing up for the losses.

7) The distribution losses and wheeling charges for each of the discom shall be as per the Tariff order for FY-2008-09 and will also correspond to voltage level at which open access is being sought.

8) '**T**' is the average tariff in paise per unit for various consumer categories as specified in Annexure to the Staff Paper issued by the Commission on "**Determination of Open Access Charges**" OR the value of '**T**' derived as total revenue by total sale (Refer **Annexure – 5, 6 & 7**), as the case may be.

9) Wherever the surcharge works out to be negative, it shall be limited to zero.

10) For hydropower stations, power purchase has been assumed considering availability of 6 months in a year while for other stations, availability is assumed throughout the year;

ANNEXURE – 2

Open Access Charges Calculation (2008-09)

NDPL

1	Net Power Purchase quantum at periphery (MUS)	7391
2	Top 5% of (1) above (MUS)	369.55
3	1st costliest Power Purchase (from Inter State Bilateral @ Rs. 6.66/kWhr	229.62
4	2nd costliest Power Purchase (from Tehri HEP @ Rs. 4.62/kWhr	32.24
5	3rd costliest Power Purchase (from DVC @ 3.35/kWhr	63.52
6	4th costliest Power Purchase (from I.P. Stn. @ 3.31/kWhr	44.17
7	Average Power Purchase cost of top 5% = 2037.19/369.55 = Rs. 5.51/kWhr	

Average Power Purchase cost of 5% of Power at the margin as per MYT Order works out to Rs. 5.51/kWhr for NDPL. However, the Power Purchase Cost at the margin is likely to be lower than the cost as per MYT Order due to the fact that the envisaged Power Purchase at Rs.6.66 per KWhr is likely to be much lower than the specified quantum of about 230 Mus which is almost 2/3rd of the 5% Power Procurement at the margin. This is due to the fact that maximum purchase at the margin takes place in Delhi between May-Aug every year and this year such purchases have been minimal and major transactions were one through banking. Hence it will be appropriate to assume the average power purchase cost of top 5% as Rs 4.50 per kWhr.

1. Therefore average power purchase cost of top 5% of total power purchase (C) = 450 ps / kwh

15. Details of approved Distribution Loss and Wheeling charges of NDPL for FY 09

Voltage levels	Distribution Loss (L) in %	Wheeling charges (D) in paise per unit
Above 66Kv	0 %	0
At 33/66 Kv	3 %	10.55
At 11Kv	13.51 %	45.33
At LT Level	21.66 %	80.66

3. **Surcharge formula (S) : S = T – [C (1+ L / 100) + D]**

If X = C (1+ L / 100), where C is Rs 4.50/kWhr.

Surcharge (S) is calculated as follows :

Voltage levels	X paise/ kwh	X + D Paise/kwh	Industrial (T=547.03 paise/kwh)	Non Domestic (T=643.30 paise/kwh)	Domestic (T=336.00 paise/kwh)	Railway (T= 517.74 paise/kwh)	DMRC (T= 365.09 paise/kwh)
Above 66Kv	450	450	97.03	193.3	-114	67.74	-84.91
At 33/66 KV	463.50	474.05	72.98	169.25	-138.05	43.69	-108.96
At 11KV	510.79	556.12	-9.09	87.18	-220.72	-38.38	-191.03
At LT level	547.47	628.13	-81.10	15.17	-292.73	-110.39	-263.04

ANNEXURE - 3

Open Access Charges Calculation (2008-09)

BRPL

1	Net Power Purchase quantum at periphery (MUS)	9818
2	Top 5% of (1) above (MUS)	491
3	1st costliest Power Purchase (from Inter State Bilateral @ Rs. 6.65/kWhr	318.72
4	2nd costliest Power Purchase (from Tehri HEP @ Rs. 4.81/kWhr	48.12
5	3rd costliest Power Purchase (from I.P. Stn. @ 3.44/kWhr	124.16
6	Average Power Purchase cost of top 5% = 2778.04/491 = Rs. 5.65/kWhr	

Average Power Purchase cost of 5% of Power at the margin as per MYT Order works out to Rs. 5.65/kWhr for BRPL . However, the Power Purchase Cost at the margin is likely to be lower than the cost as per MYT Order due to the fact that the envisaged Power Purchase at Rs.6.65 per KWhr is likely to be much lower than the specified quantum of about 318 MUs which is almost 2/3rd of the 5% Power Procurement at the margin. This is due to the fact that maximum purchase at the margin takes place in Delhi between May-Aug every year and this year such purchases have been minimal and major transactions were one through banking. Hence it will be appropriate to assume the average power purchase cost of top 5% as Rs 4.50 per kWhr.

1. Therefore average power purchase cost of top 5% of total power purchase (C) = 450 ps / kwh

2. Details of approved Distribution Loss and Wheeling charges of BRPL for FY 09

Voltage levels	Distribution Loss (L) in %	Wheeling charges (D) in paise per unit
Above 66Kv	0 %	0
At 33/66 kV	4 %	9.03
At 11kV	13.51 %	38.07
At LT Level	25.63 %	70.82

3. **Surcharge formula (S) : S = T - [C (1+ L / 100) + D]**

If X = C (1+ L / 100) where C is Rs 4.50/kWhr,

Surcharge (S) is calculated as follows :

169

Voltage levels	X paise/kwh	X +D paise/kwh	**Industrial (T=569.79 paise/kwh)**	**Non Domestic (T=648.35 paise/kwh)**	**Domestic (T=327.24 paise/kwh)**	**Railway (T= 538.05 paise/kwh)**	**DMRC (T= 368.33 paise/kwh)**
Above 66Kv	450	450	119.79	198.35	-122.76	88.05	-81.67
At 33/66 KV	468	477.03	92.76	171.32	-149.79	61.02	-108.7
At 11KV	510.79	548.86	20.93	99.49	-221.62	-10.81	-180.53
At LT level	565.33	636.15	-66.36	12.20	-308.91	-98.1	-267.82

ANNEXURE - 4

Open Access Charges Calculation (2008-09)

BYPL

1	Net Power Purchase quantum at periphery (MUS)	7105
2	Top 5% of (1) above (MUS)	355
3	1st costliest Power Purchase (from Inter State Bilateral @ Rs. 6.70/kWhr	180
4	2nd costliest Power Purchase (from Tehri HEP @ Rs. 4.82/kWhr	30.08
5	3rd costliest Power Purchase (from I.P. Stn. @ 3.48/kWhr	144.92
6	Average Power Purchase cost of top 5% = 1855.30/355 = Rs. 5.22/kWhr	

Average Power Purchase cost of 5% of Power at the margin as per MYT Order works out to Rs. 5.22/kWhr for BYPL . However, the Power Purchase Cost at the margin is likely to be lower than the cost as per MYT Order due to the fact that the envisaged Power Purchase at Rs.6.70 per KWhr is likely to be much lower than the specified quantum of about 180 MUs which is almost 2/3rd of the 5% Power Procurement at the margin. This is due to the fact that maximum purchase at the margin takes place in Delhi between May-Aug every year and this year such purchases have been minimal and major transactions were one through banking. Hence it will be appropriate to assume the average power purchase cost of top 5% as Rs 4.50 per kWhr.

1. Therefore average power purchase cost of top 5% of total power purchase (C) = 450 ps / kwh

2. Details of approved Distribution Loss and Wheeling charges of BYPL for FY 09

Voltage levels	Distribution Loss (L) in %	Wheeling charges (D) in paise per unit
Above 66Kv	0 %	0
At 33/66 kV	4 %	10.40
At 11kV	13.51 %	43.89
At LT Level	32.54 %	87.52

3. Surcharge formula (S) : S = T - [C (1+ L / 100) + D]

If X = C (1+ L / 100) where C is Rs 4.50/kWhr,

Surcharge (S) is calculated as follows :

Voltage levels	X paise/kwh	X +D paise/kwh	Industrial (T=557.16 paise/kwh)	Non Domestic (T=648.59 paise/kwh)	Domestic (T=304.35 paise/kwh)	DMRC (T= 371.36 paise/kwh)
Above 66Kv	450	450	107.16	198.59	-145.65	-78.64
At 33/66 KV	468	478.40	78.76	170.19	-174.05	-107.04
At 11KV	510.79	554.68	2.48	93.91	-250.33	-183.32
At LT level	596.43	683.95	-126.79	-35.36	-379.6	-312.59

a	Non-Domestic			1,105.32				71.28	643.77	730.28	643.28
b	Non-Domestic (Low Tension) (NDLT)										
	Up to 50 kW	154,643	251.61	359.27	50 Rs/kW/month	540 Ps/kVAh	0.87	15.10	189.48	204.57	
	> 50 kW to 100 kW	7,348	166.54	284.09	50 Rs/kW/month	680 Ps/kVAh	0.87	10.01	189.41	199.42	
c	Non-Domestic Light Power up to 11 kV Single Delivery Point for Commercial Complexes (NDLP)										
					50 Rs/kW/month	490 Ps/kVAh	0.87	0.00	0.00	0.00	
d	Mixed Load (High tension) > 100 kW - SIP										
	Supply on 11 kV and above	397	219.49	508.84	150 Rs/kVA/month	495 Ps/kVAh	0.87	45.48	288.39	333.87	
	Supply on LT (400 Volts)	28	4.52	10.04	200 Rs/kVA/month	560 Ps/kVAh	0.87	1.25	6.57	7.82	
5	Railways			1,666.43				88.28	196.53	666.62	347.81
e	Small Industrial Power (SIP)	12,079	699.61	1,244.32				41.96	635.15	677.11	
	Upto 50kW		85.95	72.76	50 Rs/kW/month	305 Ps/kVAh		5.18	40.38	45.56	
	50-100kW		613.66	1,184.75	50 Rs/kW/month	410 Ps/kVAh	0.87	36.92	580.97	626.89	
f	Industrial Power (SIP) at 11 kV Single Delivery Point for Group of SIP Consumers		0.35	0.58	50 Rs/kW/month	305 Ps/kVAh	0.87	0.02	0.21	0.23	
g	Large Industrial Power > 100 kW/kVA										0.00
	Supply on 11 kV and above	470	121.87	387.13	150 Rs/kVA/month	430 Ps/kVAh	0.87	38.39	190.08	228.47	
	Supply on LT (400 Volts)	60	7.33	19.78	200 Rs/kVA/month	500 Ps/kVAh	0.87	2.60	10.80	13.39	
6	Agriculture	3,904	17.25	6.96	10 Rs/kW/month	155 Ps/kVAh		0.70	1.21	1.96	
7	Mushroom Cultivation				20 Rs/kW/month	305 Ps/kVAh		0.00	0.00	0.00	
8	Public Lighting	32	17.48	64.85	70 Rs/Point	465 Ps/kVAh			30.38	62.98	
a	Street Lighting										
b	Signals & Others										
9	Railway Traction (Other than DMRC)	1	19.57	69.00	150 Rs/kVA/month	390 Ps/kVAh	0.87	4.68	21.84	25.89	317.74
10	DMRC	1	22.93	175.80	75 Rs/kVA/month	300 Ps/kVAh	0.87	2.30	36.06	41.99	291.81
a	DMRC (220 kV)										
b	DMRC (66 kV)										
11	Others (Temporary, Khoms, Entertainment)		54.94	91.21		695 Ps/kVAh			20.84	33.84	
12	11 kV - Wheeling/Hospital	24	16.31	59.87	12 Rs/kVA/month	465 Ps/kVAh		0.29	14.63	14.87	
13	Staff				60 Rs/month	465 Ps/kVAh		0.00	0.00	0.00	
	TOTAL							480.43	3289.71	3762.75	

ANNEXURE - I

	BSES Rajdhani Power Ltd FY 2019				Tariff Proposed						
	Category	No of Consumers	Connected Load - MW	Approved Sales - MU	Demand Charges	Energy Charges	Average Load Factor	Revenue From Demand Charges	Revenue from Energy Charges	Total Revenue	
1	Domestic			2,747.06				82.84	594.82	677.26	548.60
a	All Electric	12,587	8.20	22.45	175 Rs/month			2.53		2.53	
b	Domestic Lighting/ Fan and Power (Single Delivery Point)										
	Upto 2 kW Load										
	0-100				24 Rs/month	345 P/kWh		0.00	0.00	0.00	
	101-200	425,375	492.35	782.70	24 Rs/month	345 P/kWh		11.75	181.26	204.01	
	201-400	183,417	150.85	298.26	24 Rs/month	395 P/kWh		3.27	87.24	90.51	
	Above 400	31,991	32.70	162.64	24 Rs/month	495 P/kWh		0.92	84.87	85.78	
	2 to 5 kW Load										
	0-100				80 Rs/month	345 P/kWh		0.00	0.00	0.00	
	101-200	86,487	102.96	193.03	80 Rs/month	345 P/kWh		0.25	47.06	30.49	
	201-400	46,130	151.53	109.34	80 Rs/month	395 P/kWh		2.90	40.80	43.70	
	Above 400	15,921	86.72	146.54	80 Rs/month	495 P/kWh		1.15	54.05	55.20	
	Above 5 kW Load										
	0-100				12 Rs/kW/month	345 P/kWh		0.00	0.00	0.00	
	101-200	4,456	32.60	70.14	12 Rs/kW/month	345 P/kWh		0.21	17.53	17.73	
	201-400	7,825	67.60	57.34	12 Rs/kW/month	395 P/kWh		0.96	22.84	23.81	
	Above 400	29,650	346.24	163.76	12 Rs/kW/month	495 P/kWh		4.56	75.56	80.12	
c	Domestic Lighting/Fan And Power on 11kV single delivery point for CGHS and other similar group housing societies	76	21.64	98.15	12 Rs/kW/month	345 P/kWh		0.31	28.05	28.36	
	First 22.2%				12 Rs/kW/month	345 P/kWh			0.00	0.00	
	Next 22.2%				12 Rs/kW/month	345 P/kWh			0.00	0.00	
	Next 44.4%				12 Rs/kW/month	395 P/kWh			0.00	0.00	
	Next 11.2%				12 Rs/kW/month	495 P/kWh			0.00	0.00	
d	Domestic Lighting/ Fan And Power Connections in Regularized Unauthorized Colonies, Lal Dora Pockets and Villages, both Electrified and Unelectrified										
	Upto 99 sq yards				264 Rs/month			0.00	0.00	0.00	
	Between 91-109 sq yards				384 Rs/month			0.00	0.00	0.00	
	Between 101-150 sq yards				384 Rs/month			0.00	0.00	0.00	
	Between 151-200 sq yards				696 Rs/month			0.00	0.00	0.00	
	More than 200 sq yds. only with meter										
e	SPD	53	13.69	39.53				0.06	5.29	5.35	
	SPD < 5 kW	53	13.69	39.53	50 Rs/month	405 P/kWh		0.06	5.29	5.35	
	SPD 5 kW above				10 Rs/kW/month	405 P/kWh		0.00	0.00	0.00	

ANNEXURE-6

	BYPL Revenue For FY 2009				Tariff Proposed						
	Category	No of Consumers	Connected Load- MW	Approved Sales - MU	Demand Charges	Energy Charges	Average Load Factor	Revenue From Demand Charges	Revenue from Energy Charges	Total Revenue	
1	Domestic			1,631.39				27.48	469.04	496.52	394.35
a	JJ Clusters	536	-	2.22	175 Rs/month			0.11		0.11	
b	Domestic Lighting/ Fan and Power (Single Delivery Point)										
	Upto 2 KW Load										
	0-100	289,396	314.67	566.81	24 Rs/month	245 P/kWh		8.33	146.71	155.04	
	100-200	150,331	170.46	307.57	24 Rs/month	245 P/kWh		4.33	75.35	79.68	
	200-400	85,754	99.82	149.06	24 Rs/month	395 P/kWh		2.47	58.85	61.32	
	Above 400	13,282	15.69	19.01	24 Rs/month	465 P/kWh		0.38	4.65	5.04	
	2 to 5 KW Load										
	0-100	15,700	56.21	97.56	60 Rs/month	245 P/kWh		1.13	23.90	25.03	
	100-200	21,333	78.22	80.34	60 Rs/month	245 P/kWh		1.54	19.68	21.22	
	200-400	26,599	101.28	88.46	60 Rs/month	395 P/kWh		1.92	34.94	36.85	
	Above 400	15,870	62.04	41.76	60 Rs/month	465 P/kWh		1.13	19.42	20.55	
	Above 5 KW Load										
	0-100	2,566	21.22	30.83	12 Rs/kW/month	245 P/kWh		0.31	7.55	7.86	
	100-200	2,514	19.78	27.54	12 Rs/kW/month	245 P/kWh		0.28	6.75	7.03	
	200-400	9,148	75.69	50.31	12 Rs/kW/month	395 P/kWh		1.09	19.87	20.96	
	Above 400	11,146	111.38	101.16	12 Rs/kW/month	465 P/kWh		1.60	47.04	48.65	
c	Domestic Lighting/Fan And Power on 11KV single delivery point for CGHS and other similar group housing complexes	16	15.28	15.09				0.22	4.31	4.53	
	First 22.2%	-	-	-	12 Rs/kW/month	245 P/kWh			0.00	0.00	
	Next 22.2%	-	-	-	12 Rs/kW/month	245 P/kWh			0.00	0.00	
	Next 44.4%	-	-	-	12 Rs/kW/month	395 P/kWh			0.00	0.00	
	Next 11.2%	-	-	-	12 Rs/kW/month	465 P/kWh			0.00	0.00	
d	Domestic Lighting/ Fan And Power Connections in Regularised/ Unauthorised Colonies, Left Out Pockets and Villages, both Electrified and Unelectrified										
	Upto 50 sq yards	4,660	4.66	6.24	264 Rs/month	-		1.48	0.00	1.48	
	Between 51-100 sq yards	1,974	1.58	3.84	384 Rs/month	-		0.91	0.00	0.91	
	Between 101-150 sq yards	239	0.24	0.47	504 Rs/month	-		0.14	0.00	0.14	
	Between 151-200 sq yards	128	0.13	0.29	699 Rs/month	-		0.11	0.00	0.11	
	More than 200 sq yds. only with meter	-	-	-							
e	SPD	11	0.55	1.09				0.00	0.28	0.28	
	SPD 2 - 5 kW	11	0.55	1.09	60 Rs/month	465 P/kWh		0.00	0.28	0.28	
	SPD 5 kW above	-	-	-	12 Rs/kW/month	465 P/kWh		0.00	0.00	0.00	

ANNEXURE - 2

	Category	No of Consumers	Connected Load- MW	Approved Sales - MU	Tariff Proposed: Demand Charges	Energy Charges	Average Load Factor	Revenue From Demand Charges	Revenue from Energy Charges	Total Revenue
1	Domestic			3,091.74				20.50	266.97	1647.97
b	LT Creative	670		2.63	175 Rs/month			1.84		0.14
2	Domestic Lighting/ Fan and Power (Single Delivery Point)									
	Upto 2 KW Load									
	0-100	341,744	489.01	770.69	24 Rs/month	345 P/kWh		5.84	Rs/ 78	990.62
	101-200	477,026	220.49	494.82	24 Rs/month	345 P/kWh		8.10	99.10	104.29
	201-400	421,574	450.77	727.42	24 Rs/month	360 P/kWh		7.00	99.85	93.35
	Above 400	41,080	98.95	98.75	24 Rs/month	460 P/kWh		1.18	15.24	45.90
	2 to 5 kW Load									
	0-100	36,060	695.80	615.72	60 Rs/month	345 P/kWh		2.60	45.57	48.16
	101-200	33,945	420.65	641.47	60 Rs/month	345 P/kWh		2.40	34.58	37.00
	201-400	36,748	699.77	837.00	60 Rs/month	360 P/kWh		3.60	79.10	81.61
	Above 400	28,990	639.30	807.42	60 Rs/month	460 P/kWh		2.00	49.95	52.94
	Above 5 kW Load									
	0-100	10,000	98.01	100.05	12 Rs/kW/month	345 P/kWh		1.20	21.50	22.36
	101-200	8,407	78.45	92.75	12 Rs/kW/month	345 P/kWh		1.07	22.73	23.80
	201-400	20,027	171.63	362.54	12 Rs/kW/month	360 P/kWh		2.67	64.20	66.87
	Above 400	44,022	492.34	494.05	12 Rs/kW/month	460 P/kWh		2.18	225.10	232.26
c	Domestic Lighting/Fan and Power on 66kV single delivery point for CGHS and other similar group housing complexes	180	173.01	109.05	12 Rs/kW/month	345 P/kWh		2.58	28.14	31.71
	Tariff 23.2%			-	12 Rs/kW/month	345 P/kWh			0.00	0.00
	Above 22.2%			-	12 Rs/kW/month	415 P/kWh			0.00	0.00
	Above 44.5%			-	12 Rs/kW/month	367 P/kWh			0.00	0.00
	Tariff 11.2%			-	12 Rs/kW/month	495 P/kWh			0.00	0.00
d	Domestic Lighting/ Fan and Power Connexions to Regularised/ Unauthorised Colonies, but Out Partners and Villages, both Ex-Limited and Unelectrified									
	Upto 50 sq.yards	4,480	4.99	0.04	24 Rs/month			1.42	0.00	1.42
	Between 51-100 sq.yards	4,012	5.39	0.47	36 Rs/month			1.36	0.00	1.36
	Between 101-150 sq.yards	8,171	7.81	2.34	108 Rs/month			0.71	0.00	0.71
	Between 151-200 sq.yards	7,026	6.31	3.41	144 Rs/month			1.26	0.00	1.26
	More than 201 sq.yds. only with water									
3	DIAL	105	23.80	78.30				0.00	82.97	82.97
	DIAL 2 - 4 kW	105	23.80	78.30	99 Rs/month	460 P/kWh		0.00	82.97	82.97
	DIAL 5 kW above				82 Rs/kW/month	425 P/kWh		0.00	0.00	0.00

4	Non Domestic			1,280.74				88.37	777.41	539.84	539.84
a	Non Domestic Low Tension (NDLT)										
	Up to 10 kW	30,981	105.04	417.87	50 Rs/kW/month	540 P/kWh	0.87	24.20	256.18	320.46	
	10.01 kW to 100 kW	15,918	211.67	341.70	50 Rs/kW/month	490 P/kWh	0.87	13.00	200.56	213.62	
2	Non Domestic Light Power at 11 kV single Delivery Point for Commercial Complexes (NDLT-I)				50 Rs/ kW/month	490 P/kVAh	0.87	0.00	0.00	0.00	
c	Wire Fixed Rate Tariff (>100 kW - DP										
	Supply at 11kV and above	240	969.13	764.21	350 Rs/kW/month	490 P/kVAh	0.87	39.15	701.43	740.58	
	Supply at 0.4 kV (400 Volts)	1.0	18.48	34.44	250 Rs/kW/month	585 P/kVAh	0.87	4.35	77.90	79.25	
3	Railways			758.45				20.99	186.04	385.43	367.18
4	Small Industrial Power (SIP)	20,922	248.68	350.79				84.50	884.27	784.27	
	Upto 100 kW		248.68	284.79	50 Rs/kW/month	560 P/kVAh		84.50	140.47	184.77	
	101-1000 kW				60 Rs/kW/month	440 P/kVAh	0.87	0.00	0.00	0.00	
5	Power at Tariff (SP) at 11 kV Single Delivery Point to Colony of DP Consumers				60 Rs/kW/month	370 P/kVAh	0.87	0.00	0.00	0.00	
c	Large Supply (Over > 100 kW) DP									0.00	
	Supply at 11kV and above	21	23.27	19.02	150 Rs/kW/month	435 P/kVAh	0.87	4.51	23.45	27.96	
	Supply at 0.4 kV Volts	25	1.76	4.01	200 Rs/kW/month	560 P/kVAh	0.87	0.68	7.50	8.19	
6	Agriculture	65	0.34	0.20	12 Rs/kW/month	375 P/kVAh		0.00	0.05	0.05	
7	Electric Traction				24 Rs/kW/month	385 P/kVAh		0.00	0.00	0.00	
8	Public Lighting	7		105.74	73 Rs/Point	460 P/kVAh		7.36	87.27	94.63	
a	Street Lighting										
b	Signals (Traffic)										
c	Public Conveniences (PCO)	1			450 Rs/kW/month	390 P/kVAh	0.87	0.00	0.00	0.00	
d	DMRC		0.85	20.00	75 Rs/kW/month	390 P/kVAh	0.87	0.65	11.30	11.95	221.36
	DMRC (2001A)										
	DMRC (at 33 kV)										
9	Others (Temporary, Khoka, Entertainment)		38.39	51.67		625 P/kVAh			52.69	52.69	
10	33 kV Housing Complex	28	25.58	25.40	12 Rs/kW/month	450 P/kVAh		0.75	29.31	29.81	
11	Delhi	7,000	19.23	16.91	60 Rs/month	475 P/kVAh		0.58	6.75	8.25	
	TOTAL							537.43	1535.61	4072.29	

2	**Non-Domestic**			2,643.00				168.06	1472.75	**1640.79**	**649.35**
a	**Non-Domestic (Low Tension): NDLT-I**										
	Up to 10 KW	194.351	410.77	512.57	50 Rs/kW/month	540 P/kVAh	0.97	24.85	318.15	342.60	
	> 10 kW to 100 KW	20.944	448.77	723.13	50 Rs/kW/month	492 P/kVAh	0.97	39.93	478.94	**435.87**	
b.	**Non-Domestic Light/ Power on 11 kV Single Delivery Point for Commercial Complexes-NDLT-II**	-	-	-	50 Rs/kW/month	492 P/kVAh	0.97	0.00	0.00	0.00	
c.	**Mixed Load (High tension) >100 KW - SIP**										
	Supply on 11 kV and above	519	491.41	1,155.55	150 Rs/kVA/month	495 P/kVAh	0.97	181.67	657.47	759.14	
	Supply on LT (400 Volts)	382	53.70	134.09	200 Rs/kVA/month	569 P/kVAh	0.87	14.81	87.69	102.50	
3	**Industrial**			641.83				36.76	328.60	**365.71**	**869.79**
a	**Small Industrial Power (SIP)**	15,798	391.86	440.63				18.11	222.85	240.96	
	Upto 100W	-	-	-	50 Rs/kW/month	505 P/kWh		0.00	0.00	0.00	
	10-100KW	-	391.86	440.63	50 Rs/kW/month	440 P/kVAh	0.87	18.11	222.85	240.96	
b.	**Industrial Power (SIP) on 11 kV Single Delivery Point for Group of SIP Consumers**	-	-	-	50 Rs/kW/month	375 P/kVAh	0.87	0.00	0.00	0.00	
c.	**Large Industrial Power > 100 KW LIP**									0.00	
	Supply on 11 kV and above	131	53.15	120.10	150 Rs/kVA/month	435 P/kVAh	0.87	11.00	60.95	71.95	
	Supply on LT (400 Volts)	234	25.73	81.09	200 Rs/kVA/month	500 P/kVAh	0.87	7.10	46.63	53.76	
4	**Agriculture**	3,645	13.28	21.12	12 Rs/kW/month	155 P/kWh		0.19	3.27	**3.46**	
5	**Mushroom Cultivation**	-	-	-	24 Rs/kW/month	300 P/kWh		0.00	0.00	**0.00**	
6	**Public Lighting**	1	-	171.42	73 Rs/Pole	465 P/kWh		17.73	79.71	**97.44**	
a	Street Lighting										
b	Signalink Shiture										
7	**Railway Traction (Other than DMRC)**	1	11.51	23.51	150 Rs/kVA/month	380 P/kVAh	01 Rs/kVA/month	2.36	10.77	**12.66**	**538.04**
8	**DMRC**	2	24.99	110.00	75 Rs/kVA/month	300 P/kVAh	01 Rs/kVA/month	2.59	37.93	**40.52**	**308.33**
a	DMRC (220 kV)										
b	DMRC (66 kV)										
9	**Others (Temporary, Misuse, Enforcement)**	-	71.41	111.67	-	655 P/kWh			73.15	**73.15**	
10	**11 kV - Worship/Hospital**	21	11.86	17.81	12 Rs/kVA/month	495 P/kWh		0.17	8.28	**8.46**	
11	**Staff**	5,700	11.21	18.13	60 Rs/month	495 P/kWh		0.42	8.43	**8.84**	
	TOTAL							278.34	3039.73	**3326.82**	

178

ANNEXURE A5

DELHI ELECTRICITY REGULATORY COMMISSION
Viniyamak Bhawan, C-Block, Shivalik, Malviya Nagar, New Delhi-110 017.
Website: www.derc.gov.in, Telefax: 26673608

PUBLIC NOTICE

PROPOSAL FOR DETERMINATION OF OPEN ACCESS CHARGES & PROCEDURE FOR IMPLEMENTATION OF OPEN ACCESS IN DELHI

The Commission in exercise of the power vested in it under section 39, 40, 2, 86 (1)(c) read with Section 181 of the Electricity Act, 2003 and all other powers enabling the Commission in this behalf, notified the Delhi Electricity Regulatory Commission (terms and conditions for Open Access) Regulations, 2005 (hereinafter referred to as Open Access Regulations), in the aforesaid Regulations, notified in the official gazette on 03rd January, 2006, open access was allowed to the Intra State Transmission System in the State immediately, subject to the satisfaction of the conditions contained in the Act or in these Regulations.

2. The Commission vide its order dated 29.08.2008 had decided Transmission and Wheeling Charges, Cross Subsidy Surcharge, Additional Surcharge, Standby Charge and other applicable charges under Open Access. Since several tariff orders have been issued, subsequently, it has become imperative to revise the charges in line with the latest Tariff Order dated July, 2013.

3. The Commission proposes to revise the open access charges payable by open access consumers under the following heads :

i. Transmission and Wheeling charges
ii. Cross Subsidy surcharge
iii. Additional surcharge
iv. Standby Charge
v. Other applicable charges.

4. Comments are invited on the Proposal for determination of Open Access Charges and procedure for implementation of Open Access in Delhi which is available on website of the Commission www.derc.gov.in.

All Stakeholders are requested to forward their suggestion/comments to the Secretary, DERC either by post or through email latest by 07.10.2013.

Secretary
Delhi Electricity Regulatory Commission

ANNEXURE A-6

Delhi Electricity Regulatory Commission

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17.

In the matter of:

Determination of Transmission and Wheeling Charges, Cross Subsidy Surcharge, additional surcharge and other applicable charges under Open Access.

ORDER

(Date of Order: 24.12.2013)

The Delhi Electricity Regulatory Commission (hereinafter referred to as Commission) vide its order dated 29.08.2008 had decided Transmission and Wheeling Charges, Cross Subsidy Surcharge, Additional Surcharge and other applicable charges under Open Access. The Commission has decided to revise the charges keeping in view the current scenario.

2. The Commission staff prepared a draft proposal alongwith procedure for implementation of Open Access for consumers having load 1 MW and above in Delhi. A public notice was issued and the same was uploaded on DERC website on 25.09.2013 for comments of stakeholders by 07.10.2013.

3. The list of stakeholders from whom the comments were received, is enclosed as Annexure-1. The comments received from stakeholders were examined and views of the Commission on the issues raised by stakeholders are as under;

(i) Cross Subsidy Surcharge

Stakeholder's comments

A stakeholder has submitted that the Commission has proposed Cross subsidy surcharge on higher side (ranging from 26.37 paisa/kWH to 66.40 paisa/kWH for industrial consumers). It is a burden on open access consumers. It should be reasonable and should be progressively brought down and shall not exceed 20% of its opening level as envisaged in the Tariff Policy.

Commission's view

The cross subsidy surcharge has been calculated as per the formula given in National Tariff Policy. However, the Commission is of the view that the cross subsidy should be brought to a level of 20% of average cost of supply as envisaged in the National Tariff Policy and the Commission shall endeavour to bring down the cross subsidy in due course of time.

(ii) Additional Surcharge

Stakeholder's comments

(a) A stakeholder submitted that Additional surcharge of 300 paisa/unit is very high and the Commission has not mentioned the computation methodology. The distribution

licensee can recover only fixed cost arising out of its obligation to supply but the Commission has included fixed charges as well as energy charges for determination of additional surcharge.

(b) The Commission has suo-moto determined Additional Surcharge on the basis of difference in projected demand of DISCOMs and availability of power from long term agreements. It is submitted that we are in agreement with the approach of the Commission for determination of Additional Surcharge which is based on logical principles. However, to further rationalize the Additional Surcharge, following principles may be adopted:

(i) Proposed methodology determined Additional Surcharge on the basis of "projected" demand and generation. This approach may not give actual loss incurred by the DISCOMs in respect of stranded capacity. Therefore, it is always recommended to consider historical data to determine stranded capacity. Therefore, for determination of additional surcharge last 1 year or last 6 months data should be considered to arrive at acceptable and actual loss incurred by the DISCOMs in lieu of consumers procuring power through Open Access.

(ii) It is accepted principle that based on demand supply scenario, in different time blocks of a day and in different season, Additional Surcharge should be different. This principle is considered by the Commission while determining additional surcharge. However, time blocks in which DISCOM has either purchased power from short term market or procured banked power, in such time blocks no additional surcharge to be levied as no loss is incurred by DISCOM in such periods.

(iii) From the above, it is inferred that the Commission has considered fixed charges as well as energy charges of stranded generation. In this regard, it is submitted that as per Tariff Policy, only fixed cost of PPA can be recovered through Additional Surcharge. However, it is understood that the Commission has considered energy charges while determining Additional Surcharge to compensate cost of generation which is running at technical minimum. The stakeholders have appreciated approach of the Commission but also stated that, however it would not be justified that despite DISCOM can back down its generation, energy charges are loaded in the additional surcharge. Therefore, energy charges should only be considered in determination of additional surcharge in case of technical limitation has been achieved and DISCOM cannot further back down its generation.

(iv) In view of the above, Additional Surcharge may be applicable in following conditions:

Condition	Applicability of ASC
Short term Purchase by DISCOM in a time block.	NO
Procurement of Banked Power in a time block.	NO
In case impact of Open Access is causing to back down of generation upto its technical minimum	ASC= fixed Cost of generation.
In case, despite backing down of generation upto technical minimum, DISCOM is underdrawing	ASC = fixed Cost + energy cost of generation -UI

(c) The stakeholder has submitted that in case impact of Open Access is leading to back down of generation upto its technical minimum, only fixed charges can be taken in additional surcharge.

(d) The stakeholder has requested to provide methodology for computation of additional surcharge.

(e) DMRC has requested to exempt from additional surcharge as power supply to DMRC should be on the cost to supply basis as per DERC Tariff Order.

Commission's View

(c) The additional surcharge has been computed as per the methodology mentioned in Para 8(3) of the Draft Proposal for Determination of Open Access Charges.

(b) The additional surcharge has been calculated on the basis of historical data for the past one year and has inadvertently been written as projected demand. It is based on the actual demand in the past one year and availability of power from long-term agreements.

(c) The Commission has considered only long-term power purchase agreements and stranded power from such plants. While calculating the additional surcharge, power purchased on short-term basis or Banked power has not been considered as has also been stated by the stakeholder. The Commission agrees with the view given by the stakeholder for determination of additional surcharge and the same methodology has been adopted while calculating the surcharge.

(d) The Commission has considered recovery of only Fixed Cost arising out of the obligation to pay for long-term power purchase agreement while calculating the additional surcharge in case DISCOM is not under-drawing. However, in cases where generating stations have been scheduled upto the technical minimum and there is surplus energy with the DISCOMs on that account, then the Fixed Charges and variable charges have been taken into account while calculating the additional surcharge. In such a case when DISCOM is under-drawing in spite of backing down of generation up to technical minimum, then difference between fixed charges + energy charges – UI has been taken as has also been suggested by the stakeholder.

(e) DMRC has requested exemption from additional surcharge. However, the Commission is of the view that the tariff being charged to DMRC is based on cost of supply. It is only when drawal option is exercised for open access that additional surcharge would be applicable and it is calculated on the basis of stranded power when a consumer is going on open access.

(iii) Stand-by Charges:-

Stakeholder's comments

(a) The stakeholder has requested to clarify that Stand-by charges during outage of generator through the arrangement made by open access consumer on its own, open access consumer shall pay only prevailing UI rate as per CERC regulations and shall not be asked to take additional Rs. 1/- per unit to licensee.

(b) In case open access consumer is unable to draw scheduled energy due to unscheduled cut or failure of transmission/distribution system of the licensee. Consumer should be compensated at actual prevailing UI rate and not on the lower rate / amount.

(c) The stakeholder has suggestec that the Commission should amend the provision as generator should not be penclized because of the failure of evacuation system of licensee instead it should be compensated by the licensee.

(d) The Commission is requested to clarify as to why the distribution licensee is to be held liable in case of failure of evacuation system in case the same be not attributable to distribution licensee.

Commission's View

(a) The Commission agrees with the suggestions of the stakeholder that the Open Access Consumer shall pay only prevailing UI rate as per CERC Regulations and shall not be asked to pay additional Rupee One per unit to the Licensee.

(b) The Commission is of the view that the consumer cannot be guaranteed access to the transmission or distribution system and that open access is only subject to technical feasibility. Therefore, the consumer can be compensated only at the UI capped rate or at the prevailing UI rate of the distribution system whichever is lower at the time of cut or failure.

(c) The Commission is of the view that whenever the customer is not able to draw the power fed by the generator due to any reason whatsoever, it should be treated as unscheduled inter-change (UI) which would take place between the generator and the Discoms and should be treated as such.

(d) Since energy flows by displacement an open access customer would be able to draw power, unless the utility itself is unable to receive power due to transmission constraints.

(iv) Miscellaneous Charges:-

Stakeholder's comments

(a) The Commission should modify its calculation sheet in line with the applicability of CERC Regulations on point of connection charges. The Commission should specify separate sheets for both Intra & Inter-state open access by both bilateral and collective transaction.

(b) Other than the Additional charges, if surrender/ reallocation of power by the DISCOM is not possible, DISCOM should also be compensated for the surplus power which will have to be scheduled by the DISCOM which might get penalised in case of under drawl beyond permissible limits in U.I.

(c) The DISCOMs have huge past regulatory gaps and the same would be recovered through the Tariff to be determined in future by the Commission. Hence the Commission is requested to allow recovery of such revenue gap from open access consumer through imposition of suitable surcharge while determining the cross subsidy charges. Further if the open access consumer is not levied surcharge to recover past gaps, the burden of the same shall come on the remaining consumers with the subsidized consumers being impacted the most. Hence the Open Access consumer should be levied a surcharge to recover for Regulatory Gaps as they have

contributed to its creation by consuming power in the past for which tariffs at that point were not cost reflective.

(d) The Commission may define the rental charges in the miscellaneous charges.

(e) Applicability of the UI incentive/penalty mechanism on the Open Access consumer should be clearly defined.

(f) Presently there are no monthly minimum charges and peak load exemption charges are determined by the Commission. Therefore, this clause may be modified to that extent.

Commission's View

(a) The Commission is of the view that the calculation sheet attached has been prepared for the purpose of understanding the charges. However, the actual charges will be in line with the applicability of CERC Regulation on point of connection charges. The Inter state Open Access is already covered by CERC Regulations and the Commission has now notified the charges for Intra-State Open Access .

(b) The Commission thinks it appropriate at this point of time not to levy any penalty charge which may be leviable on the DISCOMS, in case of under drawal beyond permissible limits in UI, as it does not want to discourage Open Access.

(c) The Commission is of the view that though surcharge amount on account of past regulatory assets should be recovered from all consumers, the Commission has not levied any charge on this account as it does not want to discourage implementation of open access in Delhi.

(d) The Commission agrees with the view of the stakeholder and shall define the rental charges.

(e) Applicability of UI charges are clearly defined in Clause – 1 'e' of Guidelines/Procedure for implementation of Open Access in Delhi.

(f) The Commission is of the view that there are no monthly minimum charges and peak load violation surcharge would not be applicable for Open Access consumer.

Stakeholder's comments

(v) **(a) Availability of Spare transmission & distribution capacity:-** A stakeholder has submitted that for all existing consumers necessary infrastructure is available to cater their load upto contract demand. Therefore, there is no need to check transmission & distribution capacity for availing Open Access by a Consumer upto contract demand. However, if a consumer wishes to avail Open Access over and above Contract demand, it would be imperative to check spare transmission & distribution capacity.

(b) Contract Demand (CD) & Voltage Level: 3rd Para of Clause 2.1 (A)(ii) provides for specific permission of distribution licensee to draw the open access power above the sanctioned contract demand. In view of the proposed modifications in point no. (a) above, this requirement will be covered under the normal procedure. It would also remove any ambiguity in terms of procedure of such specific permission. Therefore, this para may be deleted.

Commission's View:-

The Commission agrees with the view of the stakeholder as the licensee was already supplying power upto contract demand to the consumer. The distribution licensee shall provide open access upto sanctioned load/contract demand to open access consumer. However, any additional load over and above, contract demand shall be made available by licensee only after ensuring availability of spare transmission and distribution capacity in the licensee network.

(vi) (a) Feeder status / category supplying power to consumer:

Stakeholder's comments

Clause 2.1 (A)(iv) provides agreement to rostering restrictions imposed by the Utility, in case of open access is availed by a consumer on mixed feeder. The Commission in its proposal of determination of Open Access charges has noted that presently DISCOMs have surplus power on RTC basis in most of the month. Therefore in such a surplus scenario, there will be no case of rostering restrictions by DISCOM and therefore there is no requirement of this condition. DISCOMs may also take it as reason for denial of Open Access. It is further submitted that, to give more options to avail Open Access on mixed feeder, the Commission may consider allowing Open Access to group of consumers on single feeder. This provision has already been incorporated in the Haryana Electricity Regulatory Commission Open Access regulations and also operationalised smoothly.

(b) The Commission has allowed open access to consumers on mix feeder subject to rostering condition imposed by distribution licensee. The stakeholder has commented that in case all consumers on mix feeder are availing open access, rostering condition shall not be imposed by distribution licensee.

Commission's View: -

The Commission is of the view that in case, all consumers on mix feeder are availing open access or open access consumer is availing power through dedicated feeder from grid s/stn , rostering condition shall not be imposed by distribution licensee. However, in case of mix feeder having consumers of open access category as well as consumers of licensee, rostering shall be applicable for open access consumers also.

(vii) Payment Security Mechanism :- Opening of Letter of Credit (L.C.):

Stakeholder's comments

(a) Clause 14.1 of procedure provides that all Open Access consumers need to open irrevocable and revolving Letter of Credit (L.C.) in favour of the Distribution Licensee. It is noted that embedded consumers have already providing security deposit to DISCOMs. Therefore, embedded consumers should not be burdened with this additional requirement of opening of L.C. However, Open Access customers who are not consumers of the DISCOMs may be required to open this LC.

(b) Regarding letter of credit the stakeholder has commented this clause is discouraging and it will not be right again to maintain LC for two months charges in case user avails open access for few days.

(c) It is suggested that the term "dues" should be read so as to include all dues of whatever nature and not merely 2 months' consumption billing. The same may be relevant for the purpose of avoiding any consumer taking advantage of open access by bypassing the liability to pay dues.

Commission's View:-

The Commission is of the view that the amount of prevailing security deposit is not sufficient to recover the fixed charges and energy charges for the billing period in case of default by the open access consumer. Moreover, DISCOMs are giving interest on security deposit to the consumer as decided by the Commission from time to time. Therefore Commission has decided to allow letter of credit for a minimum period of two months as per the proposed guidelines. However, it may be reviewed if need arises in due course of time.

(viii) Open Access for whole day:-

Stakeholder's comments

(a) Clause 2.2 mandated that "The consumer should ensure that the application for open access for whole day and minimum period of one day". In this context it is submitted that even if consumer gives an uncertaking of purchase from Power exchange in all time blocks, during the process of price discovery in collective transactions, the quantum is selected on the basis of the intersection point of Demand & Supply Curve for 96 time blocks of 15 minutes and there is a possibility that the intersection point may be discovered on partial or no quantity of the bid & so the quantity selected can be less than bid quantity or may be rejected. Therefore it may not be possible for an Open Access consumer to adhere with this Condition. Further the proposed Condition may restrict consumers to avail open access facility who have demand in part of the day (say peak hours) or industries which operate only 8 hours or 16 hours in a day.

(b) In the order the cases/conditions which will construe as gaming by the OA consumer should be defined. Part drawl from exchange and part drawl from the utility must not be allowed. The nodal agency must ensure that no gaming takes place in the name of open access. As, through selectively buying in power exchange by an open access consumer will lead to case of reverse cross subsidy, where other domestic consumer will lose at the gains of such power exchange consumer.

Commission's View:-

The Commission is of the view that it is necessary to avoid gaming strategies by open access consumers resulting in undue burden on common consumers through ARR of DISCOMs. Hence, application for open access will be entertained for a whole day and minimum one day.

(ix) Duration of NOC:-

Stakeholder's comments

(a) Clause 6.3 of procedure provides that NOC/Standing Clearance would be issued by SLDC for a period of one month. It is submitted that to reduce workload of SLDC, NOC for 3 months may be issued by SLDC. Even CERC Regulations allow issue of NOC upto 3 months.

(b) Clause 4.3 provides that consent would be given by DISCOM's would be valid for 3 months. In this context, it is submitted that this validity should be at least for 1 year so that the repetitive process of consent may be avoided. In any case DISCOM can withdraw Open Access with reasons giving in writing.

Commission's View:-

The Commission decided that NOC for maximum period of 6 months may be granted by SLDC and DISCOM.

(X) Metering Guidelines:-

Stakeholder's comments

(a) Clause 2.2(i)(f) provides Metering Guidelines for Open Access Consumers as per Annexure-I of the Procedure. Point (A)(viii) of Metering Guidelines provides that *"Un-climbable fencing around metering, CT, PT area is to be provided which will be sealed by STU"*. It is suggested that provision of sealing by the Utility based on the connectivity may be incorporated in the Guidelines.

(b) The meters (including metering CTs & VTs) shall be duly tested and sealed in the presence of STU/Distribution Licensees / Consumer and shall also be checked / tested at site by independent NABL accredited laboratory. The Open Access consumer shall comply with the conditions laid down in the conditional approval issued by the Nodal Agency (SLDC) and submit, meter and CT/VT test reports issued by Concerned Authority along with site installation report indicating CT/PT ratio.

(c) Delhi Metro Rail Corporation further submitted that Energy Meter should be blocked for leading power factor (at present energy meter for power supply from DISCOMs are blocked from leading power factor as per DERC orders).

Commission's View:-

(a) The Commission agrees with the view that fencing and sealing of metering, LT, PT unit shall be done by the utility where the open access consumer is connected.
(b) The Commission agrees with the suggestion of the stakeholder.
(c) The meters of DMRC are already blocked for leading power factor and are to be charged on unity power factor if there is leading power factor in the current scenario as per a recent decision of the Commission. However, the Commission can review this decision at a later stage.

Stakeholder's comments

(XI) **(a) Meter Reading & Energy Accounting: - Commercial Settlement:** Clause 10.2 of procedure provides that Open Access consumer will be governed by UI charges. It is submitted that it would be unfair and also complex to implement UI charges for an embedded consumer of DISCOM. Therefore, to reduce complexity in this initial phase of Open Access in the State, in the monthly bill of such consumers, scheduled power under Open Access shall first be adjusted and the balance will be treated towards sanctioned Contract Demand of the consumer.

(b) Unscheduled Interchange (UI) Energy Accounting: Clause 10.4 provides for adjustment of OA power and UI energy in succeeding month's bill of the consumer. It is submitted that, as proposed SLDC is providing monthly UI accounting in case of

consumers therefore same should be adjusted in the succeeding month's bill however for Open Access energy should be adjusted in same month's bill to avoid excess charging.

Commission's View: -

The Commission is of the view that UI is an integrated component to maintain grid discipline and should be applicable to open access consumers also. The bill may be generated after availability of energy account/UI bill from NRLDC/NRPC etc. It may not be possible to make adjustments in the same month.

(xii) Renewable Energy Sources :-

Stakeholder's comments

(i) It may be clarified that Oper Access consumers consuming solar power should not be covered under the mechanism of UI. This is in line with CERC Regulation (RRF and Open Access). Since all renewable energy Open Access transactions will be inter-state (because of lack of cost-effective land in Delhi), resonance with CERC regulations is necessary.

(ii) In case of outage from solar energy sources, the consumer should be allowed to resort to DISCOM power at the prevailing DISCOM tariff. No standby charges are applicable for rooftop solar. In our view, open access for solar sources is no different rooftop solar. Even the RRF regulations by CERC permit ± 30% deviation in solar power because of its infirm nature.

(iii) Space is a constraint in Delhi. Under such special circumstances, Open Access is the only option for renewable energy, and thus should be encouraged for penetration of renewable energy in Delhi.

(iv) Due to high cost of Generation of solar power, it is imperative that cross subsidy surcharge be waived off as well. Considering that almost all open access is inter-state, solar power will become unviable with cross subsidy surcharge. Similarly, transmission and distribution losses need to be waived off for solar power. For eg. APERC and CSERC have waived off all transmission and wheeling charges/losses for solar power.

(v) Solar power by nature is available for maximum 12 hours in a day. Hence it is requested to relax this clause for solar power. The same practice is adopted by all states allowing Open Access.

(vi) Open Access consumer should also be liable to meet the RPO obligations.

(vii) The stakeholder has requested to extend no transmission and wheeling charges for all the renewable energy sources instead of only solar renewable energy sources and exempt additional surcharge also.

Commission's View:-

The Commission is of the view that no UI, wheeling, transmission charges or additional surcharge should be applicable on open access consumers availing energy from all renewable energy sources as defined by MNRE in Delhi. However, open access consumers shall comply with DERC Regulations on RPO and roof top solar.

(xiii) Miscellaneous Stakeholder Comments

(c) DERC may allow the consumers of load below 1 MW for availing open access who are complying the technical requirement as per open access regulations.

(b) The time lines for defining the period of short, medium & long term should be specified in the order. Commission should also define the guidelines/procedure for implementation of Long term and medium term Open Access consumers.
(c) DERC is requested to prescribe detail open access procedure for scheduling of collective (power exchange) transaction alongwith required format in line with CERC regulations.
(d) It may be specified as to what is meant by distribution licensee's nodal office.
(e) In case of any disputes amongst the parties covered under these regulations the same should be referred to the DERC and not the SLDC.
(f) DISCOMs to render consultancy services to consumers seeking open access and the same be permitted on payment basis. It will help the DISCOMs to generate more revenue which may be used to reduce Annual Revenue Requirements.
(g) The DERC may provide for a general provision allowing compliance with any court orders, directives etc. which may result in or lead to non-supply of power under open access. For instance the distribution licensee ought to stand excused in case any such directives orders are received from National Green Tribunal, Delhi Pollution Control Committee or any other competent authority.
(h) Power can be procured by a consumer through a trader or directly or Power exchange. Therefore, this clause may be modified to that extent.
(i) Any change in the Undertaking should be approved by the Commission. Modifications to this effect may be incorporated in the Undertaking.

Commission's View

The Commission has examined the comments/suggestions submitted by stakeholders and opined as under:

(a) The commission is of the view that presently consumer having load of 1 MW and above may avail open access in Delhi. Once the system is in place, the same may be allowed the consumers having load below 1 MW.
(b) The time line for short term and long term consumers has already been specified in DERC Open Access Regulations, 2006.
(c) The format has been prescribed keeping in view the CERC and other State Regulatory Commissions guidelines, however the same shall be reviewed as and when required to remove operational difficulties.
(d) The local Data Acquisition Centres of Distribution Licensees shall be Nodal Office. These area Data Acquisition Centres of Distribution Licensees will coordinate with SLDC Delhi and facilitate Open Access Consumers.
(e) The Commission is of the view that the SLDC Delhi has a statutory obligation to comply with the functions of State Load Despatch Centre as per the provisions of Electricity Act, 2003 and have to coordinate with all the Power Utilities in Delhi. Therefore, in case of any differences among open access consumers and power utilities, SLDC should examine the matter and dispose off as per relevant rules & regulations.
(f) This issue may be examined separately in due course of time.
(g) It is understood that all the power utilities and open access consumers shall comply with relevant rules and regulations alongwith statutory obligations.
(h) It is prerogative of consumer to procure power from a generator, trader or power exchange and the same has been considered while finalizing the guidelines.
(i) The proposed changes / modifications in Undertaking shall be first examined by the SLDC in association with all the stakeholders and recommendations to the Commission for approval.

4. The Commission has considered the above views of stakeholders while finalizing this order.

Policy & Legal Context

5. The Electricity Act 2003 enables eligible consumers to have non-discriminatory Open Access (OA) to the network of a Licensee (except that of a local authority engaged in the business of distribution of electricity before the appointed date) on payment of applicable charges. The EA 2003 and National Electricity Policy (NEP) formulated thereunder, mandates the State Electricity Regulatory Commission to frame the terms and conditions and timeframe for introduction of Open Access in the State.

6. Section 2 (47) of the Electricity Act, 2003 defines Open Access, while Section 42 of the Electricity Act, 2003 mandates the Distribution Licensees to provide open access to eligible consumers subject to payment of cross-subsidy surcharge, additional surcharge and other applicable charges. Section 86 (1) of the EA, 2003 mandates the Commission to determine the cross-subsidy surcharge.

7. The Commission in exercise of the power vested in it under section 39, 40, 2, 86 (1)(c) read with Section 181 of the Electricity Act, 2003 and all other powers enabling the Commission in this behalf, notified the Delhi Electricity Regulatory Commission (terms and conditions for Open Access) Regulations, 2005 (hereinafter referred to as Open Access Regulations). In the aforesaid Regulations, notified in the official gazette on 03rd January, 2006, open access was allowed to the Intra State Transmission System in the State immediately, subject to the satisfaction of the conditions contained in the Act or in these Regulations.

8. The Commission has kept in view the provisions of the Electricity Act, 2003, National Electricity Policy, National Tariff Policy and the Open Access Regulations of the Commission, while determining the open access charges payable by open access consumers under the following heads :
   i. Transmission and Wheeling charges
   ii. Cross Subsidy surcharge
   iii. Additional surcharge
   iv. Other applicable charges.

9(i) Clause 18 of Delhi Electricity Regulatory Commission (Terms & Conditions for Determination of Transmission Tariff) Regulations, 2011 is as under:

"18. No distinction in charges shall exist in terms of long term, medium term or short term access to the Intra-State Transmission System."

(ii) In case of Short Term Open Access Consumer, Transmission Service Charges shall be calculated in accordance to following methodology:

ST_Rate= (ATSC/Av_CAP)/365;
Where:
ST_Rate is the rate for short-term open access consumer in Rs. Per MW per day;
ATSC is Annual Transmission Service Charge;
Av_CAP means the average capacity in MW served by the transmission system of the Transmission Licensee in the last Financial Year and shall be computed as under :-

1	ST-Rate in Rs./MW/Day	(ATSC /AV_CAP)/365
	Where, ATSC Annual Transmission Service Charges of the Transmission System for the current financial year & AV_CAP Average Transmission Capacity served in MW during the previous financial year.	
2	ATSC for DTL Transmission system as per DERC order	=Rs. Z crores
3	Average Transmission Capacity Served in MW by DTL during previous year	= Energy served (consumed in Delhi as per SEM data) in MUs X 1000 MWh / 365/24 = Y MW
4	ST_Rate for DTL Transmission System in Rs/MW/Day	= Z X 10000000 / Y / 365 = Rs. S
5	ST_Rate for DTL Transmission System in Rs./ kWh	= S / 24000

(iii) 25% of the charges collected from the Short Term Open Access consumer shall be retained by the Transmission Licensee and the balance 75% shall be considered as non-tariff income and adjusted towards reduction in the transmission service charges payable by the long term and medium term users."

10. The Government of India has notified the Tariff Policy (TP) under Section 3 (1) of the Electricity Act, 2003. Paragraph 8.5 (reproduced below) of the said Tariff Policy specifies the methodology for calculation of cross subsidy surcharge, additional surcharge and wheeling charges for open access consumers.

"8.5 Cross subsidy surcharges and additional surcharge for open access.

8.5.1 National Electricity Policy lays down that the amount of cross subsidy surcharge and the additional surcharge to be levied from consumers who are permitted open access should not be so onerous that it eliminates competition which is intended to be fostered in generction and supply of power directly to the consumers through open access.

A consumer who is permitted open access will have to make payment to the generator, the transmission licensee whose transmission systems are used, distribution utility for the wheeling charges and, in addition, the cross subsidy surcharge, therefore, needs to be done in a manner that while it compensates the distribution licensee, it does not constrain introduction of competition through open access. A consumer would avail of open access only if the payment of all the charges leads to a benefit to him. While the interest of distribution licensee needs to be protected it would be essential that this provision of the Act, which

requires the open access to be introduced in a time-bound manner, is used to bring about competition in the larger interest of consumers.

Accordingly, when open access is allowed the surcharge for the purpose of section 38, 39, 40 and sub-section 2 of section 42 would be computed as the difference between (i) the tariff applicable to the relevant category of consumers and (ii) the cost of the distribution licensee to supply electricity to the consumers of the applicable class. In case of a consumer opting for open access, the distribution licensee could be in a position to discontinue purchase of power at the margin in the merit order. Accordingly, the cost of supply to the consumer for this purpose may be computed as the aggregate of (a) the weighted average of power purchase costs (inclusive of fixed and variable charges) of top 5% power at the margin, excluding liquid fuel based generation, in the merit order approved by the SERC adjusted for average loss compensation of the relevant voltage level and (b) the distribution charges determined on the principles as laid down for intra-state transmission charges.

Cross Subsidy Surcharge formula:
S = T - [C (1+ L/100) + D]
Where;
S is the surcharge;

T is the Tariff payable by the relevant category of consumers;

C is the weighted average cost of power purchase of top 5% at the margin excluding liquid fuel based generation and renewable power;

D is the Wheeling charge;

L is the system Losses for the applicable voltage level, expressed as a percentage;

8.5.2 No surcharge would be required to be paid in terms of sub-section (2) of Section 42 of the Act on the electricity being sold by the generating companies with consent of the competent government under Section 43(A)(1)(c) of the Electricity Act, 1948 (now repealed) and on the electricity being supplied by the distribution licensee on the authorisation by the State Government under Section 27 of the Indian Electricity Act,1910 (now repealed), till the current validity of such consent or authorisations.

8.5.3 The surcharge may be collected either by the distribution licensee, the transmission licensee, the STU or the CTU, depending on whose facilities are used by the consumer for availing electricity supplies. In all cases the amounts collected from a particular consumer should be given to the distribution licensee in whose area the consumer is located. In case of two

licensees supplying in the same area the licensee from whom the consumer was availing supply shall be paid the amounts collected.

8.5.4 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 the obligation of a licensee, in terms of existing 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 would be recovered through wheeling charges.

8.5.5 Wheeling charges should 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.

8.5.6 In case of outages of generator supplying to a consumer on open access, standby arrangements should be provided by the licensee on the payment of tariff for temporary connection to that consumer category as specified by the Appropriate Commission."

11. The Commission has considered that the subsidized category of consumers are generally opposing the Open Access on the ground that the Cross Subsidy which is existing today is likely to be removed thereby increasing the tariff of the subsidized categories immediately. Even the law recognizes this fact and provides for levy of Cross Subsidy Surcharge initially which is required to be reduced over a period of time along with the reduction of Cross Subsidy in the Tariff Design. The Tariff Policy also envisages that the Cross Subsidy in tariff shall be brought to a level of +20% of average cost of supply by the year 2010-11. The Commission also notes that any increase in the tariff of domestic category was subsequently averted by the Government of NCT of Delhi by providing subsidy to domestic consumers. As far as the Distribution Companies are concerned, their main objective seems to be adoption of the principle of "revenue neutrality" thereby implying that any loss in revenue arising on account of the introduction of Open Access be passed on through the ARR. Keeping in view the implications, The Commission's endeavour is to balance the interests of all the stake holders and introduce Open Access to promote competition in the Electricity Sector. Further, the Commission would also make efforts to make Open Access non discriminatory not only between the Open Access (OA) consumers but also between the OA and all other existing consumers.

12. Considering all above factors, existing laws, Government policies and to promote competition in the Electricity Sector, the Commission decides the following open access charges:

(1) **Cross Subsidy surcharge.**

i. The Cross Subsidy surcharge shall be calculated based on the surcharge formula laid-down in Para 8.5 of the Tariff Policy issued by the Government of India with some assumptions taking into account some state specific issues, as specified in this order.

ii. Since the tariff for each category of consumers is fixed by the Commission on year-to-year basis, the surcharge shall also be decided on a year-to-year basis.

iii. The reduction in Cross Subsidy needs to be done duly taking into account the reduction in AT&C losses and improvement in the Performance. The Commission observes that the primary aim in Delhi has been to reduce the AT&C losses from high level of 48% to 57% to a level of about 12%-13% (BRPL 12.5%, BYPL 14.5%, TPDDL 11.5% & NDMC 9.85%) by 31st March, 2015.

iv. The Wheeling charges shall also vary from year-to-year on account of investments made in the sector for meeting the load growth, AT&C loss reduction and improving the performance.

v. Keeping in view all the above points, it is felt that it shall be appropriate to determine the surcharge on a yearly basis either along with the tariff exercise or separately.

vi. For calculation of the Cross Subsidy surcharge using the formula stipulated in the Tariff Policy of the Government of India, the weighted average cost of power purchase considering top 5% at the margin excluding Liquid Fuel based generation, Renewable Power and overdrawl at UI rates is to be considered. However, Merit Order Despatch of these stations is also required to be taken into account for calculating the surcharge.

vii. The Commission has not stipulated any merit order operation in the Tariff Order in view of the fact that all the Power Purchase Agreements which are operative at present, are being fully utilized for meeting the requirements of Delhi. Any surplus arising either during a day or during any season is mostly banked with others and re-used whenever shortages are faced in the Delhi system. However, optimum scheduling is being ensured at the time of scheduling, on a daily basis, by the SLDC, as stipulated in the Delhi Grid Code/Electricity Act, 2003.

viii. Based on the data available in Tariff Order for the DISCOMs issued by the Commission, the Commission has calculated the Cross Subsidy surcharge applicable to different consumers at different voltages/and different class of consumers along with certain assumptions which are indicated in **Annexure – 2.** Accordingly, the charges indicated in **Annexure – 3, 4 & 5** shall be payable by the Open Access consumers by way of Cross Subsidy surcharge in the

TPDDL, BRPL & BYPL areas respectively. Wherever the cross subsidy surcharge worked out in Annexures 3,4 & 5 is negative, no cross subsidy surcharge shall be payable by the OA consumer.

(2) Transmission and Wheeling Charges:

i. The transmission charge for Open Access consumers availing Open Access from the Delhi Transco Limited's transmission system shall be regulated in terms of the provisions of the MYT Regulations, 2011.

ii. The Wheeling charges leviable by the distribution licensees shall be in accordance with the charges determined by the Commission in the respective Tariff Orders in paisa/KWhr. The Commission would over-see any gaming i.e. the over-drawl and under-drawl by an Open Access consumer without adhering to the contract, through the SLDC. Based on the complaints received from the SLDC, necessary proceedings can be conducted by the Commission to restrict such gaming practices.

iii. As regards the procedure for settlement of deviations etc. the Open Access consumers shall also be governed by the Scheduling Process being adopted by the licensees as per the Intra-State ABT Order of the Commission and subsequent clarification thereof in the matter. The Open Access consumer shall also be liable for payment of the SLDC charges, UI charges, Reactive energy charges etc. as per the prevailing orders of the Commission, as amended from time-to-time.

iv. For the calculation of the surcharge, the system losses shall be considered based on average figures and the Commission is not in favour of post-facto correction of the surcharges or the energy transactions based on the actual losses, for the present. In case the issue requires review, the Commission would take up the same at an appropriate time either suo-moto or on an application moved by any stake holder.

v. The charges payable to the other States/PGCIL etc. for Open Access by using Inter-State or Inter-regional links shall be payable additionally by the Open Access consumers in accordance with the applicable regulations, rules/orders in the matter.

vi. Wherever system strengthening/augmentation of distribution system is involved, any associated cost for this purpose would have to be borne by the long term Open Access consumers.

vii. In the event of non-availability of power supply due to any reason including outage of generator supplying the Open Access consumer, the distribution licensees shall provide the power supply to such Open Access consumers on payment of the charges leviable to similarly placed consumers of the DISCOMs availing temporary connection from the distribution company.

viii. Wheeling, transmission and additional surcharge shall not be applicable on solar renewable sources/green energy open access consumers of Delhi.

(3) Additional Surcharge

(i) Presently DISCOMs have surplus power on round the clock basis in most of the months. In case any bulk consumer opts for open access during off peak hours, in such a case DISCOM has to bear the fixed charges as well as energy charges which may be higher than the current exchange rate/UI rate. Therefore, the additional surcharge has been calculated to nullify the impact of costs due to stranded power on other consumers of Delhi. In such a scenario, additional surcharge shall be maximum.

(ii) In case bulk consumers opt for open access during peak hours and DISCOM would have had to purchase additional peaking power at higher rate, the open access consumer would be helping in reducing the power purchase at peak time and hence, additional surcharge for open access consumer in that time slots shall be minimum.

(iii) The additional surcharge has been calculated on the basis of difference in projected demand of DISCOMs and availability of power from long term agreements. The cost difference between sale at UI rate and the rate of power from long term agreements gives the additional surcharge during that period.

(iv) The additional surcharge shall be payable as per Annexure-6.

(4) Standby Charges

In cases of outages of generator supplying to open access consumer, standby arrangements will be provided by the distribution licensee for a maximum period of 42 days in a year, subject to the load shedding as is applicable to embedded consumers of the licensee and the licensee shall be entitled to collect tariff under Temporary rate for that category of consumers in the prevailing tariff schedule or as decided by the Commission from time to time.

Provided also that open access consumers would have the option to arrange standby power from any other source. Standby charges would be applicable from 00.00 Hrs after the 24 hrs of serving the notice by Open Access Consumer till that time consumer would have to pay the charges as per UI rate for drawal for that energy to distribution licensees. The Standby charges for the power availed by the Open Access Consumer beyond the notice period would be paid to Distribution company as in the case of similarly placed consumers of Discoms availing temporary connection from the Distribution Company.

13. i. In order to ensure smooth implementation of Open Access within Delhi, the Commission may over-see all Intra-State Open Access transactions in consultation with SLDC, in the initial phase until the system of Open Access gets stabilized.

ii. It is further clarified that no Cross Subsidy surcharge shall be payable in cases specifically exempted from payment of Cross Subsidy surcharge by the provisions of the Electricity Act, 2003 and the Tariff Policy of Government of India.

iii. Power from Renewable Sources has been dealt with in detail in the tariff order issued by the Commission. Open Access related issues in case of renewables will be reviewed by the Commission in due course based on the experience of Open Access transactions.

iv. Applicable Charges for an Open Access Consumer

Where a consumer opting for Open Access purchases electricity from a source other than the DISCOM of his area, he shall be liable to pay:-

a) Energy charges to the seller of electricity as per the contract entered into by him;

b) Wheeling charges to the DISCOM in whose area he is located, at the rate fixed in the Tariff Order;

c) Cross subsidy surcharge fixed in this order to the DISCOMs in whose area, the consumer is located, if applicable;

d) Additional surcharge as applicable;

e) Standby charges as applicable;

f) Transmission charges to DTL at the rate fixed as per 5(ii) of this order;

g) Scheduling and system operating charges to SLDC at the rate Rs. 2000/- per day or the rate fixed by the Commission from time-to-time;

h) UI charges to the DISCOMs in whose area, the consumer is located at the prevalent rate;

i) Reactive energy charges to the DISCOMs in whose area, the consumer is located at the rate @ 10 Ps/kVARh or the rate fixed by the Commission from time-to-time;

j) Miscellaneous charges in respect of metering and other requirements as necessary under Intra-State ABT mechanism, to be provided by DTL. These charges are to be paid to DTL as per actual cost incurred by DTL;

k) Any other charges not mentioned above, but covered by this Order and the detailed procedures drawn by STU for operationlization of Open Access in Delhi;

v. All the charges relating to Open Access Transactions shall be collected by the Distribution Licensee in whose area the Open Access consumer is located and as per the detailed procedures drawn by STU for operationlization of Open Access in Delhi. Those charges which relate to other agency involved in such open access transactions and collected by a particular DISCOM shall be paid within 3 working days to respective agencies failing which late payment surcharge @ 1.25% per month shall be payable.

vi. The DISCOMs shall not supply to any Open Access consumer by resorting to load shedding of its existing consumers.

vii. All the utilities are further directed to furnish details of Open Access transactions, available capacity for Open Access etc. on their websites. The format for furnishing the above details shall be worked out by SLDC and submitted to the Commission for approval of the same after which the details shall be notified on the websites of DTL and DISCOMs.

14. As mandated in Section 42 (2) of the Electricity Act, 2003 and as provided in the DERC (Terms and Conditions for Open Access) Regulations, 2005 issued on 03.01.2006, the Open Access, for the present, is applicable only to consumers with a load of 1 MW and above. However, the Commission may allow open access to consumers with capacity requirement less than one MW subject to review of the Operational Constraints and other factors and the experience of open access for loads above 1MW.

15. This order shall be read in conjunction with the Delhi Electricity Regulatory Commission (terms and conditions for Open Access) Regulations, 2005 or as amended and as per the procedures drawn by STU for operationlization of Open Access in Delhi

16. Any dispute arising on account of open access transactions shall be dealt with in accordance with the Open Access Regulations issued by the Commission.

17. The Annexures enclosed with this Order shall form integral part of this order.

18. The words and expressions occurring in this Order and not explained or defined hereinabove shall have the same meaning assigned to them in the Open Access Regulations issued by the Commission or the Electricity Act, 2003 as the case may be.

19. The charges decided by this Order would be applicable from the date of issue of the Order and shall remain in force till revised.

20. The Guidelines for operationalization and implementation of Open Access in Delhi are enclosed as Annexure 'A' & 'B'.

21. Ordered accordingly.

Sd/-
(J.P. Singh)
Member

Sd/-
(P.D. Sudhakar)
Chairman

Annexure - 1

The list of stakeholders whom the comments were received,

S.No.	Name of the Stakeholder
1	M/s Duggar Fiber Private Ltd
2	M/s Shiva Alloys (Pvt.) Ltd.
3	M/s North-West Industrial Federation
4	M/s Super Metal Rerollers Pvt. Ltd.
5	M/s B.B. Steels Pvt. Ltd.
6	M/s G.S. Steels Pvt. Ltd.
7	M/s All India Induction Furnaces Association
8	M/s Parvati Pvt. Ltd.
9	M/s Goel Steel Corporation
10	M/s Open Access Users Association
11	M/s Manikaran Power Ltd.
12	M/s PXIL Transforming Power Markets
13	M/s IPPAI
14	M/s Tata Power Delhi Distribution Ltd.
15	M/s Delhi Metro Rail Corporation Ltd.
16	M/s JITF Urban Infrastructure Ltd.
17	M/s The Indian Hotels Company Ltd.
18	M/s Yadav Measurements, Udaipur
19	Vandana Prateek, Tata Power Solar

Annexure - 2

Assumptions

1) For calculation of cross subsidy surcharge, 5% of the marginal power purchase has been computed with the data available in the Tariff Order dated July, 2013 for FY 2013-14.

2) Top 5% of the costliest power has been allocated to various power procurement starting from the highest cost and going down to the level at which the top 5% quantum get completed.

3) While calculating the top 5% of power procurement, liquid fuel generation, renewable power as well as over drawal at UI rates have been ignored keeping in view their availability and unpredictability.

4) For calculation of the total energy received at the DISCOM periphery losses have been assumed at 3.59% for PGCIL and 1.21% for DTL.

5) Net energy purchase from stations located in Delhi has been computed after allowing 1.21% loss in the DTL system.

6) The average cost of power purchase in the above calculation has been arrived at after grossing up for the losses.

7) The distribution losses and wheeling charges for each of the DISCOM shall be as per the Tariff Order dated July, 2013 for FY 2013-14 and will also correspond to voltage level at which open access is being sought.

8) 'T' is the average tariff in paise per unit for various consumer categories as per Average Billing Rate (ABR) specified in Tariff Order dated July, 2013 for FY 2013-14.

9) Wherever the surcharge works out to be negative, it shall be limited to zero.

10) For hydropower stations, power purchase has been assumed considering availability of 6 months in a year while for other stations, availability is assumed throughout the year.

11) Presently DISCOMs have surplus power on RTC basis in most of the months. In case any bulk consumer opts for open access during off peak hours, in such a case DISCOM has to bear the fixed charges as well as energy charges which may be higher from the current exchange rate/UI rate. Therefore, the additional surcharge has been calculated to nullify the impact of costs due to stranded power on other consumers of Delhi. In such a scenario, additional surcharge shall be maximum.

12) In case bulk consumers opt for open access during peak hours and DISCOM would have had to purchase additional peaking power at higher rate, the open access consumer would be helping in reducing the power purchase at peak time and hence, additional surcharge for open access consumer in that time slots shall be minimum.

13) The additional surcharge has been calculated on the basis of difference in projected demand of DISCOMs and availability of power from long term agreements. The cost difference between sale at UI rate and the rate of power from long term agreements gives the additional surcharge during that period.

ANNEXURE – 3

Open Access Charges Calculation (Cross Subsidy Surcharge)

TPDDL

1	Net Power Purchase quantum at periphery (MUS)	8411
2	Top 5% of (1) above (MUS)	420.55
3	1st costliest Power Purchase (from Pragati-III Bawana @ Rs. 6.22/kWhr	420.55
7	Average Power Purchase cost of top 5%	Rs.6.22/kWhr

Average Power Purchase cost of 5% of Power at the margin as per Tariff Order dated July, 2013 works out to Rs. 6.22/kWhr for TPDDL.

1. Therefore average power purchase cost of top 5% of total power purchase (C) = Rs.6.22 ps /kwh

2. Details of approved Distribution Loss and Wheeling charges of TPDDL as per Tariff Order dated July, 2013 for FY 13-14 is as under:

Voltage levels	Distribution Loss (L) in %	Wheeling charges (D) in paise per unit
Above 66 kV	0.00	67
At 33/66 kV	1.25	68
At 11 kV	3.96	71
At LT Level	8.1	77

3. Surcharge formula (S) : S = T – [C (1+ L / 100) + D]

If X = C (1+ L / 100), where C is Rs. 6.22/kWhr,

Surcharge (S) is calculated as follows :

Voltage levels	X paise / kwh	X + D Paise/ kwh	Industrial (T= 744.00 paise/kwh)	Non Domestic (T= 932.00 paise/kwh)	Domestic (T= 517.00 paise/kwh)	Railway (T= 761.00 paise/kwh)	DMRC (T= 599.00 paise/kwh)	DJB (T= 879.00 paise/kwh)
Above 66kv	622.00	689.00						
At 33/66 kV	629.78	697.78	46.23	234.23	-180.78	63.23	-98.78	181.23
At 11kV	646.63	717.63	26.37	214.37	-200.63	43.37	-118.63	161.37
At LT level	672.38	749.38	-5.38	182.62	-232.38	11.62	-150.38	129.62

Note :

1. If surcharge as calculated for different consumer became (-) it would be zero

2. Average Tariff (T) is taken from ABR of Tariff Order - July, 2013

ANNEXURE - 4

Open Access Charges Calculation (Cross Subsidy Surcharge)

BRPL

1	Net Power Purchase quantum at periphery (MUS)	**11348**
2	Top 5% of (1) above (MUS)	**567.4**
3	1st costliest Power Purchase (from Pragati-III Bawana @ Rs. 6.22/kWhr	**567.4**
7	Average Power Purchase cost of top 5%	Rs. 6.22/kWhr

Average Power Purchase cost of 5% of Power at the margin as per Tariff Order dated July, 2013 works out to Rs. 6.22/kWhr for BRPL .

1. Therefore average power purchase cost of top 5% of total power purchase (C) = Rs. 6.22 /kwh
2. Details of approved Distribution Loss and Wheeling charges of BRPL as per Tariff Order dated July, 2013 for FY 13-14 is as under:

Voltage levels	Distribution Loss (L) in %	Wheeling charges (D) in paise per unit
Above 66 kV	0.00	0.00
At 33/66 kV	.39	61
At 11 kV	2.35	63
At LT Level	12.52	72

3. Surcharge formula (S) : S = T – [C (1+ L / 100) + D]

If X = C (1+ L / 100), where C is Rs. 6.22/kWhr.

Surcharge (S) is calculated as follows :

Voltage levels	X paise / kwh	X + D Paise/ kwh	Industrial (T= 749.00 paise/kwh)	Non Domestic (T= 883.00 paise/kwh)	Domestic (T= 623.00 paise/kwh)	Railway (T= 723.00 paise/kwh)	DMRC (T= 589.00 paise/kwh)	DJB (T= 847.00 paise/kwh)	DIAL (T= 745.00 paise/ kwh)
Above 66kv	622.00	622.00							
At 33/66 kV	630.65	691.65	57.35	191.35	-68.65	31.35	-102.65	155.35	53.35
At 11kV	636.62	699.62	49.38	183.38	-76.62	23.38	-110.62	147.38	45.38
At LT level	699.87	771.87	-22.87	111.13	-148.87	-48.87	-182.87	75.13	-26.87

Note:

1. If surcharge as calculated for different consumer became (-) it would be zero

2. Average Tariff (T) is taken from ABR of Tariff Order - July, 2013

ANNEXURE - 5

Open Access Charges Calculation (Cross Subsidy Surcharge)

BYPL

1	Net Power Purchase quantum at periphery (MUS)	6542
2	Top 5% of (1) above (MUS)	327.1
3	1st costliest Power Purchase (from Pragati-III Bawana @ Rs.6.22 /kWhr	327.1
7	Average Power Purchase cost of top 5%	Rs. 6.22/kWhr

Average Power Purchase cost of 5% of Power at the margin as per Tariff Order dated July, 2013 works out to Rs. 6.22/kWhr for BYPL.

1. Therefore average power purchase cost of top 5% of total power purchase (C) = Rs. 6.22/kwh

2. Details of approved Distribution Loss and Wheeling charges of BYPL for FY 13-14 is as under :

Voltage levels	Distribution Loss (L) in %	Wheeling charges (D) in paise per unit
Above 66 kV	0.00	0.00
At 33/66 kV	0.9	68
At 11 kV	2	69
At LT Level	14.65	8

3. Surcharge formula (S) : S = T – [C (1+ L / 100) + D]

If X = C (1+ L / 100), where C is Rs. 6.22/kWhr,
Surcharge (S) is calculated as follows :

Voltage levels	X paise / kwh	X + D Paise/kwh	Industrial (T= 760.00 paise/ kwh)	Non Domestic (T= 898.00 paise/ kwh)	Domestic (T= 517.00 paise/kwh)	DMRC (T= 566.00 paise/kwh)	DJB(T= 849.00 paise/kwh)
Above 66kv	622.00	622.00					
At 33/66 kV	627.60	695.60	64.40	202.40	-178.60	-129.60	153.40
At 11kV	634.44	703.44	56.56	194.56	-186.44	-137.44	145.56
At LT level	713.12	794.12	-34.12	103.88	-277.12	-228.12	54.88

Note:

1. If surcharge as calculated for different consumer became (-) it would be zero

2. Average Tariff (T) is taken from ABR Tariff Order - July, 2013

Additional Surcharge

April-July	
Time Slots	**Ps/Unit**
0-3	30
3-9	130
9-12	30
12-18	30
18-24	30

August-November	
Time Slots	**Ps/Unit**
0-6	300
6-12	300
12-18	300
18-24	300

December-March	
Time Slots	**Ps/Unit**
0-6	300
6-12	100
12-18	100
18-24	100

Annexure-7

Illustrative case of Open Charges of Intra State Open Access availed by DJB for 1MW at 11 KV Bus of BRPL for 01 month

S.N.	Particular	Chargers	Calculation	Charges for 1 MW capacity for 01 Month(Rs)
	Total Power transferred in a month(units)		720000 (24*30*1000)	
1	State Transmission charges	219 Rs/MWH	(1*24*30*219)	157680
2	State Transmission Loss of % in kind which will be deducted from the energy input	1.21%	(1*24*30*219*0.0121)	1908
3	Net State Transmission Charges	in Rs	(1+2)	159588
4	Transmission Charges (COS)(Drawal+Injection)	25 Ps/unit	(1*24*30*25*1000/100)	180000
5	Injection & Drawal Losses loss of % in kind which will be deducted from the energy input	(2%+1.5%)	(1*24*30*25*10*.035)	6300
6	Net Transmission Charges	in Rs	(4+5)	186300
7	Distribution Transmission Charges(Depend on Licensees) say BRPL	63 Ps/unit	(1*24*30*.63*1000)	453600
8	Dist. Transmission Loss of % in kind which will be deducted from the energy input	2.35%	(1*24*30*0.63*.0235*1000)	10660
9	Net Dist. Transmission Charges	in Rs	(7+8)	464260
10	Operating Charges (SLDC Charges)	Rs2000/day	(2000*30)	60000
11	Operating Charges (RLDC Charges)Minimum	Rs2000/day	(2000*30)	60000
12	Cross Subsidy Surcharge	147.36 P's/unit	(1*24*30*1000*1.4736)	1061136
13	Additional Surcharges depend on case to case basis	300 Ps/unit(Aug-Nov)	(1*24*30*1000*3.00)	2160000
14	Interconnection Charges depend on case to case basis			
15	Standby charges depend on case to case basis			
16	Parallel Operation Charges			
17	Other Charges			
18	Connectivity Charges			
19	OA Application Registration Fee	Rs5000/Application	(Rs.5000*1)	5000
20	OA agreement fee	0	0	0
21	Net Open access Charges	in Rs	(Sum from 1 to 20)	4156284
22	Effective Open access Charges (without 14 to 18)	in Rs/unit		5.77

Note. To drive out the Cross Subsidy Charges for the FY 2013-14, the following charges are considered from Tariff Order July, 2013 of BRPL

		As per Tariff Order July, 2013
DJB Tariff (T) in Ps/unit		847
Avg. Power Purchase Cost of (C) Top 5% of total power purchase in Ps/unit		567.4
Losses at 11 kV in %(L)		2.35
Wheeling Charges in Ps/unit(D)		63
Surcharges (S)=T-{c(1+L/100)+D} in Ps/unit		147.36

Annexure-6

Illustrative case of Open Charges of Intra State Open Access availed by Non-Domestic Consumers for 1MW at 11 KV Bus of BRPL for 01 month

S.N.	Particular	Charges	Calculation	Charges for 1 MW capacity for 01 Month(Rs)
	Total Power transferred in a month(units)		720000 (24*30*1000)	
1	State Transmission charges	219 Rs/MWH	(1*24*30*219)	157680
2	State Transmission Loss of % in kind which will be deducted from the energy input	1.21%	(1*24*30*219*0.0121)	1908
3	**Net State Transmisalon Charges**	In Rs	**(1+2)**	**159588**
4	Transmission Charges (CGS)(Drawal+Injection)	25 Ps/unit	(1*24*30*25*1000/100)	180000
5	Injection & Drawal Losses loss of % in kind which will be deducted from the energy input	(2%+1.5%)	(1*24*30*25*10*.035)	6300
6	**Net Transmission Charges**	In Rs	**(4+5)**	**186300**
7	Distribution Transmission Charges(Depend on Licensees) say BRPL	63 Ps/unit	(1*24*30*.63*1000)	453600
8	Dist. Transmission Loss of % in kind which will be deducted from the energy input	2.35%	(1*24*30*0.63*.0235*1000)	10080
9	**Net Dist. Transmission Charges**	In Rs	**(7+8)**	**464280**
10	**Operating Charges (SLDC Charges)**	Rs2000/day	**(2000*30)**	**60000**
11	**Operating Charges (RLDC Charges)&Minimum**	Rs2000/day	**(2000*30)**	**60000**
12	**Cross Subsidy Surcharge**	183.38 Ps/unit	**(1*24*30*1000*1.8338)**	**1320336**
13	Additional Surcharges depend on case to case basis	300 Ps/unit(Aug-Nov)	**(1*24*30*1000*3.00)**	**2160000**
14	Interconnection Charges depend on case to case basis			
15	Standby charges depend on case to case basis			
16	Parallel Operation Charges			
17	Other Charges			
18	Connectivity Charges			

19	OA Application Registration Fee	Rs5000/Application	(Rs 5000*1)	5000
20	OA agreement fee	0	0	0
21	**Net Open access Charges**	In Rs	**(Sum from 1 to 20)**	**4415484**
22	**Effective Open access Charges (without 14 to 16)**	In Rs/unit		**6.13**

Note: To drive out the Cross Subsidy Charges for the FY 2013-14, the following charges are considered from Tariff Order July, 2013 of BRPL

		As per Tariff Order July, 2013
Non-Domestic Tariff (T) in Ps/unit.		**883**
Avg. Power Purchase Cost of (C) Top 5% of total power purchase in Ps/unit		**567.4**
Losses at 11 KV in %(L)		**2.35**
Wheeling Charges in Ps/unit(D)		**63**
Surcharges (S)=T-(c/(1+L/100)+D) in Ps/unit		**183.38**

Annexure-A

GUIDELINES/PROCEDURE FOR IMPLEMENTATION OF SHORT TERM OPEN ACCESS (STOA)

1. Preface:

1.1 This procedure for Short Term Open Access (STOA) is being issued in compliance to the "Delhi Electricity Regulatory Commission (Terms and conditions for Intra State Open Access) Regulations, 2005" dated 3 January 2006, and subsequent amendments thereof, if any, hereinafter referred to as "Principal Regulations" or "the Regulations".

1.2 This procedure covers guidelines, terms and conditions and application formats for availing Intrastate short term open access of Transmission and/or Distribution system of the licensee(s)

1.3 This procedure, terms and conditions and charges will also be applicable to embedded Open Access consumers who use transmission and / or Distribution system in conjunction with the Central Transmission System through bi- lateral or collective transactions through Power Exchanges, in line with DERC and / or CERC regulations for Short Term Open access, as amended from time to time.

1.4 This procedure shall be applicable for reservation of Transmission and Distribution capacity for short term sale or purchase of power by Open Access consumer or existing consumers of Distribution licensees as well as bulk consumers / CPPs / IPPs or a state utility or an intrastate entity as a buyer or seller as entitled to avail short term Open Access under Open access Regulations, referred to as Short Term Open Access Consumer or Consumer(s) herein after.

1.5 The procedures along with requisite formats as described herein, shall also be available on SLDC web site "www.sldcdelhi.org".

2. Mandatory Requirements:

2.1 The following eligibility requirements /pre-conditions are required to be fulfilled by the Open Access consumer before applying/availing the Short Term Open Access (STOA):

A) Eligibility Requirements:

The eligibility requirements/conditions for grant of STOA shall be as laid down in the Principal Regulations, as amended from time to time, read with following requirements:

i) Availability of spare transmission & distribution capacity:

The short term consumer shall be eligible for STOA over the surplus capacity available on the intra-State transmission system/distribution system after use by the long term consumers and the medium term consumers, 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 / distribution capacity created to cater to future load growth. Provided that construction of a dedicated transmission line/distribution system shall not be construed as augmentation of the transmission system/distribution system for the purpose of grant of Short Term Open Access.

ii) **Contract Demand (CD) & voltage Level**
The STOA shall be permissible to a consumer having demand of 1 MW and above (except generating plants), connected at 11 KV or above. However, all the generating plants will be allowed open access for wheeling of power.

For the consumers of distribution licensee, the demand in MW shall be computed based on sanctioned CD and Power factor as 0.9

For allowing STOA for purchase of power above contract demand, the specific permission of distribution licensee to draw the open access power above the sanctioned contract demand is required.

iii) **Connectivity**
The consumer/buyer or generating station/sellers seeking STOA should be connected to Transmission/Distribution System of STU / Distribution Licensees at 11KV or above.

An Open Access Consumer shall be eligible to obtain connectivity at the voltage level specified in the Conditions of Supply of the licensee approved by the Commission, unless already connected, and shall apply for connectivity in accordance with the State Grid Code/Principal Regulations.

iv) **Feeder status / category supplying power to consumer:**
Open Access shall be allowed on all feeders except feeders serving mixed loads of urban / industrial consumers Provided that, the consumers connected to mixed industrial feeders, shall be allowed open access subject to the condition that they agree to roastering restrictions imposed by the utility on such feeders.

v) **Registration of Open access Consumer**
An Open Access Consumer connected with Intrastate Transmission System shall be Registered with SLDC on prescribe format ST-7A for generator & ST-7B for the Purchaser &One time registration charges of Rs. 10,000/- shall be payable to the '**Delhi SLDC R&E**' Accounts through Bank draft/cheque payable at Delhi. This registration charge is valid for a specified injection / drawal point with respect to Intrastate Transmission System. Any change in the injection / drawal point shall be treated as a new connection and the charges for registration shall have to be paid by the applicant.

vi) A person having been declared insolvent or bankrupt or having outstanding dues against him for more than two months billing of distribution/transmission licensee at the time of application shall not be eligible for open access. Provided that, if the dispute regarding outstanding dues is pending with any Forum or Court and stay is granted by the competent authority, in that case the person shall be eligible for seeking open access.

vii) In case of Generators, besides fulfilling the connectivity requirement to Licensees system, they shall also be required to furnish copy of compliance report to the feasibility clearance issued by STU or Distribution Licensees, as applicable, along with any other statutory clearance.

2.2 On meeting the mandatory eligibility requirements, the applicant shall be issued the approval for grant of Short Term Open Access / NOC / Standing clearance / concurrence whichever is applicable by the Nodal Agency.

The consumer should ensure that the application for open access for whole day and minimum period of one day.

There after, the following pre-conditions are required to be fulfilled by the Open Access applicant:-

i) **Metering Requirements:**

a. The Open Access Consumer shall provide ABT compatible Special Energy Meters at the point (s) of injection and point (s) of drawl if not already provided. Special Energy Meters installed shall be of the make approved by STU / Distribution Licensees and shall be capable of time-differentiated measurements for time-block-wise active energy and voltage differentiated measurement of reactive energy in accordance with the Metering Code drawn out as per provisions of Delhi Grid Code / CEA guide lines.

The Open Access Consumer shall provide Main Meters in its premises as specified in the Metering Code drawn out as per State Grid Code. The distribution licensee shall provide Check Meters of the same specifications as Main Meter.

b. An Open Access Consumer may request Distribution Licensee to provide Main Meter(s). In that case he shall pay security to Distribution Licensee and shall also pay rentals as per Schedule of General Charges for the Main Meter(s) which shall be maintained by the distribution licensee.

c. The meters shall be duly tested and sealed in the presence of STU/Distribution Licensees / Consumer and shall also be checked / tested at site by enforcement wing of the Distribution Licensee / STU after installation.

d. All Open Access Consumers shall abide by the Central Electricity Authority (installation and operation of meters) Regulations, 2006 (as amended and revised from time to time) in respect of special energy meters or interface meters (Main, Check and Standby meters) to be installed by STU or any other utilities authorized to install meters at interface points.

e. **As per Metering Code of Delhi**, the Main and Check Meters shall be periodically tested and calibrated by State Transmission Utility / Distribution Licensee as per requirement (**Once in a year or as & when required**).

f. The Metering Guidelines to be followed by Open Access consumer shall be as per enclosed format Annexure-1.

ii) **Communication Facility:**
Main and Check Meters shall have facility to communicate their readings/data to the State Load Dispatch Centre (SLDC) on real time basis. In case of generators/sellers and Open Access Consumers who have **sought Open Access for 10 MW or above**, the facilities/equipments for communication/transfer of metering parameters to SLDC control room on real time basis through two independent channels are to be provided by them at their cost at their end.

iii) **Control Room :**
To communicate with SLDC & Area Load Despatch Center (ALDC) of Distribution Licensee, an Open Access Consumer having connected load of 10MW or more shall be required to provide a round the clock control room at its premises with following facilities:
a) Telephone/Mobile with STD.
b) Transmission and receipt of fax and e-mail.

2.3 SLDC/STU/Distribution licensees reserves right to deny open access to consumers or withdraw it any time in case of not fulfilling any of the eligibility conditions like change of feeder status, payment defaults, etc or otherwise due to any technical / operational constraints. Reasons for such denial/withdrawal shall be immediately conveyed to the consumer.

3 Procedure for Submission of Application:

3.1 Application Format

The application for approval of STOA shall be made in the appropriate prescribed format / form (Format-ST1) for applying Open Access which shall be submitted to the Nodal Agency in accordance with the Regulations and the procedures

3.2 Documents required:

The application shall accompany the following documents:

i) Application Fee:

The application shall be accompanied by a non-refundable application fee, specified as under, through DD in favour of **Delhi SLDC R&E Account** payable at Delhi.

A) Intrastate bi-lateral STOA

i) When location of drawal & injection points are within same distribution licensee i.e. without involving STU @ Rs 2000/ application

ii) When location of drawal & injection point in the intrastate transmission system within the State i.e. involving STU @ Rs 5000/ application

B) Inter- state STOA (Collective transaction/ bilateral) @ Rs 5000/ application

i) Self-attested documents:

1) Copy of sanctioned Load and Contracted Demand (CD).
2) Copy of latest energy bill issued by distribution licensee, in case consumer is a consumer of distribution licensee. The consumer must ensure that the last bill issued by the Distribution Licensee should be paid.
3) Copy of stay granted by the competent authority, in case of disputes regarding outstanding dues pending with any Forum or Court.
4) Clearance by the competent authority in case of Power producers/ CPPs/Generators using Non Conventional Energy Source.
5) Connectivity details with Transmission / Distribution Licensee in case of generators or Open Access Consumer.
6) Single Line Diagram of the electrical system showing details of metering equipments installed.

ii) Undertakings by the firm regarding

1) Undertaking regarding having not been declared insolvent or bankrupt
2) Undertaking having no outstanding dues against them for more than two months billing of distribution / transmission licensee at the time of application.
3) Undertaking to accept rostering restrictions imposed by the utility in case of mixed industrial feeder.
4) Undertaking of not having entered into Power Purchase Agreement (PPA) or any other bilateral agreement with more than one person for the capacity (quantum of power) for which open access is sought.

C) Undertaking for Payment Security:

In case of sellers / generators and Open Access consumers (other than the consumers of the licensee), the applicant for open access will also be required to give an undertaking to open an irrevocable Bank Guarantee as per Format ST-8 in favour of the agency responsible for collection of various charges for the estimated amount of various charges for a period of two months in line with payment security mechanism guidelines as per Principal Regulations, as amended from time to time.

D) **Undertaking for Acceptance to Terms & Conditions:**
An Open Access Consumer shall alsc be required to submit a signed undertaking cum self attested certificate on a legal paper (Non judicial stamp paper worth Rs 100/-) towards acceptance to the terms and conditions for short term Purchase/sale of Power through Open Access, as per Format –ST 6.

3.3 All applications for Short term Open Access complete in all respects in duplicate, shall be submitted in the following office address on all working days during 10.00 AM to 05.00PM

Manager (System Operation – Energy Accounting)
State Load Despatch Centre,
SLDC Building, 33KV Sub Station, Minto road, Delhi-110002.
(E-mail: "dtldata @ gmail.com")

3.4 The application complete in all respect on receipt shall be duly acknowledged and shall be allotted application Sr No. indicating date of receipt. Date of receipt of application complete in all respects in SLDC, Delhi shall be considered as the date of application.

3.5 Incomplete applications shall be liable for rejection. The reasons for rejection shall be communicated to the applicant.

4.0 PROCESSING / APPROVAL OF APPLICATION

4.1 **Consent by Distribution Licensee:**
On receipt of application, SLDC shall forward one set of application to the office for verification of field data/information and seeking consent from the nodal office of the Distribution Licensee as under

a) If Open Access User, in Distribution Licensee's area say 'D1', desires to sell power to another Distribution Licensee 'D2' (through transmission network) then the user has to get consent from D1

b) If open access user, in distribution licensees area say D1, desires to sell power to a consumer in another distribution licensee D2 (through transmission network) then the user has to get consent from D1 & D2

4.2 Verification of Feeder status and Field data by Distribution Licensees:
On receipt of application from SLDC, the Distribution Licensee's nodal office shall verify the information and seek confirmations/field data from concerned official as under:-

a) Certificate regarding feeder category status and copy of latest sketch of feeder
b) Confirmation regarding outstanding dues against the firm for more than two months and detail of stay granted by Court/Forum, if any.

4.3 Time Frame:
i) The maximum processing time for verification of field data and subsequent initial consent to SLDC by the designated office of Distribution Licensee on the Format ST-5A, shall be within 12 working days, from the date of receipt of application from SLDC, the Nodal Agency.

ii) Subject to receipt of consent, as per (i) above, the time frame for conditional approval, NOC/Standing clearance, concurrence/consent by the SLDC shall be;
- 7 working days in case of first time transaction.
- 3 working days on subsequent transactions

iii) In case of incomplete or defective application, SLDC shall communicate the deficiency or defect to the applicant by e-mail or fax, or any other usually recognized mode of communication, within two

(2) working days of receipt of application. In such cases, the date of receipt of application shall be the date on which the application has been received duly completed, after removing the deficiency or rectifying the defects, as the case may be.

Note:

a) The above time lines are applicable in case of the total drawal including open access less than or equal to the sanctioned contract demand.

b) The consent given by Distribution Licensee to SLDC for approval of STOA shall be valid for six months from the date of its issue, for the purpose of issuing NoC / Standing Clearance / Concurrence / Consent by SLDC. The Distribution Licensee shall withdraw its consent given to SLDC in case of any violations in the mandatory / eligibility requirements of the OA consumer, as specified under Clause 2 above, after obtaining approval / consent of SLDC for withdrawing the permission granted to Open Access consumer and action taken shall be duly intimated to SLDC.

4.4 Subject to fulfilling the mandatory requirements, receipt of timely consent of Distribution Licensees and availability of spare transmission/distribution capacity without jeopardizing the safety of the grid, the case for grant of Open Access to the Short term consumers shall be decided by the nodal agency i.e. SLDC.

4.5 Subsequent to the decision by the nodal agency (SLDC), the conditional approval for grant of the Short term Open Access shall be conveyed to the Consumer as per the format-ST 5(B) with a copy to Nodal Office of the Distribution Licensee and concerned Grid official by ALDC of Distribution Licensees.

5.0 Compliance of conditions and issue of NOC/Standing Clearance/Concurrence

The Open Access consumer shall comply with the conditions laid down in the conditional approval issued by the Nodal Agency (SLDC) and submit, meter test reports issued by Concerned Authority along with site installation report indicating CT/PT ratio details & Special Energy Meter Data and the point wise compliance report of Metering Guidelines duly signed and issued by concerned official. Simultaneously, the consumer shall intimate the intended date(s) of transaction to SLDC as per the prescribed formats for seeking NOC / Standing Clearance / Consent, as the case may be, along with Copy of MoU / agreement for sale / purchase of Open Access power, if applicable, and any additional information or documents required to be submitted as per the letter issued by SLDC conveying the conditional approval.

6. ISSUE OF APPROVAL / CONSENT / NOC/ STANDING CLEARANCE / CONCURRENCE

6.1 On receipt of the compliance of conditions and information as per Clause 5.0 above, SLDC shall allot a unique Open Access ID No. (Account Number) to the consumer, which shall be mentioned by the consumer in all future requests for transactions / correspondence.

6.2 After verification of compliance of various conditions and receipt of additional documents, if any the Nodal Agency shall allow to operationalize the Short term Open Access, as per the request of the Open Access consumer, from the intended date of start and convey as under:-

i) If the Open Access is not approved due to any reason, the consumer shall be informed accordingly.

ii) In case of Open Access transaction through power exchange, NOC/Standing clearance shall be issued and conveyed to the Power Exchange with a copy to consumer and Distribution Licensees.

iii) In case of bilateral interstate transaction, concurrence shall be given and conveyed to Nodal RLDC with copy to consumer and Distribution Licensees.

iv) Consent /Approval for intrastate Open access transaction shall be issued and conveyed to the consumer with copy to Distribution Licensees.

6.3 Subsequently, the consumer shall apply for NOC / Standing clearance, concurrence, consent, as the case may be, from the SLDC, maximum up to a period of six months period. 3 days in advance, along with requisite application fee, as per Clause 3.2 (i) herein above.

6.4 In case of refusal of NOC or standing clearance or concurrence or consent, as the case may be, on the specified grounds like non availability of surplus transmission or distribution capacity or any operational constraints, such refusal shall be conveyed to the applicant, by e-mail or fax, or any other usually recognized mode of communication, within three (3) or seven (7) working days, as the case may be, from the date of receipt of application.

6.5 In case of any operational constraints or congestion is anticipated in any of the Transmission /distribution corridor, it shall also be immediately conveyed by STU / Distribution Licensees to the SLDC as well as Short term Open Access Consumer including the reduced transmission /distribution capacity which can be offered for Open access. The concerned applicant must inform the nodal agency, the acceptance of reduced Open Access capacity within 24 hours. In case of non-receipt of revised information in time, it will be presumed that the applicant is no longer interested in revising it and SLDC will process the application accordingly.

NOTE:

1) The application for approval, NOC/Standing clearance, concurrence, may be sent to designated office under SLDC through fax or e-mail as a *pdf* format attachment.
2) The Application Fee for each bilateral transaction or the collective transaction shall be accompanied by a non refundable Application fee in the form of DD in favour of SLDC, payable at Delhi or through electronic transfer of funds (RTGS/NEFT) in favour of SLDC, Delhi at specified Account nos.
3) SLDC will seek consent of Distribution Licensees one month before expiry of earlier consent for issue of NOC/Standing Clearance/Concurrence as the case may to the Open Access consumer.

6.6 Procedure for Short Term Open Access

1) **Involving inter-State transmission system:**
Notwithstanding anything contained in clauses (2) to (3) herein below, procedure for inter-State short-term Open Access shall be as per Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008, or its statutory re-enactments, as amended from time to time: Provided that in respect of a consumer connected to a distribution system seeking interstate short-term open access, the SLDC, before giving its consent to the RLDC as required under the CERC regulations, shall obtain the consent of the distribution licensee concerned.

2) **Without involving inter-State transmission system:**

Subject to the provisions of sub-regulation (1) herein above, intra-State short-term Open Access shall be in accordance with the provisions of clause (a) to (h) herein below:

(a) Open Access in advance

(i) Application may be submitted to the SLDC seeking short-term open access upto the second month, considering the month in which an application is made being the first month.

(ii) Separate application shall be made for each month and for each transaction in a month.

(iii) The application to the SLDC shall be on the prescribed Form containing such details as capacity needed, generation planned or power purchase contracted, point of injection, point of drawl, duration of availing open access, peak load, average load and such other additional information as may be required by the Nodal Agency (SLDC). The application shall be accompanied by a non refundable application fee as prescribed in Sr.No.3.2A(i) & (ii) above.

(iv) An application for grant of open access commencing in any month may be submitted in a cover marked "Application for Short-Term Open Access – in advance" upto 15th day of the preceding month. For example, application for grant of open access commencing in the month of Aug shall be received upto 16th day of July.

(v) SLDC shall acknowledge receipt of the application by indicating time and date on "ACKNOWLEDGEMENT" to the applicant.

(vi) A consumer of distribution licensee intending to avail open access shall also furnish a copy of his application to the concerned official of the distribution licensee.

(vii) Based on the type of transactions SLDC shall take a decision on the applications for Short-Term Open Access in the manner provided herein below.

(viii) All applications received under sub-clause (iv) above shall be taken up for consideration together and processed as per allotment priority criteria specified under Regulation 8(1) to 8(4) of Principal Regulations, as amended from time to time.

(ix) SLDC shall check transaction for congestion of any element (line and transformer) of transmission and distribution system involved in transaction.

(x) SLDC shall convey grant of open access or otherwise along with schedule of payments to the consumer latest by 19th day of such preceding month.

(xi) SLDC shall assign specific reasons if open access is denied under sub clause (x)

(b) Open Access on first come first served basis

Applications for open access for the second month, received after the date specified in S.No. 2(a)(iv) above and the applications received during the first month shall be considered on first come first served basis. Provided that such applications shall reach the Nodal agency at least four days in advance of the date of the open access transaction. All these applications shall be processed and decided within three days of their receipt. For example: The application for open access commencing from 10th Aug shall be submitted by 5th Aug by 5 PM.

(c) Day-Ahead Open Access

(i) An application for grant of day ahead open access may be received by SLDC three days prior to the date of scheduling but not later than 1300 hours of the day immediately preceding the day of scheduling for such transaction. For example, application for day-ahead transaction on 25th day of July shall be received on 22nd day or 23rd day or upto 1300 hours on 24th day of that month.

(ii) SLDC shall check for congestion and convey grant of approval or otherwise by 18:00 hours of the day immediately preceding the day of scheduling. All other provisions of application for short-term open access shall apply.

(d) Bidding Procedure/Congestion

i) If the capacity sought by the consumers for Open Access in advance for the following month is more than the available capacity or SLDC perceives congestion of any element of transmission and

distribution system involved in the transaction, the allocation shall be made through electronic bidding procedure.

NOTE:

i) Till SLDC establishes infrastructure for electronic bidding, such applications shall be dealt on first come first serve basis.

ii) The decision of SLDC in respect of an expected congestion shall be final and binding.

iii) SLDC shall convey information of congestion and decision for invitation of bidding indicating floor price through an email/SMS notice, to the applicants.

iv) SLDC shall also display bidding information on its website.

v) The floor price of transmission and wheeling charges determined on the basis of relevant order of the Commission shall be indicated in the notice.

vi) The bids shall be accepted on the prescribed format, to be notified by SLDC, and shall be received up to the scheduled "bid closing time" as indicated in bidding invitation notice. Modification / amendment to a bid, once submitted shall not be entertained.

vii) If any consumer does not participate in bidding process, his application shall be deemed to have been withdrawn and shall not be processed.

viii) SLDC shall not entertain any request for extension of time/date for submission of bids.

ix) The bidders shall quote price in Rs./MWh above the floor price;

x) The quoted price shall be arranged in descending order and allocation of available capacities shall be accorded in such descending order until the available capacity is exhausted.

xi) In case of equal price quoted by two or more consumers, the allocation from the residual available capacity at any stage under sub-clause (x) above shall be made in proportion to capacity being sought by such consumers.

xii) Open Access consumers in favour of whom full capacities/partial capacities have been allotted shall pay the charges quoted by each of them in the course of bidding process.

xiii) SLDC shall reject bids which are incomplete, vague in any manner or not found in conformity with bidding procedure.

xiv) The successful bidder, in favour of whom the capacities have been allocated, shall pay transmission charges, wheeling charges, as the case may be, determined by bidding under sub clause (xii) above.

e) The reserved capacity by a short-term open access consumer is not transferable to others.

f) The capacity available as a result of surrender or reduction or cancellation of the reserved capacity by the SLDC, may be reserved for any other short-term open access consumer in accordance with the Principal Regulations.

g) During peak load hour restrictions, the open access consumers shall restrict their total drawl including open access power to the extent of the peak load exemption allowed.

h) On expiry of the period of the short-term open access, the short-term consumer shall not be entitled to any overriding preference for renewal of the term.

3) Within same distribution system:
The procedure specified in clause (2) above, mutatis mutandis, shall apply to cases of short-term open access when the point of injection and the point of drawl are located in the area of the same distribution licensee.

7 Revision of Schedule:

7.1 The short-term open access schedules accepted by SLDC in advance or on first come first served basis, may be cancelled or revised downwards on an application to that effect made to the SLDC by short term open access consumer; provided that such cancellation or downward revision of the short term open access shall not be effective before expiry of two (2) days excluding the date of receipt of application and date of implementation.

7.2 In case of cancellation or downward revision by the consumer, the consumer shall pay transmission and wheeling charges for first two days of the period for which the cancellation or downward revision of schedule has been sought in accordance with the schedule originally approved by the SLDC and thereafter as per the revised schedule accepted by the SLDC during the period of such cancellation or downward revision.

7.3 In case of cancellation, the operating charges shall be payable by Open Access consumer for two days or the period of cancellation in days, whichever is less.

7.4) The Open Access Consumer(s) shall co-ordinate with the concerned buyer/seller in case of revision of Intra state sale / purchase and send a consolidated request to the SLDC and the same shall be implemented from the sixth time block considering the block in which request for revision is received as first time block. The decision of SLDC regarding acceptance of the request for revision shall be final and Binding

Note-There shall not be any revision in schedule during the day of operation in respect to –
(a) 'intra-state entity' engaged in bilateral interstate transaction as seller, and
(b) 'intra-state entity' engaged in bilateral interstate transaction as buyer,

because Regulation-14 of CERC Open Access Regulation, 2008 says that the short term open access schedules accepted by the nodal agency *(RLDC in case of bilateral transaction or NLDC in case of collective transaction)* in advance or on first come first served basis may be cancelled or revised downwards on an application to that effect made to the nodal agency by such consumer but such cancellation or downward revision of schedule shall not be effected before expiry of a minimum period of two days.

The day on which notice for cancellation or downward revision of 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 period of two days.

7.5) In the event of bottleneck in evacuation of power due to any constraint, outage, failure or limitation in the intra- State Transmission System, associated switchyard and sub-stations owned by the State Transmission Utility or any other transmission licensee involved in intrastate transmission (as certified by the SLDC) necessitating reduction in generation, the SLDC shall revise the schedules which shall become effective from the 4th time block, counting the time block in which the bottleneck in evacuation of power has taken place to be the first one. Also, during the first, second and third time blocks of such an event, the scheduled generation of the 'generating stations and injecting entities' shall be deemed to have been revised to be equal to actual generation, and the

scheduled drawls of the 'drawl entities' shall be deemed to have been revised to be equal to their actual drawls.

8.0 Transaction of Power due to failure of Transmission / Distribution System:

8.1. If an Open Access Consumer is unable to draw the scheduled energy due to unscheduled cut or failure of transmission / distribution system of the licensee, the power injected will be treated as Unscheduled Interchanged Energy and shall be adjusted at UI capped rate i.e. Rs. 4.03Ps/Unit or at UI rate prevailing at the time of cut or failure whichever is lower. The capped rate shall be as per rate amended time to time by the appropriate Commission as per the UI Regulations.

9.0 Open Access by a Generator/Seller

Failure of Evacuation System of the licensee:
A generator in the State may be supplying power outside the State, within the State to an open access consumer or sale to the distribution licensee. Non evacuation of power due to breakdown of evacuation system of the licensee will be dealt with as under:

(a) Inter-State sale
The schedule given by the generator will be passed on to NRLDC by the SLDC. The share of licensee from the central sector projects will be adjusted accordingly and the energy scheduled by the generator to be fed will be delivered to the purchaser / utility. If the licensee is unable to evacuate power from the generator due to failure of evacuation system of the licensee, the generator will pay to the licensee at the tariff rate charged to the purchaser for the energy which could not actually be evacuated by the licensee due to breakdown of evacuation system of the licensee. However, the generator will be compensated by the licensee for Open Access transmission and wheeling charges, if any, paid to the licensee during the period of non-evacuation of power from the generator.

(b) Sale within the Distribution Licensee
The payment to the generator will be made as per the power purchase agreement with the Consumer / Licensee.

(c) Intra-State sale
SLDC will inform the purchaser about the failure of evacuating system and the purchaser shall stop drawing power within 6 blocks (each of 15 minutes) of this intimation. For the intervening period:

(i) The purchaser will pay to the generator at the tariff agreed to between them.
(ii) The generator will pay to the licensee for the energy supplied by the licensee to the purchaser, at the rate agreed between the generator and the purchaser.
(iii) The generator will be compensated by the licensee for payment of Open Access transmission and wheeling charges, if any, paid by the generator during non evacuation of power. Upto 6th time block of non evacuation, the generator shall pay to the Distribution Licensees in whose area the generator exists at agreed rate to the buyer of other Distribution Licensee. After 6th block, the energy drawn by the purchaser / Open access consumer will be charged for the Mismatch as per provisions of UI Regulation applicable for Open Access consumers, as amended from time to time.

10.0 METER READING & ENERGY ACCOUNTING

10.1 The sellers and buyers involved in the transaction facilitated through open Access shall abide by the Indian Electricity Grid Code and State Grid Code and the instructions given by SLDC as applicable from time to time.

10.2 The consumer shall be governed by the commercial mechanism of Un-schedule Interchange (UI) Charges so as to maintain grid discipline as envisaged under the Grid Codes in scheduling, dispatch and drawl of electricity.

10.3 Meter data downloading / reading of Special Energy Meters shall be taken by consumer representative & mail it in prescribed format to concerned nodal agency, as per State Grid Code and Supply Code requirements which shall be weekly in case of Generators / Sellers and monthly in case of purchasers. Any change in Multiplication factor / CT / PT ratio setting shall also be recorded. The downloaded data in the form of CD and hardcopy printout along with a statement of consumption as recorded by Main, Check Special Energy Meter, duly authenticated by concerned Licensees shall be sent to SLDC for preparation of UI Energy Account.

10.4 **Unscheduled Interchange (UI) Energy Accounting:**
Open Access power consumption and UI energy account under Open Access in case of Open Access consumers shall be prepared by SLDC based on ABT meter data downloaded by distribution licensee in line with State Grid code requirement and daily schedule as released by the NLDC/NRLDC or obligation reports issued by the concerned power exchange after taking in to account the losses. SLDC will upload the data in their web site for provisional billing & shall prepare Weekly UI energy account in case of generators / sellers and Monthly UI energy account in case of purchasers for adjustment of OA power & UI in the energy bill for the succeeding month by Distribution Licensees for final adjustment.

10.5 In case any co-generation, renewable energy source of energy and other non-conventional energy sources based plants does not supply electricity to the distribution licensee of it's area, UI would be applicable. This will also hold good in case such generating plant supplies electricity to more than one person including the distribution licensee of the area where such plant is located.

10.6 The entitlement at the drawl point will be worked out after considering the Transmission and Distribution losses, as determined by the commission in the Tariff order or any subsequent order for that year.

10.7 The UI mechanism, UI charges and its payments will be in line with the prevailing Open Access Regulations, as applicable for Open Access consumers.

10.8 STU will organise periodical testing of the ABT meter at Consumer(s) premises for its Accuracy / calibration, clock time synchronization etc. as per provisions of Metering Code.

10.9 The special Energy Meter / Interface meters at Open Access Consumers premises shall be open for inspection by any authorized person of STU/Enforcement wing of Distribution Licensees.

11.0 **CHARGES FOR OPEN ACCESS**
The Short Term Open Access Consumer shall pay the following charges for Open Access as notified by DERC Regulations and as determined by DERC in its Regulations/ tariff order from time to time.

A **Transmission and Wheeling charges**
Transmission and wheeling charges shall be leviable as determined by DERC. The charges will be levied on the quantum in MWH cleared by the concerned SLDC for bilateral transactions and National Load Despatch Centre (NLDC) in case of collective transactions. Provided that when the capacity has been reserved consequent to bidding, the Open Access charges will be taken as determined through bidding.

Wheeling charges where a dedicated distribution system has been constructed for exclusive use of Open Access consumer, the wheeling charges for such open access consumer dedicated system shall

be worked out by the Distribution Licensee(s) and got approved from the DERC, which shall be borne entirely by such open access consumer till such time the surplus capacity is allowed & used for other consumer (s) or purposes.
Note: The Wheeling charges for wheeling of Non Conventional Source. power shall be governed as per the provisions for generation from Non Conventional Energy Sources.

B. Cross Subsidy Surcharge

Cross Subsidy Surcharge shall be leviable as determined by the Commission in its Order /Tariff Order which shall be payable to Distribution Licensee on per unit basis by the open access consumers (except those availing power from their captive power plants) based on power arranged through open access during the month through open access.

C. Additional Surcharge

Additional surcharge will be applicable as determined by the Commission as per Regulation 12 of DERC (Open Access) Regulations, 2005 as amended from time to time.

D. Scheduling & System Operation Charges

The scheduling and system operation charges @Rs.2,000/- (Rupees Two thousand only) per day or part of the day for each transaction , as notified by the Commission , shall be recovered from short-term open access consumers.

In case of collective transaction, there will be no operating charges on a day if there is no transaction on that day.

E. UI Charges

UI charges on account of mismatch between the scheduled entitlement and actual drawal i.e. Over drawal / under drawal in case of purchaser @ max 403 Ps/unit (UI cap rate) for under drawal and over drawal as per UI Regulation or over injection/under injection in case of generators for any block of time @ max 403 Ps/ unit for over Injection & For under Injection shall be computed in line with DERC (Open Access) Regulations, 2005 as amended from time to time. The rates would also be subject to change as per the time to time decision of the appropriate Commission.

F. Reactive Energy Charges

The payment for the reactive energy charges for the Open Access consumers shall be calculated in accordance with DERC (Terms and Conditions for Determination of Generation, Transmission, Wheeling and Retail Supply Tariff) Regulations approved by the Commission. Provided that no additional power factor surcharge / incentive shall be leviable on the energy drawn through open access.

G. Standby charges for drawal of power by open access consumer from distribution licensee

In cases of outages of generator supplying to open access consumer under open access, standby arrangements should be provided by the distribution licensee for a maximum period of 42 days in a year, subject to the load shedding as is applicable to the embedded consumer of the licensee and the licensee shall be entitled to collect tariff under Temporary rate of charge for that category of consumer in the prevailing tariff schedule or as decided by the Commission from time to time.

Provided also that open access consumers would have the option to arrange standby power from any other source. Standby charges would be applicable from 00.00Hrs after the 24 hrs of serving the notice by Open Access Consumer till that time consumer have to pay the charges as per UI rate for drawal for that energy to distribution licensees. The Standby Charges for the power availed by the Open Access Consumer beyond the notice period would be paid to Distribution company, similarly, placed consumers of Discoms availing temporary connection the Distribution Company.

H **MISCELLANEOUS CHARGES**

In addition to the above charges, the Utilities who are authorized to installed meters for Open Access Consumer are entitled to recover charges from the consumer as under:-

a) Estimated cost of ABT Meter with AMR facility =Rs.50000/-
b) Estimated expenditure involves in testing /installation/commissioning of Energy Meter=Rs.20000/-
c) Estimated expenditure for data downloading of Energy Meter per visit=Rs.2500/-

The above rates /expenditure are without VAT/Service Tax if any applicable.

NOTE-Procurement/installation of CT/PT /Metering Cubicle & its wiring upto the terminal block to be arranged by the consumer.

I. **Energy Losses:**

The STOA Consumer shall bear the losses as under:-

1) **Inter-State Open Access:**

The buyers and sellers of electricity shall absorb apportioned energy losses in the transmission system in accordance with the provisions specified by the Central Regulatory Electricity Commission (CERC), as notified from time to time.

2) **Intra-State Open Access:**

The Transmission & Distribution losses separately for the Intra-State system shall be determined by the Commission separately in its Tariff Orders or any specific order(s) which shall be apportioned in proportion to the actual energy drawl by the Open Access consumer. The energy losses shall be compensated by additional injection at the injection point(s).

Note: The Energy losses shall also be applicable to Non Conventional Fuel Source based Generators.

I. **Any Other charges**

Any other charges/taxes determined/levied by the Delhi/Central Govt. or Commission from time to time.

12.0 **Billing & Payments:**

12.1 The monthly bill towards net power by Open Access consumer shall be raised by Distribution Licensees duly taking into account the Open Access power and UI amount payable to the consumer based on the energy account prepared by SLDC and shall maintain the amount collected in a separate Bank Account or as per the directions issued by the Commission from time to time. The same shall be reconciled with SLDC on monthly basis.

12.2 The monthly bills towards Open Access Charges for intrastate transactions or supplementary bill towards interstate transaction not covered in remittances received through power exchange and Nodal RLDC, if any, shall be prepared & issued by Nodal Agency on monthly basis in case of purchasers and weekly in case of sellers. The STOA consumer shall make payments as raised in the bills, by due date through electronic transfer (RTGS/NEFT) or Bank Draft drawn in favour of SLDC payable at Delhi.

Note: Payments/recoveries towards UI/ Imbalance charges in case of over injection or under injection by the generators/sellers shall be paid or realized by the Distribution licensee against the bill to be raised based on the energy account supplied by SLDC.

12.3 All the payments shall be accepted up to 3.00 P.M on working days only. In case due date of bill falls on holiday, it shall be accepted on the next working day.

12.4 No part payment shall be accepted.

Provided that in the event of an error in bill being admitted the amount of error shall be adjusted by the authority in the next bill rendered to the consumer after settlement of the difference or dispute by the Competent Authority.

12.5 Late payment surcharge

In case the payment of any bill for charges payable under DERC(Open Access) Regulations, 2005 is delayed by an open access consumer beyond the due date, without prejudice to any action under the Act or any other regulation there under, a late payment surcharge at the rate of 1.25% per month or part thereof shall be levied.

12.6 Default in Payment:

a) Non-payment of any charge or sum of money payable by the open access consumer under the Principal Regulations (including imbalance charges) shall be considered noncompliance of the Principal Regulations and shall be liable for action under Electricity Act 2003. The STU or any other transmission licensee or a distribution licensee may discontinue open access after giving consumer an advance notice of seven days without prejudice to its right to recover such charges by suit.

b) In case of default in payment of charges relating to the SLDC, the SLDC may refuse to schedule power to the defaulting open access consumer and direct the licensee concerned to disconnect such consumer from the grid.

13.0 Collection and Disbursement of Charges:

13.1 In case of collective transactions through power exchange, the consumer shall pay applicable charges toward open access transaction to SLDC through concerned power exchange.

In case of bi-lateral interstate transactions, the charges are collected and remitted by concerned RLDC. In case of intrastate transactions, consumer shall pay Open Access charges (i.e. SLDC operation, transmission and wheeling charges) directly to SLDC.

13.2 The cross subsidy charge and additional surcharge shall be payable directly to the distribution licensee in whose area of supply the consumer availing open access is located, against the monthly bill raised by Distribution Licensees.

13.3 The Scheduling and Operation charges shall be payable to SLDC.

13.4 The reactive energy charges as determined by DERC shall be paid to the distribution licensee in whose area of supply the consumer availing open access is located.

13.5 When the intra state transmission system and distribution system is used in conjunction with inter-state transmission system, the provisions regarding collection and disbursement of transmission, wheeling and operating charges contained in Central Electricity Regulatory Commission (Open Access in interstate Transmission) Regulations, 2008 will apply.

13.6 All the charges except charges mentioned at Sr. no.13.2 & 13.4 in first instance will be collected by SLDC directly or through RLDC/Exchange. The transmission and wheeling charges as received by SLDC shall be remitted to STU & Distribution licensees respectively, within 15 days of its receipt by SLDC.

14.0 Payment Security Mechanism

14.1 In case of short term Open Access, the applicant for open access shall open an irrevocable and revolving Letter of Credit (L.C.) in favour of the Distribution Licensee responsible for collection of applicable charges for the estimated amount of various charges for a period of Two month as per prescribe format ST-8.

14.2 Payment security mechanism specified above is intended to ensure recovery of the applicable payment in case of payment default and not as a mechanism for regular payments.

i) The L.C. shall be opened in a Scheduled Bank mutually agreed between consumer and the distribution licensee.

ii) The L.C. shall be valid for at least three months beyond the entire duration of the transaction.

iii) The L.C shall be opened before commencement of Open Access transaction.

iv) The LC shall be operated by the Licensees in case of default in payment.

v) All costs/expenses/charges associated with L.C. shall be borne by the applicant/consumer.

15.0 Redressal Mechanism

All disputes and complaints related to open Access shall be referred to the SLDC. However, the disputes and complaints regarding metering and billing etc. shall be first referred to the Commercial and Metering Committee constituted under the State Grid Code. The Committee shall investigate and endeavor to resolve the grievance within 30 days; and refer the matter to SLDC alongwith finding / remedial measures. If the Committee is unable to redress the grievance and SLDC is not agreed with the view of the Committee, it shall be referred to the Commission by the Committee, SLDC or the Open Access Consumer, as the case may be.

16.0 Curtailment Priority

16.1 The State Load Despatch Centre may curtail power flow on any transmission corridor by cancelling or rescheduling any transaction, if in its opinion cancellation or curtailment of such transaction is likely to relieve any transmission constraint on the corridor or to improve grid security. However, in all such cases of cancellation or curtailment, the SLDC will, as soon as practicable, intimate in writing to the consumer the reasons therefore.

16.2 Subject to provisions of the State Grid Code, cancellation/curtailment will be affected as under: -

(i) Short term transaction(s) will be cancelled or curtailed first, followed by medium term transactions, which shall be followed by long term transaction(s).

(ii) Among short term transactions, bilateral transaction will be cancelled or curtailed first, followed by collective transactions.

(iii) Open Access to a distribution licensee will be the last to be curtailed within a category.

(iv) Curtailment will be effected on a pro-rata basis amongst the consumers of a particular category.

16.3 In case of curtailment of the approved schedule by the State Load Despatch Centre, transmission and wheeling charges shall be payable pro-rata in accordance with the curtailed schedule.

16.4 The SLDC Operating charges, as specified under the relevant provisions of DERC (Open Access) Regulations, 2005 as amended from time to time, will be payable irrespective of curtailment, if any.

16.5 The concerned Nodal Agency should ensure that Non Conventional Energy Source based generator where are mainly Must Run Plant should be tried to be scheduled first so that the generation from such Non Conventional Sources does not affect. SLDC shall endeavour to give priority to must run plant for scheduling in merit order in line with the guidelines of CERC.

ACTIVITY CHART SHOWING TIME LINES FOR SHORT TERM OPEN ACCESS PROCESS

	ACTIVITY	
A)	**Approval of Short Term Open Access**	**TIME LINE**
i)	Submission of Application By Consumer to SLDC	0
ii)	Verification of field data and Consent by Distribution Licensee	within 12 working days
iii)	Decision by SLDC for conditional approval	within 3 working days
	Total:	**15 Working Days**
B)	**INSTALLATION OF METERING EQUIPMENTS.**	
i)	Procurement of Metering Equipment By the authorized agency	within 30 days
ii)	Testing by Authorized agency	within 10 days
iii)	Installation at site by consumer/Dist Licensees	within 10 days
iv)	Testing by Distribution Licensees /STU & issue of Point wise compliance report	within 10 days
C)	**Issue of NOC/Standing clearance/Concurrence by SLDC**	
i)	Submission of application	0 working day
ii)	First NOC/Standing clearance/Concurrence	within 7 working days
iii)	Subsequent Monthly NOC/SC/Concurrence	within 3 working
D)	**Down loading of Meter data & preparation of Energy account by SLDC:**	
i)	Meter reading & down loading of data by Dist: Licensees (on due date) (Monthly in case of Purchaser & weekly in case of Seller)	0 Hr.
ii)	Submission of downloaded data to SLDC by Distribution Licensees / STU	within two days
iii)	Preparation of Energy Account by SLDC for Distribution Licensees	within 7 days
iv)	Forwarding of UI Energy Account by Dist licensees	within a month

GUIDELINES FOR INSTALLATION OF METERING EQUIPMENTS AND ARRANGEMENTS AT THE PREMISES OF OPEN ACCESS CONSUMERS.

The following guidelines are to be strictly implemented for installation of metering equipments including ABT compliant special energy meters (SEM) of accuracy class 0.2S/0.2 and connecting arrangements for metering of open access consumers.

A) Open Access Consumer's Premises (To be complied by OA Consumer)

i) Open Access Consumers injecting power in to the Distribution Licensee / STU system shall provide separate line bay with line protection scheme at both ends to take care of any fault on line.

ii) Meters are to be installed directly on line without any isolator in between line and metering CTs/PTs.

iii) Metering CTs/PTs should be exclusively for Dist. licensees metering. Consumers may install any additional meter with separate CT/PT.

iv) CTs of 0.2S and 0.2 accuracy class is to be installed where CT output is 5A (in case of 11kV) and 1A (in case of 66/132/220kV) respectively. However PTs of accuracy class 0.2 are to be used.

v) Metering CT/PT should be exclusive for metering purpose. These will not be allowed for protection purpose. However metering CT/PT are to be provided with minimum two metering cores, one core to be used for main ABT meter & 2 core to be used for check meter & TPT meter.

vi) The meter should be installed nearest to the CT/PT in separate room, with easy/free access by Dist licensees/STU staff.

vii) All connecting cables from CT/PT to meters should be routed through conduit pipe duly welded.

viii) Un-climbable fencing around metering, CT, PT area is to be provided which will be sealed by STU.

ix) Use of only single ratio metering CTs will be allowed. Multi ratio CTs are not to be used in any case.

x) Metering CTs/PTs, bottom plate needs to be welded after testing/installation at site.

xi) Open access consumer (non-consumer of Distribution Licensees) is required to provide two communication channels at his own cost for communication of metering data to SLDC control room.

xii) Consumers who have already installed CT / PT without witness/checking of Distribution Licensee / STU shall get the same tested in the presence of Distribution Licensee / STU representative.

xiii) Meter is not to be installed in the control room of consumers substation.

B) Compliance by STU

At Consumer end:

i) Installation of check Meter

ii) ABT meter installed for consumers injecting & drawing power to be import/export type of accuracy class 0.2S.

At Distribution Licensee / STU Sub Station end

i) Supply should not be tapped from Bus PT. Exclusive line CTs and PTs are to be installed for metering at Sub Station end. CT/PTs provided shall have two metering cores.

ii) Meters are to be installed near line bay in Sub Station Yard.

Formats for Short-Term

FORMAT - ST1

APPLICATION FOR GRANT OF SHORT-TERM OPEN ACCESS

*(to be sent by consumer to **Nodal Agency**)*

To: Nodal Agency

1	Consumer Application No:	*<self generated by Consumer>*	Date:	
2	Period of Transaction:			
3	Name of Consumer*	*< seller/buyer/captive user/trader (on behalf of seller/buyer/captive user >*		

< In terms of power transfer>*

4	Consumer Name			
5	Registration Code		Valid up to	

< Registration code shall be as provided by Nodal Agency >

6	Details of Transaction Party's to Grid		
	Name of Entity	Injecting Entity	Drawee Entity
	Status of Entity*		
	Utility in which it Embedded		

< In terms of Ownership-State Utility/CPP/IPP/Discom/Consumers/Specify, if any other>*

7	Details of Transaction Party's to Grid			
			Injecting Entity	Drawee Entity
	Name of Sub-Station	Transmission		
		Distribution		
	Status of Entity*	Transmission		
		Distribution		
	Name of Licensee (Owner of S/S)			
	Intervening intra-State Licensee			
	Intervening inter-State Licensee			

< Distribution licensee if required, may treat interface periphery as its connectivity points >

8	Open Access Sought for (Period from date to)					
	Date		Hours		Capacity	
	From	To	From	To	MW*	

< MW at point of injection>*

9	Details of PPA/PSA/MoU					
	Name & Address of parties		Date of PPA/PSA/MoU	Validity Period		Capacity MW*
	Seller	Buyer		Commencement	Expiry	

10	Details of Non-Refundable Application Fee Made				
	Bank Details	Instrument Details			Amount(Rs.)
		Type(Draft)	Instrument No.	Date	

11	I here by authorized Nodal Agency to process said application, in case open access capacity allotted, for day ahead scheduling in accordance with the provision of intra-State ABT

12	**Declaration**
	All Entities/Utilities to transaction shall abide by provisions of the Electricity Act 2003(the Act), SERC (Terms and Conditions for Intra State Open Access) Regulations and any other relevant regulation/order/ code as amended from time to time.

Place :
Date :

Signature (With Stamp)
Name & Designation

Enclosures

1) Non-refundable application fee by Demand draft or cash receipt (if payment by cash).
(2) Self–certified copy of PPA/PSA/MoU entered between the parties (buyer and seller) of transaction stating contracted power, period of transaction, drawal pattern, point(s) of injection and drawal etc.
(3) Self-certified copies of unconditional concurrence of STU and/or transmission licensee and/or distribution licensee.
(4) If any other.

Copy to along with relevant enclosures [except (1) & (2)]:

(1) General Manager (Commercial) of Transmission Licensee involved in transaction.
(2) Concerned officer of Distribution Licensee involved in transaction
(3) Any other concerned

For use of SLDC (with Reference to Enrolment of Application)	
SLDC Reference ID No.	
Nodal SLDC Approval No.	*< if approved >*
Or Reason of Refusal* (If Refused)	

< Nodal Agency may also enclosed supporting documents for the reasons of refusal duly signed on each page >*

Formats *for Short-Term*
ACKNOWLEDGEMENT
(for office use only)

228

APPLICATION FOR GRANT OF SHORT-TERM OPEN ACCESS

(A) *< to be filled by the consumer >*

1	Consumer Application No:	*<self generated by Consumer>*	Date:	
2	Period of Transaction:			
3	Name of Consumer*	*< seller/buyer/captive user/trader (on behalf of seller/buyer/captive user >*		

< In terms of power transfer>*

4	Consumer Name			
5	Registration Code		Valid up to	

< Registration code shall be as provided by Nodal Agency >

(B) *< to be filled by **Nodal Agency**>*

Date and time of Receipt of Application	

Place:
Date:

Signature (With Stamp)
Name & Designation

FORMATE ST1: APPLICATION FOR GRANT OF SHORT-TERM OPEN ACCESS (Page- 3 of 3)

----------X----------X----------X----------X----------X----------

ACKNOWLEDGEMENT

*(to be issued by **Nodal Agency** to the consumer within 24 hours on receipt of application duly filled in)*

APPLICATION FOR GRANT OF SHORT-TERM OPEN ACCESS

(A) *< to be filled by the consumer >*

1	Consumer Application No:	*<self generated by Consumer>*	Date:	
2	Period of Transaction:			
3	Name of Consumer*	*< seller/buyer/captive user/trader (on behalf of seller/buyer/captive user >*		

< In terms of power transfer>*

4	Consumer Name			
5	Registration Code		Valid up to	

< Registration code shall be as provided by Nodal Agency >

(B) *< to be filled by **Nodal Agency**>*

Date and time of Receipt of Application	

Place:
Date:

Signature (With Stamp)
Name & Designation

N.B:
This counterfoil may be scored out and issued to the consumer.

FORMATE ST1: APPLICATION FOR GRANT OF SHORT-TERM OPEN ACCESS (Page- 3 of 3)

FOR GRANT OF SHORT-TERM OPEN ACCESS (Page -1 of 3)

FORMATS for Short-Term

FORMAT-ST2

APPROVAL FOR SHORT-TERM OPEN ACCESS

(to be issued by SLDC)

	Nodal SLDC Approval No.	/ (R-0)	Date	

<'R-0' states original approval with revision no. - zero>

1	Consumer Application No.	*<as provided by consumer on FORMAT-ST1>*	Date	
2	Period of Transaction			
3	Nature of Consumer*	*<seller/buyer/captive user/trader(on behalf of seller/buyer/captive user)>*		

< *In terms of power transfer>*

4	Consumer Name			
5	Registration Code		Valid up to	

6	Details of Transaction Party's to Grid		
		Injecting Entity	Drawee Entity
	Name of Entity		
	Status of Entity*		
	Utility in which it is Embedded		

< *In terms of ownership- State Utility/CPP/IPP/ISGS/Discom/Consumer/specify, if any other>*

7	Details of Injecting/Drawee Connectivity with Intra-State System			
			Injecting Entity	Drawee Entity
	Name of Sub-station	Transmission		
		Distribution		
	Voltage Level	Transmission		
		Distribution		
	Name of Licensee (Owner of S/S)			
	Intervening Intra-State Licensee			
	Intervening inter-State Licensee			

<Distribution licensee, if required, may treat interface periphery as its connectivity points>

8	Open Access Sought for (Period from date ____ to date ____)				Revision No.		0
	Date		Hours		Capacity(MW)		MWh
	From	To	From	To	Applied	Allotted	
					Total MWh		

9	Details of Bidding *<only in case of Bidding>*					
	Details of Intra-State System	Date		Hours		Applicable Rate (Rs./kWh)
		From	To	From	To	
	Transmission System					
	Distribution System					

10. The approved transaction shall be incorporated in day-ahead scheduling in accordance with the provisions of intra-State ABT. *<only in case of approval>*.
11. Please submit following to SLDC with details on format [FORMAT-ST5] in the manner as specified in procedure: *<only in case of approval>*
    (a) SLDC Fee Amount Rs. _____ Due Date: _____
    (b) Security Amount Rs. _____ Due Date: _____

12. The approval is subject to provisions of SERC (Terms and Conditions for Intra State Open Access) Regulations, 2010 and any other relevant regulation/order/code as amended and applicable from time to time. *< only in case of approval >*
13. No approval is being granted on account of *<only in case of rejection>*

< SLDC shall convey specific reasons if open access is denied and may also enclose supporting documents to support the same duly signed on each page >

Place
Date

Signature (with stamp)
Name & Designation

Enclosures
(1) Schedule of payments *< only in case of approval >*
(2) If any other

Copy to along with enclosures
(1) Consumer
(2) Transmission Licensee involved in transaction.
(3) Distribution Licensee involved in transaction.
(4) Any other concerned.

FORMATS for Short-Term
ENCLOSURE to FCRMAT- ST2
SCHEDULE OF PAYMENTS
(to be enclosed for each month by SLDC along with FOMAT–ST2)

	Nodal SLDC Approval No.	/ (R-0)	Date	

< 'R-O' states original approval with revision no. - zero>

1	Consumer Application No.	*<as provided by consumer on FORMAT-ST1>*	Date	
2	Period of Transaction			
3	Nature of Consumer*	*< seller/buyer/captive user/trader(on behalf of seller/buyer/captive user) >*		

<* In terms of power transfer>

4	Consumer Name		
5	Registration Code		Valid upto

6	Tentative* Monthly Payment Schedule for Short-Term Open Access Charges(Period: *date* to *date*)			Month	
	Payment Chargeable for	Rate (Rs./kWh)	MWh	Total (Rs.)	
	(1) Intra-State Network				
	(a) Transmission Charges				
	concerned Transmission Licensee				
	Intervening intra-State Licensee(if any)				
	(b) Wheeling Charges				
	concerned Distribution Licensee				
	Intervening intra-State Licensee(if any)				
	(c) Cross subsidy Surcharge				
	concerned Distribution Licensee				
	(d) Additional Surcharge				
	concerned Distribution Licensee				
	(e) SLDC Charges				
	SLDC				
	(2) Inter-State Network				
	Transmission Charges				
	Intervening inter-State Licensee(if any)				
	Total Monthly Payment Amount (Rs.)				

Signature (with stamp)

Place
Date

Name & Designation

* Tentative on the basis of MWh mentioned in application which may due to cancellation or downward revision subject to approval of Nodal Agency.

FORMATS for Short-Term
FORMAT- ST3
CONGESTION INFORMATION AND INVITATION OF BIDDING
(to be invited by SLDC)

SLDC Bidding Invitation No. _____
Date ____

1	Consumer Application No.	<as provided by consumer on FORMAT-ST1>	Date	
2	Period of Transaction			
3	Nature of Consumer	<seller/buyer/captive user/trader(on behalf of seller/buyer/captive user) >		

<* In terms of power transfer>

4	Consumer Name			
5	Registration Code		Valid upto	

6. The anticipated congestion (transformer and electric line/link) is as follow:

Network Corridor		Congestion Period				Margin/ Capacity Available	Total Capacity Applied by all the Consumers
Sub-station with Transformation Capacity	Electric Line/Link with Capacity	Date		Hours			
		From	To	From	To	MW	MW
Intra-State Transmission System							
Intra-State Distribution System							
Inter-State Transmission System							

7. In view of above please submit bid on format [FORMAT-ST4]. The details for bidding are hereunder

(a) Bid Invitation Date		Time	
(b) Bid Submission Date		Time	
(c) Bid Opening Date		Time	

(d) Bids Invited for

Network Corridor		Congestion Period				Margin/Capacity Available for Bidding	Floor Price
Sub-station	Electric Line/Link with Capacity	Date		Hours			
		From	To	From	To	MW	Rs./kWh
Name of Transmission System							
Name of Distribution System							

8. In case of non submission of bid, application shall be deemed to have been withdrawn and shall not be processed.

Place
Date

Signature (with stamp)

Name & Designation

To: Consumers with their reference's < as provided by consumers at sl.no. 1 on FORMAT-ST1 >

FORMATS for Short-Term
FORMAT- ST4
BID PROPOSAL
(to be submitted by the consumer to NODAL AGENCY)

Ref: NODAL AGENCY Bidding Invitation No. _____ Date _____

To: **NODAL AGENCY,**

1	Consumer Application No.	*<as provided by consumer on FORMAT-ST1>*	Date	
2	Period of Transaction			
3	Nature of Consumer*	*< seller/buyer/captive user/trader(on behalf of seller/buyer/captive user) >*		

<* In terms of power transfer>

4	Consumer Name			
5	Registration Code		Valid upto	

6. In reference to above bidding invitation, I hereby submit my bid as follows:

Bidding Details as provided by NODAL AGENCY								Bid Price to be Quoted by Bidder
Intra-State Network Corridor		Congestion Period				Margin/Capacity Available for Bidding	Floor Price	
Sub-station	Electric Line/Link	Date		Hours				
		From	To	From	To	MW	Paise/kWh	Paise/kWh*
Name of Transmission System								
Name of Distribution System								

< * Bidder shall quote price (rounded-off to whole number) in denotation of floor price >

7. I do hereby agree that determined bid price(s) shall be transmission and/or wheeling charges.

Place
Date

Signature (with stamp)
Name & Designation

FORMATS for Short-Term
FORMAT- ST 5A

FORM FOR THE CONSENT OF OPEN ACCESS BY DISTRIBUTION LICENSEES TO SLDC

Memo. No: ..... Date:.....

Distribution Licensees Reference No..... Date.....

Name of the firm .....

Account No .....

Address of the firm .....

Open Access admissible during off peak hrs .....

Open Access admissible during peak load hrs .....

Period /Duration for Open access Consented .....

From : (Date/Time) .....

To: : (Date/Time) .....

Consent Valid up to : .....

Any other Specific Conditions for OA Consumer .....

.....

.....

Concerned Official/Open Access
Distribution licensees

FORMATS for Short-Term
FORMAT- ST-5B

SAMPLE LETTER FOR CONDITIONAL APPROVAL FOR GRANT OF SHORT TERM OPEN ACCESS

To

M/s _____
_____
_____

Memo No. ____/SO/OA
Dated:

Sub: : Grant of Open Access for purchase/sale of power by M/s _____
A/C No.: _____.

This refers to your application received in this office on dated _____ for grant of Short Term Open Access for Purchase/Sale of power through Bilateral / power exchange.

The short term open access for purchase/sale of power up to ____MW is hereby allowed , as requested by you, in line with Open Access Regulations,2005, as amended from time to time, as per agreed terms & conditions by you and subject to compliance of conditions/ formalities asunder*: -

1. Your firm will get installed ABT compliant special energy meter of accuracy class 0.2S at your premises at your own cost in addition to TOD meter already installed as per prescribed metering guidelines and the state grid code. You will supply copies of test report of the meter from concerned official of Dist. Licensees and installation report along with site report by STU and compliance report for completion of formalities as per metering guidelines.

2. Your firm will restrict its total demand to be within its sanctioned contract demand during non-peak load hours and during peak load restriction hrs the firm will be eligible only to draw total power admissible as per peak load exemption granted by Licensees. This implies that during peak load restriction hours the total drawl from all sources will be limited to peak load exemption allowed.

3. No relaxation in monthly minimum charges, peak load exemption charges etc. shall be admissible against grant of this Open Access and you will be liable to pay all the charges as consumer of Licensees and all the charges and levies applicable on power purchased under Open Access.

4. Your firm will be liable to pay cross subsidy surcharge, additional surcharge, voltage surcharge, reactive energy charges and any other charges applicable on Open Access consumers in accordance to Open Access regulations, 2005 as amended from time to time.

5. All Provisions of CERC/DERC open access Regulations as well as IEGC/State Grid Codes shall be applicable during the duration of short term open access.

6. Your firm will restrict its power purchase under open access keeping in view the regulatory measures/power cuts imposed by Licensees on feeders supplying power to your unit. In case the scheduled power as per capacity in MW reserved for open access as per NOC / Standing Clearance / Concurrence of an embedded open access consumer is curtailed or cancelled by SLDC as per Regulation 13 of DERC (Open Access) Regulations, 2005, the embedded open access consumer shall immediately reduce / stop the drawl of power thro' open access. In case the consumer continues

to avail power through open access corresponding to originally reserved capacity, SLDC shall suspend the NOC / Standing Clearance / Concurrence of such consumer for 3 days for each day's default. All such cases of default shall also be submitted by SLDC to the Commission.

8. In case the consumer is connected to Mixed feeder, open access shall be allowed subject to the condition that the consumer agree to rostering restrictions imposed by Licensees / STU on such feeders.

9. You will supply copy of the agreement signed with the traders for purchase of power through open access.

10. Your firm will ensure that this short term open access approval shall not, in any case, violate the terms and conditions of the PPA(s) signed by you with any other agency.

11. In case of Sellers / Generators / Non Consumers of Dist Licensees shall be required to furnish a security deposit towards Open Access charges for a period of two months and UI charges for 50% of contracted power for 14 days @ Rs.8.73.unit (Amounting to Rs.....) in the form of irrevocable (weekly for generators/sellers) revolving self-recouping Letter of Credit (LC) valid for at least 3 months beyond the period of Open Access transaction in favour of concerned agency.

12 .....(Any other specific condition) imposed by SLDC/STU/Dist. Licenses

You are requested to complete the above formalities and furnish requisite documents along with acceptance to the above condition so that further necessary action on your request can be taken by this office.

This approval is subject to compliance of formalities within 60 days of issue of this letter failing which the approval will be deemed to be cancelled.

This issues with the approval of competent authority.

Manager./Open Access,
for: GM(SLDC),

SLDC, Delhi.

End st. No.___/SO/OA Dated _____

Copy of the above is forwarded to Concerned official w.r.t. his office memo no. _____ dated _____ for further necessary action.

Manager./Open Access,
for: GM(SLDC),
SLDC, Delhi.

CC:
Concerned Official of Distribution Licensees / STU

FORMATS for Short-Term
FORMAT- ST6

UNDERTAKING TO BE FURNISHED BY THE CONSUMER FOR SHORT TERM PURCHASE/SALE OF POWER UNDER OPEN ACCESS

(To be stamped on Rs.100/- non judicial stamp paper)

I/ We, ...*(name)* on behalf of M/s .....*(name of the firm)*....., A/c No.....having its Registered office .....at *(address)* and Wcrks at .....(address) undertake as under:-

1. I/We will get installed ABT compliant special energy meters of accuracy class 0.2S as main meter at our premises at our own cost in addition to TOD meter already installed as consumer of Licensees& minimum, double core CT/PT's of accuracy class 0.2S/0.2 as per prescribed metering guidelines. I/ We will supply copies of test report of the meter from Licensees / STU and installation report along with site report and compliance report for completion of formalities as per guidelines.
2. I/We will restrict our total demand to be within our sanctioned contract demand during non peak load hours and during peak load restriction hrs. I,/ We will be eligible only to draw Total power admissible as per peak load exemption granted by Licensees. This implies that during peak load restriction hours the total drawl from all sources will be limited to peak load exemption allowed.
3. I/We will restrict our power purchase under open access keeping in view the regulatory measures/power cuts imposed by Licensees /STU on feeders supplying power to our unit. I / We agree that in case the scheduled power as per capacity in MW reserved for open access as per NOC / Standing Clearance/Concurrence is curtailed or cancelled by SLDC as per Regulation 13 of DERC (Open Access) Regulations, 2005, I/We shall immediately reduce/stop the drawl of power thro' open access failing which SLDC may suspend the NOC/Standing Clearance/Concurrence for 3 days for each day's default.
4. I/We agree that all equipment connected to the State Transmission/Distribution System shall be of such design and construction to enable to meet the requirement of performance standards as specified in Grid Codes for the concerned inter connection point(s). I/We shall ensure that our loads do not cause violation of these standards. Open access on the transmission system and wheeling on distribution system shall be subject to transmission and distribution system constraints. The provision of Open access shall remain suspended / curtailed during such period at the absolute discretion of SLDC / STU/Dist. Licensees.
5. I/We shall not be liable for any claim for any loss or damage whatsoever arising out of failure due to force majeure events such as fire, rebellion, mutiny, civil commotion, riot, strike, lockout, forces of nature, accident, act of God and any other reason including grid's failure beyond the control of STU/Dist. Licensees.
6. I/We agree to rostering restrictions imposed by Dist. Licensees / STU on our feeders (Applicable only for consumers connected to Mixed feeder).
7. I/We undertake that Short Term Open access to be granted or allowed to us is liable to be rejected or cancelled/withdrawn in the event of default but not limited to the following: -

i) Having being declared as insolvent or bankrupt.
ii) having defaulted in clearing outstanding dues of SLDC,ST/ist. Licensees for more than two months.
iii. Feeder status falling under ineligible category for grant of Open Access.
iv. Withdrawal of consent by Distribution Licensee

8. I/We will supply copy of the agreement signed with the traders for Sale/ Purchase of power through open access. Any change of name / agreement with the trader, advance intimation shall be given by the consumer which shall be allowed subject to the prescribed business rules of the power exchange only after the grant of permission of competent authority of SLDC.

9. I/We will book the Open Access corridor on intra state and interstate transmission system and seek alterations, if required, as per Open Access Regulations and procedure(s).
10. I/We will abide by the provisions of the State Grid Code and Open Access Regulations issued by DERC& CERC, as amended from time to time.
11. I/We will operate a 24 hour control room and communicate real time power purchase data through fax / telephone to control room of SLDC as well as Concerned Dist. licensees
12. I / We understand that no relaxation in Monthly minimum charges or peak load exemption charges as consumer of Concerned Dist licensees is admissible to us for purchase of power under Open Access.

13 I/We shall keep STU and SLDC indemnified at all times and shall undertake to indemnify, defend and keep STU and SLDC harmless from any and all damages, losses, claims and actions including those relating to injury to or death of any person or damage to property, demands, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from open access transaction

14. I/We will be liable to pay cross subsidy surcharge, Additional surcharge, voltage surcharge, reactive energy charges and any other charges applicable on Open Access consumers in accordance to DERC Open Access regulations, 2005, as amended from time to time.
15. In case any difference in wheeling, transmission, operating or any other charges remitted by the power exchange and actual applicable charges, SLDC/STU/Dist. Licensees reserves the right to charge the difference in bill raised to the consumer. I/We undertake to pay the total bill including these charges.
16. I/We will make all payments associated with Short Term Open Access to the concerned office SLDC/STU/Dist. licensees remitted only by Bank Draft or RTGS / NEFT in favour of concerned Official/SLDC payable at Delhi up to 4.00 P.M on working days. After due date I/we agree to pay LPS (Late payment surcharge) @ 1.25% per month or part thereof on total amount of the bill. In case of non-payment of dues Nodal Agency reserves the right to cancel NOC for Open Access.
17. I/We will bear the transmission and distribution losses for the Intra-State/ Inter-State system, as notified by the State/Central Electricity Regulatory Commission (DERC/CERC) from time to time.
18. Any taxes / levies applicable on Open Access transaction as imposed by Central and State Governments from time to time shall be borne by me/us.
20. I/We will apply for Standing Clearance/ No Objection Certificate / Concurrence / Consent for purchase of power through Power Exchange or through bilateral agreement minimum 3 working days before the commencement of deemed date of purchase of power through Power Exchange. I/We have noted that Standing Clearance will be allowed by SLDC maximum upto one month.
21. I/We agree to provide and meet with all metering, protection and communication requirements, as specified by the Commission /STU/SLDC/Licensees from time to time.
22. I/We may surrender the capacity allotted to me/us by serving a notice to Licensees / RLDC as per DERC/CERC regulations, if I/We are unable or not in position to utilize the full or substantial part of the capacity allotted tome/us. In case our capacity has been reduced or cancelled or surrendered, I/We shall bear Open Access charges as per prevalent CERC/DERC open access regulations.
23. I/We undertake to co-ordinate with concerned officials of SLDC/Licensees to ensure meter data reading/downloading as per fixed schedule
24. I/We undertake to maintain grid discipline and ensure the energy drawls as per the energy scheduled at the delivery point.
25. I/We agree that the disputes and complaints regarding metering and billing etc. will be first referred to the Commercial and Metering Committee under the State Grid Code. The Committee shall investigate and endeavor to resolve the grievance and in case of its non re-dressal within stipulated period or any dispute it shall be referred to the commission

26. I/We agree that SLDC/Distribution Licensees reserves their right to amend the above terms and conditions within the prescribed Regulatory framework.

Authorized Signatory
Name: _____
Designation:
Seal:

Place:
Date:

Note:

i) The undertaking is to be signed by the applicant/consumer on each and every page. Two set of the undertaking are to be furnished to this office. One copy will be retained in the office of SLDC and second copy will be supplied to Distribution Licensees while operationalising the Open Access.

ii) Copy of company/Board resolution or authority letter in favour of authorized signatory to be attached.

FORMATS for Short-Term
FORMAT- ST-7A

Format of Application for Registration with SLDC as user of intra-state Transmission System (for generator)

Sr.No.	Particulars Applicant's Details	
1	Name of the Generating Company	.....
2	Address of the Generating Company/ Authorized Person	.....
	Name :	.....
	Designation :	.....
	Address :	.....
	Contact Details :	
	Office No : 1) .....2)	
	Fax No. :	.....
	Mobile No :	.....
	Email ID :	.....
3	Location of the Generating Station	.....
4	Location of Interface with Grid (Enclose a layout of switch yard)	.....
5	Total Installed Capacity	.....
6	Commercial Operation Date (COD) Of the Generating station	.....
7	Nature of use of Energy Supply to Licensees /wheeling to 3rd parties /wheeling for captive use	.....
8	Transmission capacity contracted as on (Please enclose details of Licensees)	
	(a) For supply to Licensees	.....
	(b) For wheeling to 3rd parties	.....
	(c)For wheeling for captive use	.....
9	Agreement period for supply to licensees	.....
10	Details of communication system installed for communication of data to SLDC	.....
11	Establishment in-charge of control room for communication with SLDC	.....
12	Details of Registration fee paid	.....
13	Any other information useful for assisting efficient Grid Operation (Please enclose separate sheets for additional information)	.....

Signature of the Authorized Officer

FORMATS for Short-Term
FORMAT- ST-7B

Format of Application for Registration with SLDC as user of intra-state Transmission System

(For Open Access Consumer)

Sr.No.	Particulars Applicant's Details
1	Name of the Open Access Consumer .....
2	Address of the Open Access Consumer .....
	Authorized Person
	Name : .....
	Designation : .....
	Address : .....
	Contact Details :
	Office No : 1) .....2) .....
	Fax No. : .....
	Mobile No : .....
	Email ID : .....
3	Location of Interface with Grid (Attach a list of voltage-wise Grid substations/lines along with details of location, capacity, No. of bays, line length, type of line, date of commissioning etc)
4	Total capacity (Max. Demand that can be served)
5	Transmission capacity contracted from Transmission Licensees (Enclose list of Transmission Licensees with details)
6	Capacity contracted to Open Access consumers.
7	Details of communication system available for communication of data to SLDC / ALDC (Enclose substation-wise details)
8	Designation of the personnel responsible for operation of Grid substations at which Open Access Consumer is connected.
9	Details of the registration fee paid
10	Any other information useful for assisting efficient Grid Operation: (Please enclose separate sheets for additional information)

Signature of the Authorized Officer

FORMATS for Short-Term
FORMAT- ST-8

FORMAT FOR THE UNCONDITIONAL AND IRRECOVABLE BANK GURANTEE FOR BILATERAL TRANSACTION / COLLECTIVE TRANSACTION

(To be stamped on Rs.100/- non judicial stamp paper)

Whereas M/s. _____*(Name of the Intra State Company)*, a Company registered under the Companies Act, 1956 and having Registered Office at _____*(Address)*, hereinafter called the 'Intra State Company' submitted open access application for intending bilateral transaction / collective transaction, inter alia for sale / trade of power of ___MW on short term basis to _____ *(Name of Trader / Buyer)* through Inter State / Intra State Open Access as per applicable relevant regulation issued by appropriate Regulatory Commission and procedure devised by the State Transmission Utility, Delhi Transco Ltd for Short Term Open Access in intra State network in the State of Delhi *(Name of State)* in the condition which inter alia are subject matter of the application of short term transaction herein referred, agrees to furnish this Bank Guarantee for an amount of Rs. _____*(in figures)* Rs._____*(in words)* equivalent to seven days billing for scheduled energy either receivable or payable determined based on quantum of sale / trade intend to scheduled through this open access transaction at rate of 105% of maximum unscheduled interchange rate applicable and equivalent to seven days of a week.

We, _____*(Name of the Bank)* Bank, _____*(Branch, City)* Branch hereinafter called 'The Bank' in consideration of the premises, do hereby agrees unequivocally, irrevocably and unconditionally to pay the State Load Dispatch Center or concerned Distribution Licensees from the consumer as the case may be or (the Distribution consumer), the _____

Forthwith on demand in writing from procurer or any officer authorized by it in this behalf at any time upto _____ *(date up to Open Access transaction + two additional months)*, any amount upto and not exceeding Rupees _____ *(in words)* only as may be claimed by State Load Dispatch Center, Delhi by way of failure of the Open Access Consumer to pay any charges within stipulated time limit towards obligation laid down under Short Term Open Access approval granted.

It is hereby agreed and acknowledge that the decision of the State Load Dispatch Center or (the Distribution company), the Generating company as the case may be, as to whether any money is payable by the Open Access Consumer or whether the Open Access Consumer has made any such default of defaults as aforesaid and the amount or amounts to which the State Load Dispatch Center is entitled to by reason thereof will be binding on the Bank and the Bank shall not be entitled to ask the State Load Dispatch Center to establish its claim or claims under this Guarantee or to claim any such amount from the company in the first instance but shall pay the same to the State Load Dispatch Centre of Delhi forthwith on demand without any demur, reservation, recourse, contest or protest and / or without any reference to the intrastate company. Any such

demand made by the State Load Dispatch Center on the Bank shall be conclusive and binding notwithstanding any difference between the State Load Dispatch Center and the Intrastate company or bank and Intrastate Company or pay dispute pending before any Court, Tribunal, Arbitrator or any other authority.

The Bank further undertake not to revoke this Guarantee during its currency except with the previous consent of the State Load Dispatch Center of Delhi in writing and this Guarantee shall continue to be enforceable till the aforesaid date of its expiry or the last date of the extended period agreed upon as the case may be unless during the currency of the Guarantee all the dues of the State Load Dispatch Center under or by virtue of Open Access approval granted by SLDC of the letter of approval and subsequent accounting statement issued to intrastate company have been duly paid and its claims satisfied or discharge or the State Load Dispatch Center of Delhi certifies that the terms and conditions of said letter of open access approval and subsequent accounting statement issued by State Load Dispatch Center have been fully carried out by the intrastate company and accordingly discharged the Guarantee.

Subject to the maximum limit of the Bank's liability as aforesaid, this Guarantee shall cover all claim or claims of the State Load Dispatch Center against the Intrastate company from time to time arising out or under condition stipulated under the said letter of Short Term Open Access approval and Charges payable in exercise of said approval of Short Tem Open Access and in respect of which the State Load Dispatch Center Delhi demand or notice in writing be served on the Bank before the date of expire of this Guarantee mentioned above or of further extended period agreed upon, as the case may be.

The Guarantee shall not be affected by any change in the constitution of the said Intrastate Company in any manner by reason or merger, amalgamation, restructuring or any extension or forbearance to the Intrastate Company or any other change in the constitution of the Guarantor and the Bank will ensure for and be available to and guarantee enforceable by the State Load Dispatch Center of Delhi.

The Guarantee shall be a primary obligation of the Guarantor Bank and accordingly procurer shall not be obliged before enforcing this bank guarantee to take any action in any court or arbitral proceedings against the Intrastate Company, to make any claim against or any demand on the Intrastate Company or to give notice to the Intrastate Company to enforce any security held by the procurer or to exercise, levy or enforce any distress, diligence or other process against the Intrastate Company. The bank guarantee shall be interpreted in accordance with the laws of India and settlement of any dispute arisen between the parties shall be subjected to the legal jurisdiction of Delhi.

And whereas in case violation of the terms of the Bank Guarantee, penalty will be levied on the claimed amount as per the bank's penalty rates. It will not be opened to the Intrastate Company to challenge the said clause on any ground whatsoever including formation of opinion but default as to the amount guarantee or part thereof remaining payable under the contract and such opinion of State Load Dispatch Center of Delhi shall be final and binding thereof for the purpose of invocations of this Bank Guarantee.

Notwithstanding anything contained herein:-

1 Our liability under this Bank Guarantee shall not exceed Rs._____*(In Figures)* (Rupees _____) *(in words)*

2 This Bank Guarantee shall be valid till _____*(date to be inserted as per approval of Open Access transaction allowed by SLDC with an additional claim period of 60days thereafter).*

3 We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only if procurer serve upon us a written claim or demand on or before _____

The Bank has power to issue this Bank Guarantee under the statute and the undersigned has full power to sign this Guarantee on behalf o Bank.

Signature _____

Name _____

Power of Attorney No:_____

For _____ (name of bank)

Witness (two authorized officers of the Bank with name, designation and employee number)

1 _____

2 _____

Annexure-B

GUIDELINES/PROCEDURE FOR IMPLEMENTATION OF LONG TERM OPEN ACCESS (LTOA)

1. OUTLINE

1.1 This procedure shall apply to the application made for long-term open access for a period of more than five years as per principal regulation 2005 clause 7(2) for use of intra-State transmission system and/or distribution system with associated facilities for transmission and/or wheeling of electricity, with or without inter-State transmission system.

Provided that procedure made hereunder shall be in addition to and not in derogation to open access regulations or any procedure made there under by the Central Electricity Regulatory Commission for use of inter-State transmission system.

1.2 All correspondences shall be addressed to the following Officer of State Transmission Utility (STU): General Manager (Planning),DTL, E-mail: *(STU to specify on its website)*

2. GRANT OF OPEN ACCESS

2.1 SUBMISSION OF APPLICATION

2.1.1 The long-term open access consumer (hereinafter referred to as "consumer") intending to avail long-term access shall make an application on format *[FORMATLT1]* with STU in a cover marked "Application for Long-Term Open Access".

2.1.2 In case electricity system strengthening is involved, the consumer shall apply for long-term access 2 to 4 years in advance (based on nature and quantum of work involved). If, system strengthening is not required, an application can be made by the consumer one year in advance.

Note: 'System strengthening' shall mean to include augmentation or renovation or modernization or expansion of any equipment or sub station and/or electric line and construction of new substation and/or electric line.

2.1.3 In case in the opinion of the consumer, system strengthening is not involved, he shall normally request STU for necessary actions or studies, however, such request is not mandatory and STU may take necessary action even in absence of such request.

2.1.4 The application shall be accompanied by non-refundable processing application fee of Rs.1,00,000/- & Rs. 25000/- for Distribution System (or as determined by the Commission from time to time by an order) by demand draft in favour of STU/Dist. Licensees payable at Delhi.

2.1.5 STU shall acknowledge receipt of the application by indicating time and date on an *"ACKNOWLEDGEMENT"* to the consumer.

2.1.6 The application may be submitted by post or in person.

2.2 PROCESSING OF APPLICATION

2.2.1 The application shall be taken up for consideration immediately but not later than seven days by STU on first come first served basis and it shall seek system feasibility reports from transmission licensee and/or distribution licensee involved in transaction for permitting open access. STU shall also make endorsement of the same to SLDC, if considered necessary.

2.2.2 The transmission licensee and/or distribution licensee, as the case may be, shall carry out system feasibility study within thirty days. The licensee's reports shall invariably include site drawings, schedule of site responsibility and any other information necessary for consideration of STU. The feasibility reports may suggest that:

(a) System strengthening is not required. In such case STU / Distribution Licensees shall assess the capacity available and communicate provisional decision to SLDC with copy to STU/Distribution licensee, as the case may be, and thereafter follow provisions of sub-clause 2.3.1.

(b) There is a constraint in electricity system and system strengthening is necessary. The licensee shall submit adequate data and drawings in support of suggestion of system strengthening for consideration of STU.

2.2.3 STU shall assess requirement of system strengthening, under sub-clause 2.2.2(b), and on being satisfied, communicate decision to the consumer within fifteen days requiring him to pay fee difference of fee for system studies, if not paid earlier under sub-clause 2.1.4. The fee shall be paid within fifteen days failing which the application shall be deemed rejected at the discretion of STU. STU may also cause the consumer to furnish any additional information required for system studies and thereafter follow provisions of sub-clause 2.3.2. If the opinion is that system strengthening is not required, STU may seek clarification or additional information from such licensee and/or the consumer and reassess the requirement of system strengthening. On final decision that system strengthening is not required, the matter shall be decided under sub-clause

2.3 CONFIRMATION OF RESERVATION OF CAPACITY

2.3.1 Where electricity system strengthening is not required

(i) STU shall communicate provisional decision, under sub-clause 2.2.2(a) to SLDC within seven days along with the consumer's application and licensee's report(s).

(ii) STU, in consultation with SLDC, shall check transaction for congestion of any element (electric line and transformer) of transmission and/or distribution system involved in open access transaction.

(iii) STU shall confirm grant of open access on format *[FORMAT-LT2]* within Sixty days of receipt of the application with direction to the consumer to enter into Bulk Power Transmission Agreement (BPTA) and/or Bulk Power Wheeling Agreement (BPWA) with concerned transmission licensee and/or distribution licensee within thirty days.

(iv) STU shall not permit open access if transaction may cause congestion of any element of involved transmission and/or distribution system.

(v) In the event of an offer becomes invalid for any reason or rejected by the consumer, STU shall not be required to consider any further application from the same consumer within twelve months from the date of issue of *FORMAT-LT2* unless new application substantially different from the original application is made.

2.3.2 Where electricity system strengthening is involved

(i) STU shall carry out studies to assess requirement of system strengthening and may require the consumer, any other transmission licensee and/or distribution licensee to furnish additional information/study/data for further studies within fifteen days. They shall submit information to STU

within a month. Based on above information, STU shall prepare preliminary report of system study covering all aspects of Delhi EGC and communicate the same to all concerned within next two month.

Provided that if there are more than one application for long-term access, STU shall undertake joint studies and prepare one consolidated preliminary report. STU shall invariably send a copy to SLDC,/Distribution licensees, as the case may be.

(ii) The preliminary report shall be communicated along with specific information on *FORMAT- LT2* to all concerned not later than sixty days fromthe date of receipt of application and such communication shall be deemed tobe grant of open access. However in case of more than one application, thecondition of Sixty days shall not apply and STU shall fix suchdate which shall not be more than one hundred fifty days.

The consumer shall enter into Bulk Power Transmission Agreement (BPTA) and/or Bulk Power Wheeling Agreement (BPWA) with concerned transmission licensee and/ or distribution licensee within sixty days and the copy of such agreements shall be sent to SLDC.

(iii) Notwithstanding anything contained in sub-clause 2.3.2(i), any other transmission licensee and / or distribution licensee shall also be required by STU to identify system strengthening requirements at their end and communicate the same to STU with relevant details in respect to inter-connection, cost estimates, construction milestones / schedule and site responsibility schedule, drawings and any other information as may be necessary for consideration of STU within forty five days from the date of receipt of preliminary report of system study under sub-clause 2.3.2(i).

(iv) The requirement of system strengthening brought out in preliminary report shall be integrated with the transmission plan with the provisions of Delhi EGC. The plan so prepared shall be approved by CEA in its standing committee meeting of Power System planning.

(v) Based on approved transmission plan, STU shall finalize strengthening requirements in transmission and distribution systems, in consultation with SLDC and concerned Transmission and/or Distribution licensees as the need be.

System strengthening requirements should clearly identify expansion, augmentation, renovation, modernization of existing sub-stations and/or electric lines and/or construction of new substations and electric lines. It also includes decision regarding who will construct, own, maintain and operate different parts of the system strengthening scheme.

The final report shall be communicated to all concerned to take up the work of the system strengthening as per the schedules finalized or decisions taken therein.

(vi) After final report is prepared, the consumer, STU, any other transmission licensee and distribution licensee or any other person associated with transaction shall comply with such instructions, obligations, duties, time schedules or any other matter as may be specified by STU in final report.

Provided that STU has not changed system strengthening requirements on the basis of any subsequent study carried out on its own motion or on an application of any other consumer, any other transmission licensee and distribution licensee and in such event, the changes carried out by STU shall be binding on the consumer, any other transmission licensee and distribution licensee or any other person associated with transaction.

3. Bulk Power Transmission Agreement (BPTA) and/or Bulk Power Wheeling Agreement (BPWA)

3.1 Bulk Power Transmission Agreement (BPTA) and/or Bulk Power Wheeling Agreement (BPWA) shall be signed by the consumer with STU, any other transmission licensee and distribution licensee, as the case be, agreeing therein to pay transmission and wheeling charges for use of existing transmission and/or distribution system. These agreements shall be signed within time communicated to the consumer under sub-clause 2.3.1(iii) or under sub-clause 2.3.2(ii).

3.2 A supplementary BPTA and/or BPWA to the principal agreements signed under clause 3.1 shall also be signed by the consumer with STU, any other transmission licensees and distribution licensees, as the case be, agreeing therein to pay additional transmission and wheeling charges for use of additional transmission and/or distribution system created due to system strengthening. These agreements shall be signed within period specified by STU under sub-clause 2.3.2(vi).

3.3 At the instance of STU, agreements shall include provisions in respect to :

(a) requirement of protection system, metering, operational and safety criteria, data and communication system;

(b) conditions of interconnection/connectivity, technical requirements thereof;

(c) relevant drawings covering all aspects in relation to (a) and (b) above;

(d) 'Site Responsibility Schedule' in relation to ownership, control, operation and maintenance of plant and apparatus and safety of persons;

(e) procedure for site access, site operational activities and maintenance standards for equipment of concerned transmission licensee and/or distribution licensee and/or consumer's premises;

(f) premature termination of agreement and its consequences on the contracting parties;

(g) compliance with the provisions of Delhi Electricity Grid Code, Indian Electricity Grid Code, regulations / norms / standards / codes specified by CEA / DERC or any provision of planning criteria / any covenants / deeds / regulations by which STU / Transmission licensee /distribution licensee are bound;

(h) details of system strengthening requirements including inter-connection, approximate cost estimates, construction and commissioning milestones / schedule, schedule of commissioning and commercial operationalization;

(i) provisions for payment security, payment, rebate and surcharge as per DERC (Terms and condition of transmission tariff) Regulations and DERC (Terms and condition of distribution tariff) Regulations and orders of the Commission made there under;

(j) Any other relevant necessary information.

3.4 For execution of work where electricity system strengthening is involved, the parties should note the following:

(i) System strengthening work shall be taken up after signing of BPTA and/or BPWA under clause 3.1 and 3.2.

(ii) The consumer and concerned licensees shall furnish progress of system strengthening works on quarterly basis to each other with a copy to STU/SLDC.

(iii) The consumer and concerned licensees shall inform, in writing, at least ninety days ahead of schedule, commercial operation date of additional systems of their part to STU with a copy to concerned/affected persons.

(iv) Based on information received under sub-clause 3.4(iii), STU shall confirm the consumer and concerned licensees at least sixty days ahead of scheduled date of commencement of long-term transaction and directed the consumer to:

(a) establish adequate payment security within thirty days; and
(b) submit a request for scheduling of transaction to SLDC within thirty days.

3.5 Whenever any equipment and/or drawing are proposed to be changed, the consumer or licensee shall intimate necessary changes to STU and all other concerned. When changes are implemented, revised single line diagram shall be circulated by the consumer or licensee to STU and all concerned.

4. SCHEDULING AND REVISION OF SCHEDULES

4.1 Open access transaction shall be carried out under the provisions of DERC Order dated 31.03.07 passed in matter of Availability Based Tariff and any other order passed from time to time, read with Delhi Electricity Grid Code, Indian Electricity Grid Code, DERC (Terms and Conditions of Generation/Transmission tariff) Regulations and any other relevant regulation/order/code, as the case may be, and as amended and applicable from time to time.

Provided that consumer, having premises in area of a distribution licensee, contracts for supply of electricity from such distribution licensee in addition to supplies from other source; energy accounting of electricity supplied from other source shall be carried out first and electricity supplied from such distribution licensee later. In case other source is more than one, the source that comes into open access transactions first, in chronological order of dates of approval of nodal agency, shall be booked for energy accounting first and thereafter subsequent sources shall be taken up until all are exhausted and supply from distribution licensee shall be at last.

5. COMMERCIAL CONDITIONS

5.1 SLDC shall issue an energy account, statement of UI and corresponding UI charges and reactive energy and its charges, on the basis of data received from ABT meters along with data relating to declared capability and schedules etc., in accordance with the provisions of DERC Order dated 31.03.07 (the ABT Order) passed in matter of Availability Based Tariff and as amended from time to time.

5.2 Energy account prepared by SLDC shall be used for billing purposes.

5.3 The consumer shall pay a fee to SLDC as specified in DERC (Procedure, terms and conditions for payment of fee & charges to State Load Despatch Centre and other related provisions) Regulations and amendment thereof.

5.4 The consumer shall make payments in the following manner:

(i) STU, any other transmission licensee and/or distribution licensee, as the case be, shall prepare a bill on monthly basis as per energy account issued by SLDC on the basis of transmission charges, wheeling charges determined by the Commission from time to time. Surcharge and additional surcharge, if any, shall also be recovered through such bill.

(ii) The consumer shall pay charges directly to STU, any other transmission licensee and / or distribution licensee, as the case be, within time provided in BPTA and/or BPWA or in relevant order of the Commission.

(iii) The payment shall be made by mode agreed in BPTA and/or BPWA.

(iv) The SLDC charges shall be recovered from the consumer through bill directly raised by SLDC to Consumer on monthly basis.

(v) Cross Subsidy Surcharge shall be leviable as determined by the Commission in its Order /Tariff Order which shall be payable to Distribution Licensee on per unit basis by the open access consumers (except those availing power from their captive power plants) based on the actual energy consumed during the month through open access.

(vi) Additional surcharge will be applicable as determined by the Commission as per Regulation 12 of DERC (Open Access) Regulations, 2005 as amended from time to time.

(vii) The payment for the reactive energy charges for the Open Access consumers shall be calculated in accordance with DERC (Terms and Conditions for Determination of Generation, Transmission, Wheeling and Retail Supply Tariff) Regulations approved by the Commission. Provided that no additional power factor surcharge / incentive shall be leviable on the energy drawn through open access. These charges are to be recovered by concerned Licensee.

viii) In cases of outages of generator supplying to open access consumer under open access, standby arrangements should be provided by the distribution licensee for a maximum period of 42 days in a year, subject to the load shedding as is applicable to the embedded consumer of the licensee and the licensee shall be entitled to collect tariff under Temporary rate of charge for that category of consumer in the prevailing rate schedule.

Provided also that open access consumers would have the option to arrange standby power from any other source. Standby charges would be applicable from 00.00Hrs after the 24 hrs of serving the notice by Open Access Consumer till that time consumer have to pay the charges as per UI rate for drawal for that energy to distribution licensees. The Standby Charges for the power availed by the Open Access Consumer beyond the notice period would be paid to Distribution company, similarly, placed consumers of Discoms availing temporary connection the Distribution Company

(ix) In addition to the above charges, the Utilities who are authorized to installed meters for Open Access Consumer are entitled to recover charges from the consumer as under:-

a) Estimated cost of ABT Meter with AMR facility =Rs.50000/-
b) Estimated expenditure involves in testing /installation/commissioning of Energy Meter=Rs.20000/-
c) Estimated expenditure for data downloading of Energy Meter per visit=Rs.2500/-

The above rates /expenditure are without VAT/Service Tax if any applicable.
NOTE-Procurement/installation of CT/PT /Metering Cubicle & its wiring upto the terminal block to be arranged by the consumer.

5.5 Based on energy account, the consumer shall make payments of Unscheduled Interchange (UI) Charges as provided under ABT Order and at rates of UI specified by the Central Electricity Regulatory Commission. However, in case of captive users and the consumer other than a distribution licensee, the following provision shall apply:

(a) For Captive generating plant supplying electricity to its captive user connected or not connected with grid and a consumer, such captive user or a consumer shall ensure to draw power as per schedule during each 15-minute time block. The drawal more than schedule shall be considered as 'back up supply' ('back up charges' shall be constituted accordingly) to such captive generating plant or its captive user or consumer from distribution licensee of his area. Such over drawal shall be charged at frequency linked rate 25% higher than UI rate specified by CERC form time to time.

(b) Above charges shall be without prejudice to penalty which may be imposed by the Commission, for non-compliance of the provision of the Act, regulation or code or order made there under, on recommendation of SLDC.

(c) The billing of the 'back up charges', under sub-para (a) above, shall be carried out with the billing of UI charges.

5.6 Reactive Energy Charges associated with transaction shall be paid as per the provision of Delhi Electricity Grid Code or ABT Order or otherwise specified by the Commission by an Order.

5.7 Non-payment of any charge or sum of money payable by the consumer under the Regulations shall be considered non-compliance of the Regulations and Section 56 of the Act, the generating company or STU or any other transmission licensee or a distribution licensee may disconnect supply after giving consumer an advance notice of fifteen days without prejudice to his right to recover such charges by suit.

Provided that non-payment or delayed payment of UI bill shall be considered as default on part of consumer and for such continued defaults, STU/SLDC may bring a case before the Commission for non-compliance of the Regulations under Section 142 of the Electricity Act, 2003.

5.8 Payment Security Mechanism

1 In case of Long term Open Access , the applicant for open access will open an irrevocable and revolving Bank Guarantee in favour of the Transmission / Distribution Licensee responsible for collection of applicable charges for the estimated amount of various charges for a period of two months as per prescribe Format LT-8.

2 Payment security mechanism specified above is intended to ensure recovery of the applicable payment in case of payment default and not as a mechanism for regular payments.

3) The Bank Guarantee shall be opened in a Scheduled Bank mutually agreed between consumer and the concerned Licensees.

4) The Bank Guarantee shall be valid for at least three months beyond the entire duration of the transaction.

5) The Bank Guarantee shall be opened before commencement of Open Access transaction.

6) The Bank Guarantee shall be operated by the Licensees in case of default in payment.

7) All costs / expenses / charges associated with Bank Guarantee shall be borne by the applicant / consumer.

6. METERING

6.1 Metering arrangements shall be guided by the chapter VI clause 33 of DEGC.

6.2 All other matters which are not covered in Regulation regarding type, standards, ownership, location, accuracy class, installation, operation, testing and maintenance, access, sealing, safety, meter reading and recording, meter failure or discrepancies, anti tampering features, quality assurance, calibration and periodical testing of meters, additional meters and adoption of new technologies etc. shall be governed by the Central Electricity Authority (Installation and Operation of Meters) Regulations, Delhi Electricity Grid Code and amendments thereof.

7. ENERGY LOSS

7.1 Energy loss, estimated by SLDC for State transmission and by the Commission for distribution systems, shall be apportioned for all transactions (long-term and short-term transactions).

8. TRANSMISSION AND DISTRIBUTION SYSTEM CONSTRAINTS

8.1 When for the reason of constraints or to maintain grid security, it becomes necessary to curtail power flow on transmission and/or distribution corridor, the transaction already reserved / scheduled may be curtailed by SLDC, if in its opinion such curtailment is likely to relieve transmission and/or distribution constraint or is likely to improve grid security.

8.2 In case of curtailment becoming necessary as result of deviation by the consumer from final despatch and drawal schedule intimated to SLDC, the use of such intra-State system shall be curtailed first, to the full extent of such deviation, following which the principle specified in following clause 8.3 shall apply.

8.3 When because of transmission and/or distribution systems constraint or otherwise, it becomes necessary to curtail the transmission and/or distribution services, curtailment shall be affected in the following order:

(i) Other captive power plant
(ii) Other generating company
(iii) Other distribution licensee
(iv) Existing captive power plant
(v) Existing generating company
(vi) Existing distribution licensee

"Existing" means that existing prior to the date of publication of DERC (Terms and Conditions for Open Access) Regulations, 2005.

8.4 Notwithstanding the provisions of the Regulations, SLDC may, in cases of emergency and in order to maintain system security, follow such other principles of curtailment of use as it considers appropriate.

8.5 In case of curtailment of capacity by SLDC, transmission charges and/or wheeling charges payable shall remain unaffected.

8.6 In case of a force majeure, as determined and notified by SLDC, any schedule transaction may be curtailed or suspended at sole discretion of SLDC and its decision shall be final and binding, and under such event, transmission charge and/or wheeling charge, payable by any user of transmission and/or distribution system, shall remain unaffected.

9. GENERAL

9.1 STU shall designate an officer as 'Nodal Officer' who shall make correspondence in the matter of open access and be responsible for processing and arranging long term access.

9.2 SLDC shall maintain up-to-date records of consumers, long-term transactions and any other relevant information/data and other decisions taken by it on its web-site

9.3 STU / SLDC may modify formats specified under this procedure as the need be under intimation to the Commission. These formats shall also be kept on web-site.

9.4 STU, SLDC, any other transmission licensee, distribution licensee, generating company (generating station, captive generating plant, non-conventional sources of energy) or any other person supplying electricity within the State, trader and open access consumer shall comply with the Electricity Act, 03 and the following orders, regulations and codes as amended from time to time and as applicable.

9.5 The consumer shall keep STU and SLDC indemnified at all times and shall undertake to indemnify, defend and keep STU and SLDC harmless from any and all damages, losses, claims and actions

including those relating to injury to or death of any person or damage to property, demands, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from open access transaction.

9.6 All complaints regarding unfair practices, delays, discrimination, lack of information, supply of wrong information or any other matter related to Long Term Open Access in intra-State transmission shall be directed to the Chairman, Commercial Sub Committee. In case the committee is unable to resolve the matter, it shall be reported to the GCC / Commission for a decision.

9.8 An application involving inter-State transaction shall be governed by the regulations issued by the Central Electricity Regulatory Commission (CERC).

Formats for LONG-Term

FORMAT - LT1

APPLICATION FOR GRANT OF LONG-TERM OPEN ACCESS

(to be sent by consumer to STU)

To: GM (Planning),DTL

1	Consumer Application No:	*<self generated by Consumer>*	Date:	
2	Name of Consumer			
3	Nature of Consumer*	*< seller/buyer/captive user/trader /on behalf of seller/buyer/captive user >*		
4	Trading License No & type			

< In terms of power transfer>*

5	Period of Open Access Sought for					
	Proposed date/Month of Commencement of Open Access					
	Details of proposed Open Access					
	Date		Hours		Capacity	
	From	To	From	To	MW*	

< MW at point of injection>*

6	**Electricity System Strengthening is Involved (Yes/No)**	***< refer sub-clause 2.1.2/2.1.3 of procedure >***
7	**Registered Address**	***< if registered as per Companies Act 1956 >***
8	**Authorised Person(s)**	
	a) Prime Contact Details for the Purpose of Correspondences	
	Name	
	Designation	
	Phone/Mobile	***Residence/Office***
	Fax No	
	Email	
	(b) Alternate Contact Details	
	Name	
	Designation	
	Phone/Mobile	***Residence/Office***
	Fax No	
	Email	

9	Details of PPA/PSA/MoU					
	Name & Address of parties		Date of PPA/PSA/MoU	Validity Period		Capacity MW*
	Seller	Buyer		Commencement	Expiry	

< MW at point of injection>*

10	Details of Non-Refundable Application Fee Made				
	Bank Details	Instrument Details			Amount(Rs.)
		Type(Draft/Cash)	Instrument No.	Date	
11	Involvement of Grid System during Transaction			Injecting Entity	Drawee Entity
	(a)Intra State Transmission Network(Yes/NO)				
	(b)Intra State Distribution Network(Yes/NO)				
	(c) Inter State Transmission Network(Yes/NO)				

12	Details of Injecting Entity	
	1)Name	
	2)Status(in terms of Ownership)	<State utility/CPP/IPP/Discom/ consumer/ specify, if any other>
	3) Whether existing or New Entity	
	4) Utility in which it is Embedded	
	5) Whether Existing Long-term Consumer	<yes/No>
	6)Open Access Requirement Of Entity	
	(i)Existing Capacity in Use(Contracted)	
	(ii)Open Access Capacity sought for	
	(iii)Total Capacity(i+ii)(MW)	
	7) Point of Grid connectivity	< existing/proposed >
	(i) Name of Sub-Station	
	(ii)Voltage level of Injection	
	(iii)Name of Licensee(owner of S/S)	
	8) ABT Interface Metering*	
	(i) Type	
	(ii) Make	
	(iii) Rating	
	9) Other relevant information to support processing of application	
	10) other information as notified by STUon its Web-site	

<*Only in case if system strengthening is not involved and enclose supporting documents duly signed on each page>

13	Details of Drawee Entity	
	1)Name	
	2)Status(in terms of Ownership)	<State utility/CPP/IPP/Discom/consumer/specify, if any other>
	3) Whether existing or New Entity	
	4) Utility in which it is Embedded	
	5) Whether Existing Long-term Consumer	<yes/No>
	6)Open Access Requirement Of Entity	
	(i)Existing Capacity in Use(Contracted)	
	(ii)Open Access Capacity sought for	
	(iii)Total Capacity(i+ii)(MW)	
	7) Point of Grid connectivity	< existing/proposed >
	(i) Name of Sub-Station	
	(ii)Voltage level of Injection	
	(iii)Name of Licensee(owner of S/S)	
	8) ABT Interface Metering*	
	(i) Type	
	(ii) Make	
	(iii) Rating	
	9) Other relevant information to support processing of application	
	10) other information as notified by STUon its Web-site	

<*Only in case if system strengthening is not involved and enclose supporting documents duly signed on each page>

14	In case of Generating Station (Existing/Extension of Existing Station)	
	Existing Details of Station	
	1)Name	
	2)Name of promoter	
	3) Location	
	4) Generation Capacity	
	5) Details of Units with Capacity in MW	
	6)Type	<Thermal/Non-conventional / specify if any other>
	7) Fuel	
	8)Previous Three Year generation in MUs	
	9) Whether Captive Plant	<Yes/no, if yes F.Y. wise utilization during last 3 year>
	10) Base Load or Peaking Load Station	<if peaking load, details of estimated hours of running>
	11) Interfacing Voltage level with grid S/S	
	12) provision of Reactive Power	
	13)Other relevant Information	
	14)Augmentation/Renovation/Modernization/Extension Details of Station (if any)	
	(i) Specific Details	
	(ii) Commissioning schedule	
	(iii) Other relevant information	
	15) Description of 'Electricity System' along with single line diagram(connected &/or proposed)	
	10) other information as notified by STU on its Web-site	
15	In case of New Generating Station	
	1)Name	
	2)Name of promoter	
	3) Location	
	4) Generation Capacity	
	5) Details of Units with Capacity in MW& Commissioning schedule	
	6)Type	<Thermal/Non-conventional specify, if any other>
	7) Fuel	
	8) Whether Captive Plant	<Yes/no>
	9) Base Load or Peaking Load Station	<if peaking load, details of estimated hours of running>
	10) Interfacing Voltage level with grid S/S	
	11) provision of Reactive Power	
	12) whether identified Station of CEA	<yes/NO>
	13) status of Clearance(Yes/No)	
	(i) Land Requisition	
	(ii) Fuel agreement	
	(iii) Environment & Forest	
	(iv) TEC	<if required>
	(v) PPA with beneficiaries	
	14)Other relevant Information	
	15) Description of 'Electricity System' along with single line diagram	
	16) other information as notified by STU on its Web-site	

16	Details of final beneficiary (to whom Power is to be Transmitted &/or wheeled	
	<Consumer may enclosed supporting document as considered appropriate, duly signed on each page)	
	A)In case of Distribution Licensees	
	1)Name of Entity	
	2)Address of Entity	
	3) Utility in which embedded	
	4) Allocation of Power (MW)	
	5)Other Relevant Information	
	B) In case of other than Distribution Licensees	
	1)Name of person/Entity	
	2)Address of Person/Entity	
	3) Utility in which embedded	
	4) Allocation of Power (MW)	
	5) Place of Installation to be Benefited	
	6)Reactor/capacitor Installed	
	7)Beneficiary is consumer of distribution Licensees	<Yes/No>
	If yes, Then (i) Name of distribution Licensees	
	(ii Existing Contracted Capacity	
	8)Other relevant Information	
	9) other information as notified by STUon its Web-site	
17	Other Relevant Information	

Undertaking on behalf of Consumer/User's involved in transaction

18	**Declaration** **a)All Entities/Utilities to transaction shall abide by provisions of the Electricity Act 2003(the Act), DERC (Terms and Conditions for Intra State Open Access) Regulations and any other relevant regulation/order/ code as amended from time to time.** **b) M/s_____ have a valid license (no._____, type _____and valid upto_____) issued by _____ for Inter-State/Intra-State trading and will abide by CERC Regulation on inter-State trading License, as amended from time to time/DERC (procedure, term and conditions for grant of Trading License for Intrastate Electricity Trader and other related provisions) Regulation and amendments thereof .** **<this clause is applicable in case consumer is a trader>** **c) The electricity system(involved in Transaction) shall abide by provisions of DEGC,IE Rules 1956 made under section 37 of Indian Electricity Act 1910 whichever applicable, Technical Standards for Construction of electricity plants, Electric Lines and Connectivity to Grid specified by CEA, measures relating to safety and Electric supply made by CEA under section 57 and 58 of the Act, and Installation and Operation of meters Regulations made by CEA.** **d) I hereby agree to keep STU and SLDC indemnified at all times and shall undertake to indemnify, defend and keep STU and SLDC harmless from any and all damages, losses, claims and actions including those relating to injury to or death of any person or damage to property, demands, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from open access transaction**

Place:
Date :

Signature (With Stamp)
Name & Designation

Enclosures

1) Non-refundable application fee by Demand draft or cash receipt (if payment by cash).
(2) Self–certified copy of PPA/PSA/MoU entered between the parties (buyer and seller) of transaction stating contracted power, period of transaction, drawal pattern, point(s) of injection and drawal etc.
(3) Self-certified copies of Trading licensee .(if applicable).
(4) Detailed description of 'electricity system' of injecting and drawee entities(involved in the transaction) already connected and/or proposed to be connected with intra-state transmission system along with single line diagrams.
(5) Connectivity and interface metering related supporting document including outdoor and indoor layout single line diagrams.(if existing user's of intra-state System)
(6) If any other.

Copy to along with relevant enclosures [except (1) & (2)]:

(1) General Manager (Commercial) of Transmission Licensee involved in transaction.
(2) Concerned officer of Distribution Licensee involved in transaction
(3) SLDC.
(4) Any other concerned

For use of STU (with Reference to Enrolment of Application)	
STU Reference ID No.	
Nodal STU Approval No.	*< if approved >*
Or Reason of Refusal* (If Refused)	

< Nodal Agency may also enclosed supporting documents for the reasons of refusal duly signed on each page >*

ACKNOWLEDGEMENT

(for office use only)

APPLICATION FOR GRANT OF LONG-TERM OPEN ACCESS

(A)< to be filled by the consumer >

1	Consumer Application No:	*<self generated by Consumer>*	Date:	
2	Period of Transaction:			
3	Name of Consumer*	*< seller/buyer/captive user/trader (on behalf of seller/buyer/captive user >*		
4	Trading License No. & Type	*<If Trader>*		

< MW at point of injection>*

5	Period of Open Access Sought for				
	Proposed date/Month of Commencement of Open Access				
	Details of proposed Open Access				
	Date		Hours		Capacity
	From	To	From	To	MW*

<MW*at point of Injection>

(B) *< to be filled by STU>*

Date and time of Receipt of Application	

place
Date

Signature (With Stamp)
Name & Designation

----------X----------X----------X----------X----------X---

(to be issued by STU to the consumer immediately on receipt of application duly filled in)

APPLICATION FOR GRANT OF LONG-TERM OPEN ACCESS

(A)< to be filled by the consumer >

1	Consumer Application No:	*<self generated by Consumer>*	Date:	
2	Period of Transaction:			
3	Name of Consumer*	*< seller/buyer/captive user/trader (on behalf of seller/buyer/captive user >*		
4	Trading License No. & Type	*<If Trader>*		

< MW at point of injection>*

5	Period of Open Access Sought for				
	Proposed date/Month of Commencement of Open Access				
	Details of proposed Open Access				
	Date		Hours		Capacity
	From	To	From	To	MW*

<MW*at point of injection>

(B) *< to be filled by STU>*

Date and time of Receipt of Application	

place :
Date

Signature (With Stamp)
Name & Designation

N.B: This counterfoil may be scored out and issued to the consumer.

FORMATS for Long-Term
FORMAT- LT-2A

Format of Application for Registration with SLDC as user of intra-state Transmission System (for generator)

Sr.No.	Particulars Applicant's Details	
1	Name of the Generating Company	.....
2	Address of the Generating Company/ Authorized Person	.....
	Name :	.....
	Designation :	.....
	Address :	.....
	Contact Details :	
	Office No : 1) .....2)	.....
	Fax No. :	.....
	Mobile No :	.....
	Email ID :	.....
3	Location of the Generating Station	.....
4	Location of Interface with Grid (Enclose a layout of switch yard)	.....
5	Total Installed Capacity	.....
6	Commercial Operation Date (COD) Of the Generating station	.....
7	Nature of use of Energy Supply to Licensees /wheeling to 3rd parties /wheeling for captive use	.....
8	Transmission capacity contracted (Please enclose details of Licensees)	
	(a) For supply to Licensees	.....
	(b) For wheeling to 3rd parties	.....
	(c)For wheeling for captive use	.....
9	Agreement period for supply to licensees	.....
10	Details of communication system installed for communication of data to SLDC	.....
11	Establishment in-charge of control room for communication with SLDC	.....
12	Details of Registration fee paid	.....
13	Any other information useful for assisting efficient Grid Operation (Please enclose separate sheets for additional information)	.....

Signature of the Authorized Officer

FORMATS for Long -Term
FORMAT- LT-2B

Format of Application for Registration with SLDC as user of intra-state Transmission System
(For Open Access Consumer)

Sr.No.	Particulars Applicant's Details	
1	Name of the Open Access Consumer	.....
2	Address of the Open Access Consumer	.....
	Authorized Person	
	Name :	.....
	Designation :	.....
	Address :	.....
	Contact Details :	
	Office No : 1) .....2)	.....
	Fax No. :	.....
	Mobile No :	.....
	Email ID :	.....
3	Location of Interface with Grid (Attach a list of voltage-wise Grid substations/lines along with details of location, capacity, No. of bays, line length, type of line, date of commissioning etc)	
4	Total capacity (Max. Demand that can be served)	
5	Transmission capacity contracted from Transmission Licensees (Enclose list of Transmission Licensees with details)	
6	Capacity contracted to Open Access consumers.	
7	Details of communication system available for communication of data to SLDC / ALDC (Enclose substation-wise details)	
8	Designation of the personnel responsible for operation of Grid substations at which Open Access Consumer is connected.	
9	Details of the registration fee paid	
10	Any other information useful for assisting efficient Grid Operation: (Please enclose separate sheets for additional information)	

Signature of the Authorized Officer

FORMATS for Long-Term
FORMAT- LT-8

FORMAT FOR THE UNCONDITIONAL AND IRRECOVABLE BANK GURANTEE FOR BILATERAL TRANSACTION / COLLECTIVE TRANSACTION
(To be stamped on Rs.100/- non judicial stamp paper)

Whereas M/s. _____*(Name of the Intra State Company)*, a Company registered under the Companies Act, 1956 and having Registered Office at _____*(Address)*, hereinafter called the 'Intra State Company' submitted open access application for intending transaction, inter alia for sale / trade of power of ___MW on Long term basis to _____ *(Name of Trader / Buyer)* through Inter State / Intra State Open Access as per applicable relevant regulation issued by appropriate Regulatory Commission and procedure devised by the State Transmission Utility, Delhi Transco Ltd for Long Term Open Access in intra State network in the State of Delhi *(Name of State)* in the condition which inter alia are subject matter of the application of Long term transaction herein referred, agrees to furnish this Bank Guarantee for an amount of Rs. _____*(in figures)* Rs._____*(in words)* equivalent to One week billing for scheduled energy either receivable or payable determined based on quantum of sale / trade intend to scheduled through this open access transaction at rate of 105% of maximum unscheduled interchange rate applicable and equivalent to One week.

We, _____*(Name of the Bank)* Bank, _____*(Branch, City)* Branch hereinafter called 'The Bank' in consideration of the premises, do hereby agrees unequivocally, irrevocably and unconditionally to pay the STU or concerned Distribution Licensees from the consumer as the case may be or (the Distribution consumer), the _____

Forthwith on demand in writing from procurer or any officer authorized by it in this behalf at any time upto _____ *(date up to Open Access transaction + two additional months)*, any amount upto and not exceeding Rupees _____ *(in words)* only as may be claimed by STU, Delhi by way of failure of the Open Access Consumer to pay any charges within stipulated time limit towards obligation laid down under Long Term Open Access approval granted.

It is hereby agreed and acknowledge that the decision of the STU/State Load Dispatch Center/ or (the Distribution company), the Generating company as the case may be, as to whether any money is payable by the Open Access Consumer or whether the Open Access Consumer has made any such default of defaults as aforesaid and the amount or amounts to which the STU is entitled to by reason thereof will be binding on the Bank and the Bank shall not be entitled to ask the STU/Distribution Licensees to establish its claim or claims under this Guarantee or to claim any such amount from the company in the first instance but shall pay the same to the STU/ Distribution Licensee of Delhi forthwith on demand without any demur, reservation,

recourse, contest or protest and / or without any reference to the intrastate company. Any such demand made by the STU/ Distribution Licensee on the Bank shall be conclusive and binding notwithstanding any difference between the STU/ Distribution Licensee and the Intrastate company or bank and Intrastate Company or pay dispute pending before any Court, Tribunal, Arbitrator or any other authority.

The Bank further undertake not to revoke this Guarantee during its currency except with the previous consent of the STU/ Distribution Licensee of Delhi in writing and this Guarantee shall continue to be enforceable till the aforesaid date of its expiry or the last date of the extended period agreed upon as the case may be unless during the currency of the Guarantee all the dues of the STU/ Distribution Licensee under or by virtue of Open Access approval granted by SLDC of the letter of approval and subsequent accounting statement issued to intrastate company have been duly paid and its claims satisfied or discharge or the STU/ SLDC certifies that the terms and conditions of said letter of open access approval and subsequent accounting statement issued by State Load Dispatch Center have been fully carried out by the intrastate company and accordingly discharged the Guarantee.

Subject to the maximum limit of the Bank's liability as aforesaid, this Guarantee shall cover all claim or claims of the STU/ Distribution Licensee against the Intrastate company from time to time arising out or under condition stipulated under the said letter of Long Term Open Access approval and Charges payable in exercise of said approval of Long Tem Open Access and in respect of which the STU/ Distribution Licensee Delhi demand or notice in writing be served on the Bank before the date of expire of this Guarantee mentioned above or of further extended period agreed upon, as the case may be.

The Guarantee shall not be affected by any change in the constitution of the said Intrastate Company in any manner by reason or merger, amalgamation, restructuring or any extension or forbearance to the Intrastate Company or any other change in the constitution of the Guarantor and the Bank will ensure for and be available to and guarantee enforceable by the STU/ Distribution Licensee of Delhi.

The Guarantee shall be a primary obligation of the Guarantor Bank and accordingly procurer shall not be obliged before enforcing this bank guarantee to take any action in any court or arbitral proceedings against the Intrastate Company, to make any claim against or any demand on the Intrastate Company or to give notice to the Intrastate Company to enforce any security held by the procurer or to exercise, levy or enforce any distress, diligence or other process against the Intrastate Company. The bank guarantee shall be interpreted in accordance with the laws of India and settlement of any dispute arisen between the parties shall be subjected to the legal jurisdiction of Delhi.

And whereas in case violation of the terms of the Bank Guarantee, penalty will be levied on the claimed amount as per the bank's penalty rates. It will not be opened to the Intrastate Company to challenge the said clause on any ground whatsoever including formation of opinion but default as to the amount guarantee or part thereof remaining payable under the contract and such opinion of STU/ Distribution Licensee shall be final and binding thereof for the purpose of invocations of this Bank Guarantee.

Notwithstanding anything contained herein:-

1 Our liability under this Bank Guarantee shall not exceed Rs._____*(In Figures)* (Rupees _____) *(in words)*

2 This Bank Guarantee shall be valid till _____*(date to be inserted as per approval of Open Access transaction allowed by SLDC with an additional claim period of 60days thereafter).*

3 We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only if procurer serve upon us a written claim or demand on or before _____

The Bank has power to issue this Bank Guarantee under the statute and the undersigned has full power to sign this Guarantee on behalf o Bank.

Signature _____

Name _____

Power of Attorney No._____

For _____(name of bank)

Witness (two authorized officers of the Bank with name, designation and employee number)

1 _____

2 _____

278

BEFORE THE APPELLATE TRIBUNAL FOR ELECTRICITY

APPELLATE JURISDICTION

APPEAL NO. OF 2017

IN THE MATTER OF:

BSES Rajdhani Power Ltd	...	Appellant
Versus		
Delhi Electricity Regulatory Commission	...	Respondent

PAPER BOOK

VOLUME- II
(PAGE NOs. 265 - 348)

For index please see inside

Filed on: 29-08-2017

Filed by:

New Delhi

Hasan Murtaza/Malavika Prasad
Mulla & Mulla & Craigie Blunt & Caroe
Advocates for Appellant
502, Nilgiri Apartments
9, Barakhamba Road
New Delhi 110 001

INDEX

VOLUME-II

Continued from Volume-I

Sr. No.	Particulars	Page Nos.
11	ANNEXURE A -7 True copy of Order dated 18-05-2015 passed by DERC	265-268
12	ANNEXURE A -8 true copy of Order dated 09-12-2015 passed by DERC	269-270
13	ANNEXURE A-9 True copy of the draft proposal for determination of open access charges and related matters along with a Public Notice inviting comments on the same issued in December 2016.	271-296
14	ANNEXURE A -10 True copy of a statement of the ABR at the rate of revised tariff vis-à-vis ACoS and the variation of different tariff category with regard to ACoS	297
15	ANNEXURE A-11 True copy of the suggestions and objections submitted by the Appellant in response to the draft proposal issued by the DERC	298-325
16	I.A. No. OF 2017 Application for Condonation of Delay in Filing of the Appeal under Section 111 Of The Electricity Act 2003	326-333
17	I.A. No. of 2017 Application for Exemption for Filing Certified Copy of the Impugned Order dated 01-06-2017 under Section 151 of CPC	334-339
18	I.A. No. OF 2017 Application for Stay of the Impugned Order dated 01-06-2017 under Section 151 of CPC	340-348

ANNEXURE A-7 265

Delhi Electricity Regulatory Commission
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17.

In the matter of:

Determination of Transmission and Wheeling Charges, Cross Subsidy Surcharge under Short Term Open Access.

ORDER
(Date of Order: 18.05.2015)

1. The Delhi Electricity Regulatory Commission (hereinafter referred to as Commission) vide its order dated 24.12.2013 had determined Transmission and Wheeling Charges, Cross Subsidy Surcharge, Additional Surcharge and other applicable charges under Short Term Open Access. The Commission hereby issues amendment order to the order dated 24.12.2013.

2. The Cross Subsidy Surcharge as per National Tariff Policy is defined as "T-[C(1+L/100)+D]". These parameters (T, C, L, & D) are updated and made available in Tariff Orders of the relevant years. The nodal agency shall compute Cross Subsidy Surcharge accordingly and shall also display it on its website within one month of issue of the Tariff orders. Wherever cross subsidy surcharge worked out is negative, no cross subsidy surcharge shall be payable by the OA consumer.

3. The additional surcharge has been stipulated in the Commission's order dated 24.12.2013. The Commission has now further decided that additional surcharge taken from open access customers shall be adjusted at the end of each financial year as per actual by the nodal agency, on 15 minutes time block basis, based on the approved quantum of the Open Access of the consumer, Fixed & variable charge liabilities of the DISCOMs for contracted Long Term arrangements, and corresponding UI/Deviation Settlement Mechanism rates.

4. In Commission's order dated 24.12.2013, it was mentioned that, to ensure smooth implementation of Open Access within Delhi, the Commission may over-see all Open Access transactions in consultation with SLDC, in the initial phase until the system of Open Access gets stabilized. During the course of implementation of Open Access, SLDC Delhi has observed some difficulties and accordingly raised certain issues. The Commission has considered these issues and made following modifications in the order dated 24.12.2013 for proper implementation of oper access in Delhi :

   (i) The clause 13.1 of guidelines on short term open access issued by Commission on dated 24.12.2013 shal be read as under :

   In case of Collective Transactions through power exchange, the customer shall pay applicable charges towards open access transaction to the concerned power exchange & all the distribution charges to the concerned Distribution Licensee directly. The Concerned Power Exchange shall remit the STU charges & SLDC Operation charges to SLDC.

   In case of Bilateral Interstate Transactions, the customer shall pay applicable charges towards open access transaction to the concerned RLDC & all the distribution charges to the concerned Distribution Licensee directly. The

concerned RLDC shall remit the STU charges and SLDC Operation charges to SLDC.

In case of Intra State Transactions, the customer shall pay applicable charges toward open access transaction to SLDC & all the distribution charges to the concerned Distribution Licensees directly.

(ii) The clause 13 v. of order and clause 13.6 of guidelines dated 24.12.2013 on short term open access issued by Commission shall be read as under :

All the charges except distribution charges (DISCOM wheeling, cross subsidy surcharge, additional surcharge, reactive energy and Deviation Settlement Mechanism charges etc.) in first instance will be collected by SLDC directly or through RLDC/Exchange. The Transmission Charges as received by SLDC shall be remitted to STU within 15 days of its receipt by SLDC.

(iii) Clause 8.0, of Annexure A, "Transaction of Power due to failure of Transmission / Distribution System", reads as under:

8.1 If an Open Access Consumer is unable to draw the scheduled energy due to unscheduled cut or failure of transmission / distribution system of the licensee, the power injected will be treated as Unscheduled Interchange Energy and shall be adjusted at UI capped rate i.e. Rs. 4.03 Ps/Unit or at UI rate prevailing at the time of cut or failure or contracted rate whichever is lower. The capped rate shall be as per rate amended time to time by the appropriate Commission as per the UI Regulations.

(iv) The clause 12(4) of order, 11.0 (G) of Annexure A and 5.4(viii) of Annexure B of Commission Order dated 24.12.2013, shall be read as under:

In cases of outages of generator supplying to open access consumer, standby arrangements will be provided by the distribution licensee for a maximum period of 42 days in a year, subject to the load shedding as is applicable to embedded consumers of the licensee and the licensee shall be entitled to collect tariff under Temporary rate for that category of consumers in the prevailing tariff schedule or as decided by the Commission from time to time.

Provided also that the Open Access customers shall have the option to arrange standby power from any other source. The Standby charges shall be applicable from 00.00 hrs after 24 hrs of outage of generator supplying to Open Access customer, till that time customer shall have to pay the charges as per Deviation Settlement Mechanism rate for drawal of that energy to Distribution licensee. The Standby charges for the power availed by the Open Access customer on outage of generator supplying to open access customer shall be paid to Distribution company as in the case of similarly placed customer of DISCOMs availing temporary connection from them.

(v) The transmission charges, wheeling charges, additional surcharge and cross subsidy surcharge shall be levied on Oper Access quantum cleared by the Nodal Agency.

(vi) Validity of Bank Guarantee (BG)/Letter of Credit (LC) shall be till open access transaction allowed by SLDC with an additional claim period of sixty (60) days thereafter.

(vii) Clause 14.2(iii) of Annexure A shall be read as:

"The LC/BG shall be opened by the customer before issuance of the compliance report for completion of metering formalities".

(viii) Partial drawl can be allowed only f Open Access quantum is fixed for a whole day. The consumer shall pay the Oper Access charges as per the Regulations. The DISCOMs shall recover Fixed charges, Energy charges & Deviation Settlement Mechanism charges from the consumer opting for Partial Open Access, as under:

a) **Fixed Charges** on Sanctioned Contract Demand minus Open Access Quantum
b) **Energy Charges** corresponding to actual drawl (upto Sanctioned Contract Demand) minus Open Access Quantum, at applicable DISCOM's rates.
c) **Deviation Settlement Mechanism Charges** on the actual drawl above Sanctioned Contract Demand.

Illustration
Sanctioned Contract Demand = 10 MW
Open Access Quantum = 6 MW

Slot-wise calculation for DISCOM billing shall be done as under :

- **Fixed Charges** will be recovered by DISCOMs on Sanctioned Contract Demand minus Open Access Quantum. i.e 10-6=4 MW in this case.

- **Ener y charges** shall be recovered by DISCOMs as under:

Case-1

Actual drawl less than 6 MW

DISCOM will charge only fixed charges. Deviation Settlement Mechanism charges shall not be applicable in this case.

Case-2

Actual drawl between 6-10 MW

Energy more than 6 MW and upto 10 MW will be charged at applicable DISCOM's rates.

Case-3

Actual drawl more than 10

Energy more than 6 MW and upto 10 MW will be charged at applicable DISCOM's rates. Drawl above 10 MW will be charged as per applicable Deviation Settlement Mechanism Regulations.

All other Open Access charges as per the Regulation shall be applicable.

(ix) The email ID for open access transactions given in Clause 3.3 of Annexure A, shall be replaced with "oasldcdelhi@gmail.com".

(x) The account details given in Clause 2.1 A(v) of the Annexure A, shall be replaced with "Delhi Transco Ltd., SLDC R&E".

(xi) In the clause 10.3, 10.4, 12.2 & Activity Chart point (D), of Annexure A, the word 'weekly' in case of generators/sellers shall be replaced with 'monthly'.

(xii) The word consumer shall be replaced with Customer (buyers & sellers) in the clause. 12 (2) viii. of the order.

(xiii) The customers (buyers & sellers) for open access will be required to give an undertaking to open an irrevocable Bank Guarantee as per Format ST-8 in favour of the agency responsible for collection of various charges, for the estimated amount of various charges, as given here under in line with payment security mechanism guidelines as per Principal Regulations, as amended from time to time.

Submitted By	Applicable Charges	Submitted to
Consumer	2 Months wheeling charges, cross subsidy surcharge, & additional surcharge (@ average of additional surcharge for the approved period)	Concerned Discom
	2 Months STU charges and SLDC Operation Charges as applicable (if the payment is not submitted in advance)	SLDC
Seller/ Generator	2 Months wheeling charges and seven days Deviation Settlement Mechanism charges @ of 105% of maximum Deviation Settlement Mechanism rate on OA Quantum.	Concerned Discom
	2 Months STU charges and SLDC Operation Charges as applicable (if the payment is not submitted in advance)	SLDC

Sd/-
(B.P.Singh)
Member

Sd/-
(J.P.Singh)
Member

Sd/-
(P.D.Sudhakar)
Chairman

ANNEXURE A - 8

Delhi Electricity Regulatory Commission
Vinjyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17.

In the matter of:

Determination of Transmission and Wheeling Charges, Cross Subsidy Surcharge under Short Term Open Access.

ORDER
(Date of Order: 09.12.2015)

1. Whereas the Delhi Electricity Regulatory Commission (hereinafter referred to as Commission) in exercise of powers conferred by sections 39, 40, 42 read with 181 of the Electricity Act, 2003, made the Delhi Electricity Regulatory Commission (Terms and conditions for Open Access) Regulations, 2005 for the introduction of open access to the Transmission and Distribution System and terms and conditions thereof.

2. Whereas Regulations 12(1) provides that the Open Access Customers shall pay the transmission charges, wheeling charges, surcharges, additional surcharges, scheduling charges (UI) charges, reactive energy charges and such other charges as the Commission may determine from time to time.

3. Whereas, vide order dated 24.12.2013, the Commission, had inter-alia, determined the Scheduling and System Operating Charges payable to SLDC, as Rs. 2000/- per day or the rate fixed by the Commission from time to time. The Commission in this regard hereby issues amendment order to the order dated 24.12.2013.

4. Whereas, the CERC vide its notification No. L-7/105(121)/2007-CERC dated 12.05.2015 has amended the Operating Charges of SLDC to Rs. 1000/- per day or part of the day for each State Load Despatch Centre involved shall be payable by the applicant.

5. Now, therefore, to bring uniformity in the SLDC charges the Commission hereby revises the Scheduling and System Operating Charges of SLDC from Rs. 2000/- to Rs. 1000/- per day/part of the day or the rate fixed by the Commission from time to time.

6. Ordered accordingly.

Sd/-	Sd/-	Sd/-
(B.P.Singh)	(J.P.Singh)	(P.D.Sudhakar)
Member	Member	Chairman

ANNEXURE A-9

DELHI ELECTRICITY REGULATORY COMMISSION
Viniyamak Bhawan, C-Block, Shivalik, Malviya Nagar, New Delhi-110 017.
Website: www.derc.gov.in, Telefax: 26673608

PUBLIC NOTICE

To provide comments/ suggestions/objections on proposal for determination of open access charges and related matters

The Commission received various requests/suggestions/clarifications from the stakeholders, Nodal Agency, licensees to revise some of the provisions of existing Orders. Further, Ministry of Power, GoI has issued the revised National Tariff Policy modifying the cross subsidy surcharge formula.

Therefore, the Commission has decided to revise the charges and the principles of the existing Order keeping in view the current scenario. Accordingly, a draft Order and modified guidelines are prepared. The Draft Order and modified guidelines are available on the website of the Commission i.e. www.derc.gov.in.

Stakeholders are requested to forward their suggestions/comments/objections on the Draft Order and modified guidelines to the Commission, latest by 20.01.2017. The comments/suggestions/objections may be forwarded to Secretary, DERC either by post or through email to secyderc@nic.in.

Secretary, DERC

Delhi Electricity Regulatory Commission
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17.

Proposal for Determination of Open Access Charges and related matters

1. The Electricity Act 2003 (EA 2003) enables eligible consumers to have non-discriminatory Open Access (OA) to the network of a Licensee (except that of a local authority engaged in the business of distribution of electricity before the appointed date) on payment of applicable charges. The EA 2003 and National Electricity Policy (NEP) formulated there under, mandates the State Electricity Regulatory Commissions to frame the terms and conditions and timeframe for introduction of OA in the State.

2. Section 2 (47) of the Electricity Act, 2003 defines Open Access, while Section 42 of the Electricity Act, 2003 mandates the Distribution Licensees to provide open access to eligible consumers subject to payment of cross-subsidy surcharge, additional surcharge and other applicable charges.

3. The Commission in exercise of the power vested in it under section 39, 42, 86 (1)(c) read with Section 181 of the Electricity Act, 2003 and all other powers enabling the Delhi Electricity Regulatory Commission (hereinafter referred to as Commission) in this behalf, notified the Delhi Electricity Regulatory Commission (terms and conditions for Open Access) Regulations, 2005 (hereinafter referred to as Open Access Regulations). In the aforesaid Regulations, notified in the official gazette on 03rd January, 2006, open access was allowed to the Intra State Transmission System in the State, immediately, subject to the satisfaction of the conditions contained in the Act or in these Regulations.

4. Regulations 12 and 17 of Open Access regulations empowers the Commission to determine the applicable charges and issue of orders and practice directions time to time. Pursuant to these Regulations, the Commission had issued Orders dated 24.12.2013, 18.05.2015 and 09.12.2015, to decide Transmission and Wheeling Charges, Cross Subsidy Surcharge, Additional Surcharge and other applicable charges under Open Access and the procedure to be followed in various matters for implementation of Open Access Regulations. Ministry of Power, Government of India has issued the revised Tariff Policy changing surcharge formula which necessitates review of cross subsidy surcharge. Further, the Commission has received various proposals/ suggestions/ clarifications for revision of some of the provisions of existing Orders, such as:-
   (i) Whether open access can be allowed for a quantum of less than 1MW to a consumer having contract demand for 1MW and above.

(ii) At present, partial open access is allowed for a fixed quantum for whole day. There is no provision for seeking open access for varied quantum during the day.

(iii) There is no provision for providing compensation to an Open Access consumer who is unable to draw power due to failure of distribution network for the reasons attributable to distribution licensee.

(iv) There is no provision for imposing penalty on the open access consumers who are violating the provisions of the Regulations/ Order.

5. Therefore, it became imperative to review the charges and to add/clarify certain existing provisions. Accordingly, the Commission has decided to revise the charges and the principles, keeping in view the current scenario.

6. The Commission has kept in view the provisions of the Electricity Act, 2003, National Electricity Policy, National Tariff Policy and the Open Access Regulations of the Commission, while determining the open access charges payable by open access consumers under the following heads :

i. Transmission and Wheeling charges
ii. Cross Subsidy surcharge
iii. Additional surcharge
iv. Other applicable charges.

7. **Short term open access intra State transmission charges**:

(i) In case of Short Term Open Access Consumer, the Commission in its Order dated 24.12.2013 prescribed that Transmission Service Charges shall be calculated in accordance to following methodology:

ST_Rate= (ATSC/Av_CAP)/365;
Where:
ST_Rate is the rate for short-term open access consumer in Rs. Per MW per day;
ATSC is Annual Transmission Service Charge:
Av_CAP means the average capacity in MW served by the transmission system of the Transmission Licensee in the last Financial Year and shall be computed as under:-

1	ST-Rate in Rs./MW/Day	(ATSC /AV_CAP)/365
	Where, ATSC Annual Transmission Service Charges of the Transmission System for the current financial year & AV_CAP Average Transmission Capacity served in MW during the previous financial year.	
2	ATSC for DTL Transmission system as per DERC order	=Rs. Z crores
3	Average Transmission Capacity Served in MW by DTL during	= Energy served (consumed in Delhi as per SEM data) in MUs X

	previous year	1000 MWh / 365/24 = Y MW
4	ST_Rate for DTL Transmission System in Rs/MW/Day	= Z X 10000000 / Y / 365 = Rs. S
5	ST_Rate for DTL Transmission System in Rs./ kWh	**= S / 24000**

8. The Government of India has notified the Tariff Policy (TP) under Section 3 (1) of the Electricity Act, 2003. Ministry of Power, Government of India has notified revised Tariff Policy vide Resolution dated 28.01.2016. Paragraph 8.5 (reproduced below) of the said Tariff Policy specifies the methodology for calculation of cross subsidy surcharge, additional surcharge and wheeling charges for open access consumers.

"8.5 Cross-subsidy surcharge and additional surcharge for open access

8.5.1 National Electricity Policy lays down that the amount of cross-subsidy surcharge and the additional surcharge to be levied from consumers who are permitted open access should not be so onerous that it eliminates competition which is intended to be fostered in generation and supply of power directly to the consumers through open access.

A consumer who is permitted open access will have to make payment to the generator, the transmission licensee whose transmission systems are used, distribution utility for the wheeling charges and, in addition, the cross subsidy surcharge. The computation of cross subsidy surcharge, therefore, needs to be done in a manner that while it compensates the distribution licensee, it does not constrain introduction of competition through open access. A consumer would avail of open access only if the payment of all the charges leads to a benefit to him. While the interest of distribution licensee needs to be protected it would be essential that this provision of the Act, which requires the open access to be introduced in a time-bound manner, is used to bring about competition in the larger interest of consumers.

SERCs may calculate the cost of supply of electricity by the distribution licensee to consumers of the applicable class as aggregate of (a) per unit weighted average cost of power purchase including meeting the Renewable Purchase Obligation; (b) transmission and distribution losses applicable to the relevant voltage level and commercial losses allowed by the SERC; (c) transmission, distribution and wheeling charges up to the relevant voltage level; and (d) per unit cost of carrying regulatory assets, if applicable.

Surcharge formula:

S= T – [C/ (1-L/100) ÷ D+ R]

Where

S is the surcharge

T is the tariff payable by the relevant category of consumers, including reflecting the Renewable Purchase Obligation

C is the per unit weighted average cost of power purchase by the Licensee, including meeting the Renewable Purchase Obligation

D is the aggregate of transmission, distribution and wheeling charge applicable to the relevant voltage level

L is the aggregate of transmission, distribution and commercial losses, expressed as a percentage applicable to the relevant voltage level

R is the per unit cost of carrying regulatory assets.

Above formula may not work for all distribution licensees, particularly for those having power deficit, the State Regulatory Commissions, while keeping the overall objectives of the Electricity Act in view, may review and vary the same taking into consideration the different circumstances prevailing in the area of distribution licensee.

Provided that the surcharge shall not exceed 20% of the tariff applicable to the category of the consumers seeking open access.

Provided further that the Appropriate Commission, in consultation with the Appropriate Government, shall exempt levy of cross subsidy charge on the Railways, as defined in Indian Railways Act, 1989 being a deemed licensee, on electricity purchased for its own consumption.

8.5.2 No surcharge would be required to be paid in terms of sub-section (2) of Section 42 of the Act on the electricity being sold by the generating companies with consent of the competent government under Section 43(A)(1)(c) of the Electricity Act, 1948 (now repealed) and on the electricity being supplied by the distribution licensee on the authorisation by the State Government under Section 27 of the Indian Electricity Act, 1910 (now repealed), till the current validity of such consent or authorisation.

8.5.3 The surcharge may be collected either by the distribution licensee, the transmission licensee, the STU or the CTU, depending on whose facilities are used by the consumer for availing electricity supplies. In all cases the amounts collected from a particular consumer should be given to the distribution licensee in whose area the consumer is located. In case of two licensees supplying in the same area, the licensee from whom the consumer was availing supply shall be paid the amounts collected.

8.5.4 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 the obligation of a licensee, in terms of existing 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 would be recovered through wheeling charges.

8.5.5 Wheeling charges should 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.

8.5.6 In case of outages of generator supplying to a consumer on open access, standby arrangements should be provided by the licensee on the payment of tariff for temporary connection to that consumer category as specified by the Appropriate Commission. Provided that such charges shall not be more than 125 percent of the normal tariff of that category."

9. The Commission has considered that the subsidized category of consumers are generally opposing the Open Access on the ground that the Cross Subsidy which is existing today is likely to be removed thereby increasing the tariff of the subsidized categories immediately. Even the law recognizes this fact and provides for levy of Cross Subsidy Surcharge initially which is required to be reduced over a period of time along with the reduction of Cross Subsidy in the Tariff Design. The Tariff Policy also envisages that the tariffs are to be brought to a level of ±20% of average cost of supply. The revised tariff Policy also envisages that surcharge shall not exceed 20% of the tariff applicable to the category of the consumers seeking open access. As far as the Distribution Licensees are concerned, their main objective seems to be adoption of the principle of "revenue neutrality" thereby implying that any loss in revenue arising on account of the introduction of Open Access be passed on through the Aggregate Revenue Requirement (ARR). Keeping in view the implications, The Commission's endeavour is to balance the interests of all the stake holders and introduce Open Access to promote competition in the Electricity Sector. Further, the Commission would also make efforts to make Open Access non discriminatory not only between the Open Access (OA) consumers but also between the OA and all other existing consumers.

10. Considering all above factors, existing laws, and Government policies and to promote competition in the Electricity Sector, the Commission decides

the following for open access and other matters in the distribution system of the licensee:

(1) Cross Subsidy surcharge.

i. The Cross Subsidy surcharge shall be calculated based on the surcharge formula laid-down in Para 8.5 of the National Tariff Policy issued by the Government of India from time to time with some assumptions taking into account some state specific issues, as specified in this order.

ii. Since the tariff for each category of consumers is fixed by the Commission on year-to-year basis, the surcharge shall also be decided on a year-to-year basis.

iii. For the calculation of the surcharge, the losses shall be considered based on average figures as projected in the respective Tariff Order and the Commission is not in favour of post-facto correction of the surcharges or the energy transactions based on the actual losses.

iv. The Wheeling charges shall also be varying from year-to-year on account of investments being made in the sector for meeting the load growth, AT&C loss reduction and improving the performance standards.

v. Keeping in view all the above points, it is felt that it shall be appropriate to determine the surcharge on a yearly basis. The nodal agency shall compute Cross Subsidy Surcharge and shall display it on its website within one month of issue of Tariff Orders.

vi. Based on the data available in Tariff Order for the distribution Licensees issued by the Commission, the Commission has calculated the Cross Subsidy surcharge applicable to different consumers at different voltages/and different class of consumers along with certain assumptions which are indicated in **Annexure – 1.** Accordingly, the charges indicated in **Annexure – 2, 3 & 4** shall be payable by the Open Access consumers by way of Cross Subsidy surcharge in the TPDDL, BRPL & BYPL areas respectively. Wherever the cross subsidy surcharge worked out in Annexure 2, 3 & 4 is negative, no cross subsidy surcharge shall be payable by the OA consumer.

vii. Cross subsidy surcharge determined on Per Unit basis shall be payable, by the open access customers based on the actual energy drawn through open access, limited to a maximum of scheduled open access energy during that time block.

(2) Transmission and Wheeling Charges:

i. The transmission charge for Open Access consumers availing Open Access from the Delhi Transco Limited's transmission system shall be regulated in terms of the provisions of applicable MYT regulations.

ii. The Wheeling charges leviable by the distribution licensees shall be in accordance with the charges determined by the Commission in the respective Tariff Orders in paisa/KWhr. The Open Access consumers shall also be governed by the Scheduling Process being adopted by the

distribution licensees as per the Intra-State ABT Order of the Commission and subsequent clarification thereof in the matter. The Open Access consumer shall also be liable for payment of the SLDC charges, Reactive energy charges etc. as per the prevailing orders of the Commission, as amended from time-to-time.

iii. The Transmission charges, wheeling charges shall be levied on open access quantum cleared by the nodal agency. The charges payable to the other States/PGCIL etc. for Open Access by using Inter-State or Inter-regional links shall be payable extra by the Open Access consumers in accordance with the applicable regulations, rules/orders in the matter.

iv. Wherever system strengthening/augmentation of distribution system is involved, any associated cost for this purpose would have to be borne by the long term Open Access consumers.

(3) Additional Surcharge

(i) 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, in addition to wheeling charges and cross-subsidy surcharge, to meet out the fixed cost of such distribution licensee arising out of his obligation to supply as provided under sub-section (4) of section 42 of the Act.

(ii) This additional surcharge shall become applicable only if the obligation of the 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. However, the fixed costs related to network assets would be recovered through wheeling charges.

(iii) Additional surcharge determined on Per Unit basis shall be payable, by the open access consumer based on actual energy drawn through open access, limited to a maximum of scheduled open access energy during that time block:
Provided that such additional surcharges shall not be levied in case open access is provided to a person who has established a captive generation plant for carrying the electricity to the destination of his own use.

(iv) It is noted that the Licensees have surplus power during all months of the year. However, based on actual demand and availability, additional power is required to be purchased during some time blocks in all months of the year. It is noted that during the months of May to September, such additional power purchased is higher than other months. The embedded consumers of the Licensees are bearing the average fixed cost of power purchase as the allocation of power purchase is not linked with the tariff category of consumers. If a consumer is opting for open access, it means a liability corresponding to average fixed cost is to be borne. Accordingly

the Commission has determined additional surcharge as average fixed cost per unit based on the projections given in the Tariff Order for the months from October- April. The additional surcharge during the months of May to September has been kept half of average fixed cost per unit.

(v) The additional surcharge shall be payable as per Annexure-5.

(4) Imbalance Charges

4.1 Settlement of Energy at Open Access Consumer meter:-

(A) Admissible Drawl of Electricity by open access consumer from the distribution licensee:

The quantum of drawl of electricity by an open access consumer from the distribution licensee during any time block of a day shall not exceed the "Admissible Drawl of Electricity by open access consumer" which is the difference of contract demand and maximum quantum of open access for which approval has been granted by Nodal Agency.

[Explanation: If an open access consumer with a contract demand of 10 MW has been given an approval for a maximum open access quantum of 6MW for a period of 3 months, the Admissible Drawl of Electricity from distribution licensee during any time block shall be 4 MW for any day during a period of 3 months.]

(B) Over-drawl by an open access consumer shall be settled as under:

(i) Fixed Charges on Admissible Drawl of Electricity by open access consumer from the distribution licensee.

(ii) Energy Charges corresponding to excess drawl above 'scheduled Open Access Quantum' limited to "Admissible Drawl of Electricity by open access consumer", at applicable distribution licensee's energy charge rates.

(iii) Temporary Charges on any drawl above the sum total of "Scheduled Open Access quantum" and "Admissible Drawl of Electricity by open access consumer".

Illustration

Contract Demand = 10 MW

Approval for a maximum open access quantum of 7 MW for a period of 3 months

Slot-wise calculation for distribution licensee billing shall be done as under:

(i) Fixed Charges Admissible Drawl of Electricity by open access consumer from the distribution licensee i.e. for 3MW (10-7).

(ii) Energy charges including temporary charges shall be recovered by the distribution licensee, under the following cases as given:

Case-1

(i) Contract Demand = 10MW
(ii) Approval for a maximum open access quantum of 7 MW for a period of 3 months
(iii) Scheduled Open Access Quantum for the day is 6 MW during 0-12hrs, 5MW during 12-24 hours
(iv) Admissible Drawl of Electricity from Distribution Licensee works out = 3MW (10-7)
(v) Actual drawl by OA consumer= 4 MW
Distribution licensee will levy only fixed charges corresponding to 3MW. No energy charges and temporary charges shall be levied since the actual drawl of energy is within the limit of scheduled energy.

Case-2

(i) Contract Demand = 10MW
(ii) Approval for a maximum open access quantum of 7 MW for a period of 3 months
(iii) Scheduled Open Access Quantum for the day is 6 MW during 0-12hrs, 5MW during 12-24 hours
(iv) Admissible Drawl of Electricity from Distribution Licensee works out = 3MW (10-7)
(v) Actual drawl OA consumer = 8 MW
Distribution licensee will levy fixed charges corresponding to 3MW. Energy of 2 MW during 0-12 hrs and 3 MW during 12-24 hrs will be charged at applicable distribution licensee's energy charge rates as the excess energy above scheduled energy is within the "Admissible Drawl of Electricity by open access consumer".

Case-3

(i) Contract Demand = 10MW
(ii) Approval for a maximum open access quantum of 7 MW for a period of 3 months
(iii) Scheduled Open Access Quantum for the day is 6 MW during 0-12hrs, 5MW during 12-24 hours
(iv) Admissible Drawl of Electricity from Distribution Licensee works out = 3MW (10-7)
(v) Actual drawl OA consumer= 8.5 MW
Distribution licensee will levy fixed charges corresponding to 3MW. Energy of 2.5 MW during 0-12 hrs and 3 MW during 12-24 hrs at applicable distribution licensee's energy charge rates, as this excess energy above scheduled energy is within the "Admissible Drawl of Electricity by open access consumer" and additional 0.5 MW during 12-24 hrs at temporary tariff, as this energy is above "Admissible Drawl of Electricity by open access consumer".

Case-4 231

(i) Contract Demand = 10MW

(ii) Approval for a maximum open access quantum of 7 MW for a period of 3 months

(iii) Scheduled Open Access Quantum for the day is 6 MW during 0-12hrs, 5MW during 12-24 hours

(iv) Admissible Drawl of Electricity from Distribution Licensee works out = 3MW (10-7)

(v) Actual drawl OA consumer= 11 MW
Distribution licensee will levy fixed charges corresponding to 3MW. Energy of 3 MW during 0-24 hrs. at applicable distribution licensee's energy charge rates as this excess energy above scheduled energy is within the "Admissible Drawl of Electricity by open access consumer" and additional Energy of 2 MW during 0-12 hrs and 3 MW during 12-24 hrs at temporary tariff, as this energy is above "Admissible Drawl of Electricity by open access consumer".

[Note: - In case of under-drawl with respect to scheduled energy, open access consumer shall not be paid any charges by the Distribution Licensee]

4.2 Settlement of Deviation at Injection Point:-

Deviation between the schedule and the actual injection in respect of open access taken by a Generating company/ Seller shall be settled as per the applicable Central Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2014 as amended from time to time.

(5) Standby Charges

(i) In the event of non-availability of power supply due to any reason including outage of generator supplying the Open Access consumer, the distribution licensee shall provide the power to such Open Access consumers on payment of tariff for temporary connection to that category of consumers as specified in applicable tariff schedule:

Provided that open access consumers shall have the option to arrange standby power from any other source.

Provided further that standby power from any other source shall be scheduled from 00hrs. of the day, after giving the notice to the distribution licensee.

(ii) The arrangement for standby power supply by distribution licensee shall be subject to load shedding as is applicable to the embedded consumer of the distribution licensee.

(6) Temporary Tariff:

(i) The temporary tariff applicable to open access consumer shall be the energy charges for temporary supply as determined by the Commission in its applicable Tariff Order.

(ii) In case temporary tariff is more than 125 percent of energy charge of that category, the temporary tariff shall be restricted to 125 percent of energy charges for that category.

(7) Quantum of Renewable Purchase Obligation (RPO)

(i) Open Access consumer shall fulfill its RPO as per Delhi Electricity Regulatory Commission (Renewable Purchase Obligation and Renewable Energy Certificate Framework Implementation) Regulations, 2012 as amended from time to time.

(ii) Wheeling, transmission and additional surcharge shall not be applicable on open access consumers availing energy from all renewable energy sources. Open Access consumer receiving electricity from renewable energy sources shall be exempted from the cross subsidy surcharge to the extent of RPO. However, no banking facility shall be provided for supply of electricity from renewable energy sources through open access.

(8) Applicable Charges for an Open Access Consumer

(i) Where a consumer opting for Open Access purchases electricity from a source other than the DISCOM of his area, he shall be liable to pay:-

a) Energy charges to the seller of electricity as per the contract entered into by him;
b) Wheeling charges to the distribution licensee in whose area he is located, at the rate fixed in the Tariff Order;
c) Cross subsidy surcharge, if applicable, as determined by the Commission or the nodal agency, to the distribution licensee in whose area the consumer is located;
d) Additional surcharge, as applicable, to the distribution licensee in whose area the consumer is located;
e) Standby charges, as applicable, to the distribution licensee in whose area the consumer is located;
f) Transmission charges to DTL at the rate fixed as per 5(ii) of this order;
g) Scheduling and system operating charges to SLDC at the rate Rs. 1000/- per day/part of the day or the rate fixed by the Commission from time-to-time;

h) Reactive energy charges on the actual reactive energy recorded by the meter, to the distribution licensee in whose area, the consumer is located at the rate @ 13 Ps/kVARh. This rate shall be escalated at 0.5paise/kVArh per year thereafter w.e.f. 1st April of the current financial year, unless otherwise revised by the Commission;

i) Miscellaneous charges in respect of metering and other requirements as necessary under Intra-State ABT mechanism, to be provided by DTL. These charges are to be paid to DTL as per actual cost incurred by DTL;

j) Any other charges not mentioned above, but covered by this Order and the detailed procedures drawn by STU for operationlization of Open Access in Delhi;

(ii) It is further clarified that no Cross Subsidy surcharge shall be payable in cases specifically exempted from payment of Cross Subsidy surcharge by the provisions of the Electricity Act, 2003 and the Tariff Policy of Government of India.

(iii) All the charges except distribution charges (DISCOM wheeling, cross subsidy surcharge, additional surcharge, reactive energy etc.) in first instance will be collected by SLDC directly or through RLDC/Exchange. The Transmission Charges as received by SLDC shall be remitted to STU within 15 days of its receipt by SLDC.

(9) Compensation/Penalty

In case of failure of Transmission System/ Distribution System

(I) In case open access customer is not able to draw power, due to failure of transmission /distribution system, the open access customer shall be compensated for scheduled open access quantum at lowest of, average rate at which power is procured by open access customer, charges for deviation corresponding to average frequency time block, and applicable tariff for that category. In such cases, open access consumer shall provide the details of procurement of power alongwith rates.

Provided that Open Access consumer shall file his claim before the distribution Licensee and the distribution licensee shall settle the matter within 30 days of receipt of claim.

Provided further that if open access consumer is not satisfied, he may approach the nodal agency.

(ii) In case if the timelines specified for providing open access are not met by the distribution licensee, the applicant shall be paid a compensation of Rs. 1000 per day of default by the distribution licensee.

Provided that the applicant shall file his claim to Nodal Agency and the Nodal Agency after hearing the parties shall give a speaking order.

(10) Violation of Provisions of the Regulations/ Order:

(i) The Open Access customer shall adhere to provisions of Regulations/ Order.

(ii) If in the opinion of SLDC, Delhi, any open access customer is involved for the first time in violation of the provisions of Regulations/Order, the SLDC, Delhi shall inform the Open Access customer for taking necessary steps to avoid gaming.

(iii) If subsequent violation is noticed by SLDC, Delhi within three months of information under Para (ii) above, SLDC, Delhi may cancel the approval for grant of open access for a period of maximum of one month.

Provided that before cancellation of grant of open access, SLDC, Delhi shall give a reasonable opportunity to the open access customer of being heard.

Provided further that SLDC, Delhi shall issue a detailed reasoned Order for such cancellation of grant of open access.

(iv) During the period of cancellation, total energy consumed by the open access consumer shall be billed at normal tariff by the distribution licensee. The cost of procurement of power shall be borne by the open access consumer and no compensation for such cost shall be provided.

(11) General Terms:

(i) The distribution licensee shall not supply to any Open Access consumer by resorting to load shedding of its existing consumers.

(ii) All the utilities are further directed to furnish details of Open Access transactions, available capacity for Open Access etc. on their websites. The format for furnishing the above details shall be worked out by SLDC and submitted to the Commission for approval of the same after which the details shall be notified on the websites of DTL and DISCOMs.

(iii) This order shall be read in conjunction with the Delhi Electricity Regulatory Commission (terms and conditions for Open Access) Regulations, 2005 or as amended and as per the procedures drawn by STU for operationlisation of Open Access in Delhi.

(iv) Any dispute arising on account of open access transactions shall be dealt with in accordance with the Open Access Regulations issued by the Commission.

(v) The Annexure enclosed with this Order shall form integral part of this Order.

(vi) The words and expressions occurring in this Order and not explained or defined hereinabove shall have the same meaning assigned to them in the Open Access Regulations issued by the Commission or the Electricity Act, 2003 as the case may be.

(vii) The charges decided by this Order would be applicable from the date of issue of the Order and shall remain in force till it is revised.

(viii) The guidelines for operationalisation and implementation of Open Access in Delhi are enclosed as Annexure A and B. In case if any provision of guidelines is at variance with this Order, the provisions of this Order shall prevail.

(12) Repeal and Savings

(i) Save as otherwise provided in this Order, the Commission's Order dated 24.12.2013, 18.5.2015 and 9.12.2015, shall stand repealed from the date of notification of this Order.

(ii) Notwithstanding such repeal, anything done or purported to have been done under the repealed Orders shall be deemed to have been done or purported to have been done under this Order.

Annexure – '1'

Assumptions for computation of Cross Subsidy and Additional Surcharge

1) 'T' is the average tariff in paisa per unit for various consumer categories as per Average Billing Rate (ABR) specified in Tariff Order.

2) 'C' is the weighted average cost of power purchase in paisa per unit as specified in the tariff Order

3) 'D' is the aggregate of transmission, distribution and wheeling charge applicable to the relevant voltage level

4) 'L' is the aggregate of transmission, distribution and commercial losses, expressed as a percentage applicable to the relevant voltage level

5) 'R' is the per unit cost of carrying regulatory assets computed based on approval of projected carrying cost divided by projected sales approved in Tariff Order.

6) Wherever the surcharge works out to be negative, it shall be limited to zero.

7) Additional Surcharge in Rs. Per unit has been computed based on the projections of fixed cost and corresponding power purchase approved by the Commission for BRPL, BYPL & TPDDL in its Tariff Order for FY 2015-16.

Annexure- '2'

Cross subsidy surcharge approved by the Commission

Computation of Cross Subsidy Surcharge

Cross Subsidy Surcharge Formula=T-[C/(1-L/100)+D+R]

Where

S is the surcharge

T is the tariff payable by the relevant category of consumers, including reflecting the Renewable Purchase Obligation

C is the per unit weighted average cost of power purchase by the Licensee, including meeting the Renewable Purchase Obligation

D is the aggregate of transmission, distribution and wheeling charge applicable to the relevant voltage level

L is the aggregate of transmission, distribution and commercial losses, expressed as a percentage applicable to the relevant voltage level

R is the per unit cost of carrying regulatory assets.

X= C/(1-L/100)

TPDDL

Summary

(Paisa/kWh)

	Industrial	Non- Domestic	Domestic	Railway	DMRC	DJB
	Final restricted to 20%	Final restricted to 20%	Final restricted to 20%		Final restricted to 20%	Final restricted to 20%
Above 66kV level	165.20	206.00	11.31	Exempted as per revised National Tariff Policy	136.20	182.20
At 33/ 66kV level	165.20	206.00	5.02		131.02	182.20
At 11kV level	165.20	206.00	-		116.08	182.20
At LT level	165.20	206.00	-		98.48	182.20

(Paisa/kwh)

				Industrial		Non- Domestic		Domestic		Railway		DMRC		DJB	
				As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%
	X	X+D	X+D+R	826		1030		565		845		681		911	
Above 66kV level	414.90	506.09	543.69	282.31	165.20	486.31	206.00	11.31	11.31	301.31	-	137.31	136.20	367.31	182.20
At 33/ 66kV level	420.19	512.38	549.98	276.02	165.20	480.02	206.00	5.02	5.02	295.02	-	131.02	131.02	361.02	182.20
At 11kV level	432.14	527.33	564.92	261.08	165.20	465.08	206.00	(9.92)	-	280.08	-	116.08	116.08	346.08	182.20
At LT level	444.73	544.92	582.52	243.48	165.20	447.48	206.00	(27.52)	-	262.48	-	98.48	98.48	328.48	182.20

Values of constants:-

L (%)

Sl. No.	Voltage Level	Transmission Loss (%)	Distribution Loss (%)	Total Loss 'L' (%)	Reference
1	2	3	4	5=4+3	6
1	Loss above 66kV level	0.70	0	0.70	Table 5.11 of TO 15-16
2	Loss at 33/ 66kV level	0.70	1.25	1.95	
3	Loss at 11kV level	0.70	3.96	4.66	
1	Loss at LT level	0.70	6.66	7.36	

'D'

Sl. No.	Voltage Level	Transmission Charges (Paisa/kWh)	Wheeling Charges (Paisa/kWh)	Total Loss 'D' (Paisa/kWh)	Reference
1	2	3	4	5=4+3	6
1	Loss above 66kV level	25.19	66	91.19	Table 5.14 of TO 15-16
2	Loss at 33/ 66kV level	25.19	67	92.19	
3	Loss at 11kV level	25.19	70	95.19	
4	Loss at LT level	25.19	75	100.19	

'R'

Sl. No.	Description	Unit	Value	Reference
1	Carrying cost approved in Tariff Order	Rs. Crore	300.3	Table 4.67 of TO 2015-16
2	Projected sales approved	MU	7987.9	Table 4.7 of TO 2015-16
3	Carrying Cost per unit	Paisa /kWh	37.59	3=(1/2)*1000

Description	Value (Paisa per unit)	Reference
C	412	Table 4.22 of TO 2015-16

Annexure- '3'

BRPL
Summary

(Paisa/kWh)

	Industrial	Non- Domestic	Domestic	Railway	DMRC	DJB	DIAL
	Final restricted to 20%	Final restricted to 20%	Final restricted to 20%	Final restricted to 20%	Final restricted to 20%	Final restricted to 20%	Final restricted to 20%
Above 66kV level	167.60	196.00	92.47	Exempted as per revised National	19.81	183.60	166.00
At 33/ 66kV level	167.60	196.00	25.25		51.25	183.60	166.00
At 11kV level	167.60	196.00	19.01		45.01	183.60	166.00
At LT level	167.60	196.00	-		-	183.60	166.00

(Paisa/kWh)

				Industrial		Non-Domestic		Domestic		Railway		DMRC		DJB		DIAL	
				As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%
	X	X+D	X+D+R	838		980		611		833		637		918		830	
Above 66kV level	451.16	476.35	518.53	319.47	167.60	461.47	196.00	92.47	92.47	314.47	-	118.47	118.47	399.47	183.60	311.47	166.00
At 33/ 66kV level	457.38	543.57	585.75	252.25	167.60	394.25	196.00	25.25	25.25	247.25	-	51.25	51.25	332.25	183.60	244.25	166.00
At 11kV level	461.62	549.81	591.99	246.01	167.60	388.01	196.00	19.01	19.01	241.01	-	45.01	45.01	326.01	183.60	238.01	166.00
At LT level	502.58	597.77	639.95	198.05	167.60	340.05	196.00	(28.95)	-	193.05	-	(2.95)	-	278.05	183.60	190.05	166.00

Values of constants:-

L (%)

Sl. No.	Voltage Level	Transmission Loss (%)	Distribution Loss (%)	Total Loss 'L' (%)	Reference
1	2	3	4	5=4+3	6
1	Loss above 66kV level	0.70	0	0.70	Table 5.11 of TO 15-16
2	Loss at 33/ 66kV level	0.70	1.35	2.05	
3	Loss at 11kV level	0.70	2.25	2.95	
4	Loss at LT level	0.70	10.16	10.86	

D

Sl. No.	Voltage Level	Transmission Charges (Paisa/kWh)	Wheeling Charges (Paisa/kWh)	Total Loss 'D' (Paisa/kWh)	Reference
1	2	3	4	5=4+3	6
1	Loss above 66kV level	25.19	0	25.19	Table 5.14 of TO 15-16
2	Loss at 33/ 66kV level	25.19	61	86.19	
3	Loss at 11kV level	25.19	63	88.19	
4	Loss at LT level	25.19	70	95.19	

'R'

Sl. No.	Description	Unit	Value	Reference
1	Carrying cost approved in Tariff Order	Rs. Crore	450.61	Table 9.62 of TO 2015-16
2	Projected sales approved	MU	10683.07	Table 4.6 of TO 2015-16
3	Carrying Cost per unit	Paisa /kWh	42.18	3=(1/2)x1000

Description	Value (Paisa per unit)	Reference
C	448	Table 4.18 of TO 2015-16

Annexure '4'

BYPL
Summary

(Paisa/kWh)

Voltage level	Industrial	Non-Domestic	Domestic	Railway	DMRC	DJB	DIAL
	Final restricted to 20%	Final restricted to 20%	Final restricted to 20%		Final restricted to 20%	Final restricted to 20%	Final restricted to 20%
Above 66kV level	175.00	199.60	95.00	Exempted as per the revised National Tariff Policy	125.80	187.60	-
At 33/ 66kV level	175.00	199.60	17.57		103.57	187.60	-
At 11kV level	175.00	199.60	12.30		98.30	187.60	-
At LT level	175.00	199.60	-		42.33	187.60	-

(Unit –paisa/kwh)

				Industrial		Non Domestic		Domestic		Railway		DMRC		DJB		DIAL	
				As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%	As per Formula	Final restricted to 20%
	X	X+D	K+D+R	875		998		543				629		938			
Above 66kV level	379.62	389.62	448.00	427.00	175.00	550.00	199.60	95.00	95.80			101.00	125.80	490.00	187.60		
At 33/ 66kV level	378.05	477.29	525.43	340.57	175.00	672.57	199.60	17.57	17.57			103.57	103.57	412.57	187.60		
At 11kV level	382.32	482.51	560.70	344.30	175.00	467.30	199.60	12.30	12.30			98.30	98.30	407.30	187.60		
At LT level	377.29	538.48	986.67	288.33	175.00	411.33	199.60	(43.67)	-			42.33	42.33	351.33	187.60		

Page 22 of 25

Values of constants:-

L (%)

Sl. No.	Voltage Level	Transmission Loss (%)	Distribution Loss (%)	Total Loss 'L' (%)	Reference
1	2	3	4	5=4+3	6
1	Loss above 66kV level	0.70	0	0.70	Table 5.11 of TO 15-16
2	Loss at 33/ 66kV level	0.70	0.90	1.60	
3	Loss at 11kV level	0.70	2.00	2.70	
4	Loss at LT level	0.70	12.24	12.94	

D

Sl. No.	Voltage Level	Transmission Charges (Paisa/kWh)	Wheeling Charges (Paisa/kWh)	Total Loss 'D' (Paisa/kWh)	Reference
1	2	3	4	5=4+3	6
1	Loss above 66kV level	25.19	0	25.19	Table 5.14 of TO 15-16
2	Loss at 33/ 66kV level	25.19	74	99.19	
3	Loss at 11kV level	25.19	75	100.19	
4	Loss at LT level	25.19	86	111.19	

Page 23 of 25

'R'

Sl. No.	Description	Unit	Value	Reference
1	Carrying cost approved in Tariff Order	Rs. Crore	271.23	Table 4.62 of TO 2015-16
2	Projected sales approved	MU	5628.52	Table 5.10 of TO 2015-16
3	Carrying Cost per unit	Paisa /kWh	48.19	3=(1/2)x1000

Description	Value (Paisa per unit)	Reference
C	372	Table 4.19 of TO 2015-16

ANNEXURE – 5

Additional Surcharge

Sl. No.	Description	Power Purchase (MUs)	Fixed Cost (Rs. Crore)	Fixed cost Rs. per unit	Reference
1	TPDDL	10731.41	1538.17	1.43	
2	BRPL	12859.55	1862.14	1.45	
3	BYPL	8895.33	1091.43	1.23	
4	Total	32486.29	4491.74	1.38	

Sl. No.	Period	Additional Surcharge (Paisa per unit)
1	October- April	138
2	May- September	69

ANNEXURE A-10

A. ABR @ Revised Tariffs vis-à-vis ACoSas approved by DERC for FY 2015-16:

S. No.	Category	ABR-FY16 (Rs./kWh)	ACoS-FY16 (Rs./kWh)
1	DOMESTIC	6.11	7.45
2	NON-DOMESTIC LOW TENSION	10.44	7.45
a	*Up to 10 kW*	*10.24*	7.45
b	*>10 kW to 140 kW*	*10.35*	7.45
c	*>100 kW*	*12.24*	7.45
3	NON-DOMESTIC HIGH TENSION	9.80	7.45
4	SMALL INDUSTRIAL POWER (SIP)	9.52	7.45
a	*Up to 10 kW*	*9.09*	7.45
b	*>10 kW to 140 kW*	*9.41*	7.45
c	*>100 kW*	*13.24*	7.45
5	LARGE INDUSTRIAL POWER (LIP)	8.38	7.45
6	AGRICULTURE	3.05	7.45
7	PUBLIC LIGHTING	7.30	7.45
8	RAILWAY TRACTION (other than DMRC)	8.33	7.45
9	DMRC	6.37	7.45
10	DIAL	8.30	7.45
11	DJB	9.18	7.45
12	ADVERTISEMENT & HOARDING	19.73	7.45

B. Max./ Min. Tariff @ +/- 20% of ACoS for FY 2015-16:

(Rs./kWh)

-20% of ACoS	ACoS	+20% of ACoS
5.96	7.45	8.94

C. Variation of different tariff categories w.r.t ACoS:

S. No.	Category	Variation> -20% of ACoS	-20% limit	Variation Within limit	ACoS-FY16 (Rs./kWh)	Variation Within limit	+20% limit	Variation> +20% of ACoS
1	DOMESTIC		-20%	-18%	7.45		20%	
2	NON-DOMESTIC LOW TENSION		-20%		7.45		20%	40%
a	*Up to 10 kW*		-20%		7.45		20%	*37%*
b	*>10 kW to 140 kW*		-20%		7.45		20%	*39%*
c	*>100 kW*		-20%		7.45		20%	*64%*
3	NON-DOMESTIC HIGH TENSION		-20%		7.45		20%	32%
4	SMALL INDUSTRIAL POWER (SIP)		-20%		7.45		20%	28%
a	*Up to 10 kW*		-20%		7.45		20%	*22%*
b	*>10 kW to 140 kW*		-20%		7.45		20%	*26%*
c	*>100 kW*		-20%		7.45		20%	*78%*
5	LARGE INDUSTRIAL POWER (LIP)		-20%		7.45	12%	20%	
6	AGRICULTURE	-59%	-20%		7.45		20%	
7	PUBLIC LIGHTING		-20%	-2%	7.45		20%	
8	RAILWAY TRACTION (other than DMRC)		-20%		7.45	12%	20%	
9	DMRC		-20%	-14%	7.45		20%	
10	DIAL		-20%		7.45	11%	20%	
11	DJB		-20%		7.45		20%	23%
12	ADVERTISEMENT & HOARDING		-20%		7.45		20%	165%

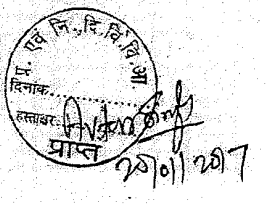
ANNEXURE A-11

298

BSES Rajdhani Power Limited
BSES Bhawan, Nehru Place,
New Delhi - 110 019, India.
CIN : U74899DL2001PLC111527
Tel.: +91 11 3009 9999
Fax: +91 11 3999 9764
www.bsesdelhi.com

RA/2016-17/01/A/545

January 19, 2017



The Secretary,
Delhi Electricity Regulatory Commission,
Viniyamak Bhavan, C-Block,
Shivalik, Malviya Nagar,
New Delhi -110017

Sub: Submission of comments/ Objections on Draft DERC Order/ proposal for determination of Open Access charges and related matters

Ref: Public Notice issued by DERC on December 2016 inviting comments/ suggestions/ objections on the above mentioned draft

Dear Sir,

We refer to the aforesaid notice. In this regard, we are providing herewith our comments/ suggestions/ objections on the Draft DERC Order/ proposal for determination of Open Access charges and related matters (enclosed as **Annexure – 1**). These comments/ suggestions/ objections may kindly be considered by the Hon'ble Commission while finalizing the said draft Order/ proposal.

The Hon'ble Commission had passed an Order dated May 18, 2015 in the matter of determination of terms & conditions for Open Access, transmission charges, wheeling charges, additional surcharge and connected matters. The said Order dated May 18, 2015 was an order to amend the earlier Order of the Hon'ble Commission dated December 24, 2013 in the matter of Open Access etc. The said Order dated May 18, 2015 has been challenged before the Hon'ble APTEL in Appeal No. 164 of 2015 inter alia on the ground that the said Order violated natural justice and introduced several unworkable terms & conditions for Open Access including partial Open Access. In the said Appeal, the Hon'ble APTEL has by its Order

dated January 09, 2017 has asked the Hon'ble Commission and BRPL to jointly explore possibilities for resolution of the issues arising in the said Appeal. Accordingly, two meetings have already been held on January 10, 2017 & January 11, 2017 between the officers of the Commission and BRPL and further meetings are likely to be held to explore possibilities for resolution of the issues.

Though the resolution, if any, of the issues arising in Appeal No. 164 of 2015 would deal with the period during which the said Order dated May 18, 2015 operates, we urge that the Hon'ble Commission takes cognizance of all our representations made in the aforesaid meetings & our representations and gives due consideration to the same while finalizing the aforesaid draft Order/ proposal for determination of Open Access charges and related matters.

Without prejudice to the above, as the Hon'ble Commission is aware, we have filed a Petition No. 32 of 2015 on February 26, 2015 inter alia seeking various modifications to the Open Access protocol as also for various directions including recovery of Regulatory Assets from Open Access consumers and re-computation of CSS etc. Despite a hearing already having been held before the Commission on January 10, 2017 & January 11, 2017, the same is still pending consideration before the Commission. As the Hon'ble Commission is also aware, we have filed a fresh Interim Application on November 2016. In the said petition which, despite our various reminders dated October 18, 2016 & December 05, 2016 has not yet been listed before the Commission. In the circumstances, we would request that all these issues must be considered analogously by the Commission.

In case you require any further clarifications, we request you to intimate us at the earliest.

Thanking you.

Yours faithfully,

For BSES Rajdhani Power Limited

Sai Krishna Prabha
GM (Regulatory Affairs)

Encl.: As Above

Annexure - 1

Annexure - I

DERC (Open Access) Regulations, 2005:

There are inconsistencies between the Delhi Electricity Regulatory Commission (Terms and conditions for Open Access) Regulations, 2005 (**"2005 Regulations"**) and the present draft Order/ proposal. Instances of such inconsistencies are pointed out in the following paragraphs. It is a settled law by Hon'ble APTEL that where there is a Regulation, the Orders passed thereunder must be in consonance with the said Regulations. Hence, in view of the above said inconsistencies, the present draft Order/ proposal will need to be brought in line with the said 2005 Regulations and/ or the inconsistent provisions will need to be withdrawn/ omitted. However, the Act requires the Commission to "determine" the various charges applicable to Open Access such as transmission charges (Section 62(1)(b)), wheeling charges (Section 62(1)(c)), cross subsidy surcharge (Section 42(2)), additional surcharge (Section 42(4)), regulatory asset charge (Revised Tariff Policy dated January 28, 2016). Therefore, the present Order will have to be restricted to the aforesaid matters only and for all other matters, the Commission will have to "specify" by Regulations. Moreover, more than a decade has passed after the notification of the 2005 Regulations and the circumstances applicable during the time of notification of the said Regulations have substantially changed. In view thereof, the 2005 Regulations will require an amendment to bring the same in line with the current scenario.

The rest of the comments/ suggestions are without prejudice to the aforesaid submissions.

Annexure - 1

Recovery of the principal amount of past Regulatory Assets / past revenue gaps from Open Access Consumers [Para 10(1)]:

Hon'ble Appellate Tribunal for Electricity has in its judgment dated 26th November 2014 in Appeal No. 294 of 2013 and batch has not only upheld the imposition of regulatory asset charge on Open Access consumers, but has underscored the importance of levy of regulatory asset charge so that all consumers including Open Access consumers fairly share their burden of regulatory assets, which consequently would also avoid tariff shock on the balance consumers who are not availing Open Access. The relevant extracts from the aforesaid judgment are provided below:

> *85. It cannot be debated that the State Commission has the power, authority and jurisdiction to recover Regulatory Assets created in the previous years or the legitimate revenue gap of the previous years found in the true-up of accounts in the tariff of the following years under the provisions of the tariff policy as well as under the 2003 Act. The tariffs are determined for the ensuring year on the basis of the estimates. The uncontrollable expenditures are trued- up after the completion of year and after the audited accounts become available. If revenue gap is found as a result of true-up of the previous year, it has to be recovered in the ensuring year. Similarly, any un-recovered revenue for previous years due to a Court's Order has also to be allowed to be recovered in the ensuing year. The general practice followed by the State Commission is to add the previous year's revenue gap in the ARR of the ensuring year to be*

recovered in the tariff. However, in this case, the State Commission has chosen to recover the past revenue gap of Reliance by creating a separate Regulatory Asset Charge.

....

87. Section 42 (2) of the Act of 2003 mandates the State Commission to introduce Open Access for consumers in phases, subject to the conditions as specified by it. The said Section is as follows:

42. Duties of Distribution Licensees and Open Access-

(1) .....

(2) The State Commission shall introduce Open Access in such phases and subject to such conditions, (including the cross subsidies, and other operational constraints) as may be specified within one year of the appointed date by it and in specifying the extent of Open Access in successive phases and in determining the charges for wheeling, it shall have due regard to all relevant factors including such cross subsidies, and other operational constraints:"

...

89. The Regulatory Asset Charge is an outcome of regulatory asset, which is approved by the State Commission.

...

91. ... It is an admitted fact that the regulatory asset is nothing but deferred recovery of cost through tariff.

...

92. The recovery of certain approved costs of Reliance was merely deferred by the State Commission in Order to avoid tariff shock to the

consumers. Had the State Commission permitted such recovery through tariff for the relevant years, the same would have resulted in an increase in the tariff to the consumers and consequently, the consumers including the changeover consumers would have paid higher tariff during the relevant period. These are consumers who had been benefited by the suppressed tariff and therefore liable to pay for amortization of regulatory assets by way of Regulatory Asset Charge. The increase in tariff for that year would have also resulted in an increase in CSS for that year.

93. In the case of Reliance, only the nomenclature of such past revenue gaps has been changed to regulatory assets and separate charge is prescribed. The Regulatory Asset Charge could have been divided into power purchase related and wheeling related costs and merged with energy charges and wheeling charges respectively. In that situation, every changeover would have paid for its share of Regulatory Asset charge through the Cross Subsidy Surcharge and Wheeling Charges respectively.

...

98. ... The recovery of Regulatory Asset for the change over consumers is perfectly legal.

...

104. .... The charges imposed on changeover consumers through the impugned Order are as per the mandate of Act of 2003, the tariff Policy."

Accordingly, in view of the above submissions, this Hon'ble Commission may be pleased to allow levy of regulatory asset charges along with carrying cost thereon on Open Access consumers.

It is a documented fact that the DISCOMs have huge past regulatory gaps and the same would be recovered through the Tariff. Hence the Commission ought to allow recovery of such revenue gap from Open Access consumers through imposition of suitable surcharge while determining the cross subsidy charges. Further if the Open Access consumer is not levied surcharge to recover past gaps, the burden of the same shall come on the remaining consumers with the subsidized consumers being impacted the most. Hence the Open Access consumer should be levied a surcharge to recover for Regulatory Gaps as they have contributed to its creation by consuming power in the past for which tariffs at that point were not cost reflective.

Under the scheme of "Open Access" a consumer who is connected to the Distribution Licensee can use the distribution system of the wires and the associated facilities to avail supply of electricity from a generating company or any licensee other than the Distribution Licensee to which the consumer is connected to. Hence, eventhough such a consumer may avail supply of electricity from a generating company or any licensee other than the Distribution Licensee, such a consumer continues to be connected to the distribution system of the Distribution Licensee and therefore continues to be a consumer of the Distribution Licensee. It is submitted that these consumers should bear their share of past costs of the Distribution Licensee, particularly the revenue gap and the regulatory assets that have been created by this Hon'ble Commission and the amounts created

thereunder have not yet been liquidated by all consumers, including the aforesaid Open Access consumers.

Hence, it is necessary to levy charges for recovery of the regulatory assets of previous years from the Open Access consumers. Had there been no migration of consumers through the scheme of Open Access and all consumers had continued to receive their supplies only from the Distribution Licensee, the past revenue gaps and the regulatory assets could have been recovered from all the consumers in the past. It is submitted that under a 'business-as-usual' situation, the consumers who were receiving supplies from the Distribution Licensee are also the same set of consumers who are connected to the distribution network of the Distribution Licensee. However, when consumers avail supply of electricity from a third party source, such a situation is not a 'business-as-usual' situation. The consumers so availing Open Access and whose premises are connected for the purpose of receiving electricity with the works of the Distribution Licensee, will have to pay the charges for recovery of regulatory assets, since they continue to be the consumers of the Distribution Licensee for wires. This Hon'ble Commission also ought to recognize the exigencies of a given situation i.e. consumer mix of the Distribution Licensee, existence of a large number of domestic and low-end consumers compared to small number of high-end consumers and the likelihood of a huge tariff shock on the subsidized consumers in the event the past revenue gaps/regulatory assets are not shared by the Open Access consumers. This Hon'ble Commission also ought to recognize that the regulatory assets have been created by this Hon'ble Commission in respect of legitimate expenditure incurred by the Distribution Licensee and allowed by the Hon'ble

Commission, however, in Order to avoid tariff shock this Hon'ble Commission had deferred recovery of the same in future tariffs. This Hon'ble Commission by its Order dated 24.12.2013 has allowed consumers to avail supply of power from sources other than the Distribution Licensee through the scheme of Open Access. Consequently, the consumers availing supply through Open Access from third parties have caused a significant loss of high paying consumers of the Distribution Licensee leading to under recovery of revenue. Therefore, ex necessitus, Open Access consumers should provide a fair compensation so as to bear a fair share of the burden of the remaining consumers of the Distribution Licensee to lessen the accrual of regulatory assets.

Section 42(2) of the 2003 Act specifically requires that the State Commissions would introduce Open Access subject to conditions. Section 42(2) of the 2003 Act provides as follows;

> *"(2) The State Commission shall introduce Open Access in such phases and* ***subject to such conditions****, (including the cross subsidies, and other operational constraints) as may be specified within one year of the appointed date by it and in specifying the extent of Open Access in successive phases and in determining the charges for wheeling, it shall have due regard to all relevant factors including such cross subsidies, and other operational constraints:*

Provided that such Open Access may be allowed before the cross subsidies are eliminated on payment of a surcharge in addition to the charges for wheeling as may be determined by the State Commission."

{Emphasis added}

Accordingly, in view of the above provisions, this Hon'ble Commission is empowered in law to impose regulatory assets charge on Open Access consumers as a condition pursuant to section 42(2) of the 2003 Act. It is also submitted that regulatory assets charge is an outcome of regulatory assets which has already been recognized and approved by this Hon'ble Commission. Since regulatory asset is a deferred recovery of cost through tariff, the Open Access consumers also ought to bear such a cost through an appropriate charge/surcharge. Had this Hon'ble Commission permitted liquidation of the deferred recovery of such costs through tariff for the relevant period, the same would have resulted in an increase in the tariff of the consumers and consequently Open Access consumers would have also paid higher tariff during the relevant period. Open Access consumers who had been benefited by the suppressed tariff are liable to pay for amortization of regulatory assets by way of regulatory asset charge. Regulatory assets charge can be divided into power purchase related and wheeling related costs and merged with energy charges and wheeling charges, so that Open Access consumers can pay their share of regulatory asset charges through the cross subsidy surcharge and wheeling charges respectively.

Annexure - 1

Liability of Open Access consumers to pay Statutory levies/ taxes:

The Commission will need to factor in Service Tax or GST; electricity duty and all other Statutory levies to be borne by the Open Access consumer from the date of their imposition.

Cap of 20% on Cross Subsidy Surcharge [Para 10 (1)]:

The draft Order / proposal issued by DERC adopts the "Surcharge formula" for determining the Cross Subsidy surcharge as notified in the revised Tariff Policy dated January 28, 2016 in terms of which the Cross subsidy surcharge shall not exceed 20% of the tariff applicable to the category of consumers seeking Open Access. The Supreme Court of India has in Sesa Sterlite Ltd. Vs. OERC & ors (2014) 8SCC 444 inter alia held that Cross subsidy surcharge is a compensatory charge for mitigating the losses of the Distribution Licensee owing to its consumers seeking Open Access as their exit would necessarily have adverse effect on the finances of the Distribution Licensee including its ability to cross subsidize the vulnerable sections of the society. The cross subsidy surcharge is to be computed by DERC for meeting the said current levels of cross subsidy. However, the aforesaid 20% capping on the cross subsidy surcharge would fail to compensate BRPL from the loss of cross subsidy that it would suffer by reason of the consumers taking Open Access. The facts and figures to substantiate this submission is enclosed as **Annexure – A**. It is submitted that the loss of cross subsidy of approximately Rs. 300 Crore will either have to be made good by recovery from the Open Access consumers or from an increase in the retail supply tariffs for the subsidized consumers.

In the event the Distribution Licensee is not made revenue neutral, especially when there is a gap in the cross subsidy amounts, such a situation would be totally untenable and against the interests of the Distribution Licensee.

Furthermore, the Commission has yet not brought tariffs (+/- 20%) of the average cost of supply while on the other hand, the Commission has capped the Cross Subsidy surcharge not to exceed 20% of the tariff of the Open Access consumers. Therefore, such a cap on Cross Subsidy surcharge, would create a gap for meeting the requirements of the current levels of Cross Subsidy.

Transmission & Wheeling charges [Para 10 (2)]:

The draft Order/ proposal stipulates that transmission charges, wheeling charges shall be levied on Open Access quantum cleared by the nodal agency.

This is inconsistent with the Regulation 11 (1) of the 2005 Regulations which provides as follows:

> *"(1) ...*
>
> *However, such **short-term open access consumer shall bear full transmission and/ or wheeling charges based on the original reserved capacity** till the time such capacity is allotted to some other customer."* {Emphasis added}

Hence these charges will have to be paid on the original reserved capacity and not on the Open Access quantum cleared by the nodal agency. It is settled law that when a Regulation has been made, all Orders thereunder have to be in accordance with and consistent with the Regulations. Reference in this regard may be had to the constitution bench Judgment in the Supreme Court in PTC India Ltd. Vs. CERC [Reported in AIR 2010 SC 1338].

Annexure - 1

Additional Surcharge [Para 10 (3)]:

While the Commission has stipulated an average fixed cost per unit based on the projections in the Tariff Order as the additional surcharge for the months of October to April, the Commission has reduced the said additional surcharge to half of the average fixed cost for computing the additional surcharge for the months of May to September ostensibly on the ground that during May to September additional power purchase is higher than other months. However infact the Commission has itself in the Order dated September 29, 2015 has recognized that peak hours in the very same months are from 1300 to 1700 hours and 2100 to 2400 hours. This admittedly means that only during peak hours, additional power purchase may have been made by the Licensee. For other periods, there are all reasons for the incidences of stranded long term power purchase cost owing to consumers taking Open Access. Therefore it is erroneous for stipulating half of average fixed cost per unit as the additional surcharge for the months of May to September. It is the suggestion of the licensee that either the additional surcharge be 2/3rd of the average fixed cost per unit.

The proviso to para 10 (3) (iii) of the draft Order/ proposal provides that additional surcharges shall not be levied in case Open Access is provided to a person who has established a captive generation plant for carrying the electricity to the destination of his own use.

Such an exemption has not been provided in the statute i.e. the 2003 Act which exempts captive generating plants from the levy of cross subsidy surcharge only and not for the levy of additional surcharge as would be clear from the reading of the following sections:

"42..

(2) The State Commission shall introduce Open Access in such phases and subject to such conditions, (including the cross subsidies, and other operational constraints) as may be specified within one year of the appointed date by it and in specifying the extent of Open Access in successive phases and in determining the charges for wheeling, it shall have due regard to all relevant factors including such cross subsidies, and other operational constraints:

Provided that such Open Access may be allowed before the cross subsidies are eliminated on payment of a surcharge in addition to the charges for wheeling as may be determined by the State Commission:

Provided further that such surcharge shall be utilised to meet the requirements of current level of cross subsidy within the area of supply of the Distribution Licensee :

Provided also that such surcharge and cross subsidies shall be progressively reduced and eliminated in the manner as may be specified by the State Commission.

Provided also that such surcharge shall not be leviable in case Open Access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use."

{Emphasis added}

[Para 10 (3) (iii)]:

The surcharge referred to above which is not leviable on a captive generating plant is the surcharge under Section 42 (2) to meet the requirements of current level of cross subsidy

and not the additional surcharge under Section 42 (4) to meet the fixed cost of such Distribution Licensee arising out of his obligation to supply.

Whereas Section 42 (4) of the said Act does not exempt Captive generating plants from the levy of additional surcharge as would be clear from the reading of the said section as follows:

"(4) Where the State Commission permits a consumer or class of consumers to receive supply of electricity from a person other than the Distribution Licensee of his area of supply, such consumer shall be liable to pay an additional surcharge on the charges of wheeling, as may be specified by the State Commission, to meet the fixed cost of such Distribution Licensee arising out of his obligation to supply."

Hence, such an exemption from the draft Order/ proposal would be ultra vires the 2003 Act and accordingly such a proposal should be withdrawn.

Partial Open Access/ Intra-day variation [Para 4 (ii) read with Para 10 (4) (4.1) (B)]:

The draft Order/ proposal provides as follows:

"4..

Further, the Commission has received various proposals/ suggestions/ clarifications for revision of some of the provisions of existing Orders, such as:-

..

(ii) At present, partial Open Access is allowed for a fixed quantum for whole day. There is no provision for seeking Open Access for varied quantum during the day."

At page 9 of the draft Order/ proposal, an illustration is provided which reads as follows:

"Case-2

Annexure - 1

(i) Contract Demand = 10MW

(ii) Approval for a maximum Open Access quantum of 7 MW for a period of 3 months

(iii) Scheduled Open Access Quantum for the day is 6 MW during 0-12hrs, 5MW during 12-24 hours

(iv) Admissible Drawl of Electricity from Distribution Licensee works out = 3MW (10-7)

(v) Actual drawl OA consumer = 8 MW

Distribution Licensee will levy fixed charges corresponding to 3MW. Energy of 2 MW during 0-12 hrs and 3 MW during 12-24 hrs will be charged at applicable Distribution Licensee's energy charge rates as the excess energy above scheduled energy is within the "Admissible Drawl of Electricity by Open Access consumer".

Item (iii) of the aforesaid extract seems to suggest that Open Access can be sought by consumers for varied quantum during the day. This would be untenable in view of the following reasons:-

(a) It would not be correct in allowing partial drawl / partial Open Access/ intra-day variation in a deemed manner ignoring that Section 42 mandates that Open Access is subject to being introduced in phases and subject to such conditions including operational constraints and without considering the practical difficulties, resulting in substantial adverse effect on the licensee and burden of the expensive power on the remaining consumers for meeting the partial load of the Open Access consumers. For example if the partial drawl is allowed of 9.9 MW for 10 MW of sanctioned contract demand, the partial drawl could be allowed on phases not at one go i.e. if a consumer

has sanctioned contract demand 10 MW it should be first allowed partial drawl for 8 MW or 6 MW and then further reviewing the Order it should be allowed 5 MW in phases, and so on. It is submitted that partial drawl / partial Open Access/ intra-day variation allowed in the draft Order in a deemed manner is ultra vires Section 42 of the 2003 Act. The provisions relating to the providing of Open Access on the distribution system are contained in sub-sections (2), (3) and (4) of Section 42 of the 2003 Act. Sub-section (2) of Section 42 states "The State Commission shall introduce Open Access". The introduction of Open Access"is to be "as may be specified". Under Section 2(62) "specified" means specified by Regulations made by the Appropriate Commission ....under this Act". Under Sub-section (2) of Section 42 Open Access is to be introduced "in such phases and subject to such conditions, (including the cross subsidies, and other operational constraints) .....[having] due regard to all relevant factors including such cross subsidies, and other operational constraints:" Therefore, the State Commission is to introduce Open Access by notifying Regulations-

(1) in phases

(2) subject to such conditions, (including

a. the cross subsidies, and

b. other operational constraints

c. [having] due regard to all relevant factors including such cross subsidies, and other operational constraints:

(b) Any excess drawl above "scheduled Open Access Quantum" but limited to "Admissible Drawl of electricity by Open Access consumer" shall be billed at temporary tariffs.

(c) The mandate under the last proviso to sub-section (2) of Section 42 to provide Open Access to all consumers who require a supply of electricity where the maximum power to be made available at any time exceeds one megawatt, is subject to and circumscribed by the conditions which may be imposed by the State Commission including cross subsidies and other operational constraints because of the words "such Open Access". The first proviso to sub-section (2) of Section 42 also states "such Open Access". The word "such" assumes significance. The words "such Open Access" is the Open Access that has been introduced by the State Commission in phases and which is subject to conditions including the cross subsidies and other operational constraints. The Commission ought to introduce partial drawl / partial Open Access/ intra-day variation in phases but instead of the mandate of the statute, the draft Order has introduced and allowed partial Open Access in a deemed manner. The mandate under the last proviso to sub-section (2) of Section 42 is not dehors of the mandate on the State Commission to introduce Open Access in phases; notification of Regulations; and laying down conditions. It is not an unbridled mandate under the last proviso to sub-section (2) of Section 42.

Additionally, partial Open Access/ intra-day variation should not be allowed because of the following reasons:

a. Partial Open Access/ intra-day variation enable Open Access consumers to involve in gaming,

b. Difficulty in arranging Standby power if essential utilities opt for partial Open Access.

c. Identification of energy supplied under contract demand from that supplied under Open Access is difficult as energy measurement is done through single meter.

Standby Charges [Para 10 (5)]:

When a source of Open Access consumer fails, such Open Access consumer draws power from distribution licensee paying standby charges, as determined by the Commission. However, Commission has put a limit of 3% for UI drawls from the grid. In an event, when source of Open Access consumer fails, his drawl would be added to distribution licensee's over drawl. Therefore, a limit of 3% for UI drawls imposed upon distribution licensees should be waived off and any penalty imposed upon distribution licensee have to be paid by such Open Access consumer to the extent it has drawn power from distribution licensee during such period.

Standby supply once commenced shall be applicable for all 96 time blocks for the day.

Exemption to Open Access consumers procuring renewable energy [Para 10 (7)]:

Para 10(7)(ii) of the draft Order exempts Open Access consumers procuring renewable power from payment of wheeling, transmission and additional surcharge. It is submitted that the power procured from renewable sources by the Open Access consumers would lead to increase in energy input for the Discom. It is submitted that as per the methodology adopted by this Hon'ble Commission for bifurcating retail and wheeling business, the energy input at different voltage levels is considered as a major parameter for determining the wheeling costs. It is submitted that the wheeling business of the

Annexure - 1

Discom licensee has to continue to incur various expenses for its operation and sustenance and therefore it would be unjust if a particular set of consumers are exempted from bearing the wheeling and transmission charges, when they obtain supply of power from sources other than the Discom licensee using the wires of the Discom Licensee. It is respectfully submitted that the second proviso to section 42(2) mandates that Open Access shall be allowed on payment of charges for wheeling as determined by the State Commission. The first proviso to section 42(2) reads as follows:

> *"Provided that such **Open Access shall be allowed on payment of** surcharge in addition to **the charges for wheeling** as may be determined by the State Commission."*{Emphasis added}

Accordingly, there is a mandate in the legislature to levy charges for wheeling on all Open Access transactions which would include those who procure from renewable energy sources. In fact, the aforesaid section would show that there is no contemplation by the legislature of any kind of an exemption on the question of levy of charges for wheeling. Accordingly, this Hon'ble Commission may kindly provide that wheeling and transmission charges shall be applicable on the aforesaid Open Access consumers.

As far as additional surcharge is concerned, which has also been exempted for levy on the aforesaid set of consumers, it is respectfully submitted that section 42(4) mandates consumers to pay an additional surcharge to meet the fixed cost of the Distribution Licensee arising out of his obligation to supply. Section 42(4) reads as follows:

> *"(4) Where the State Commission permits a consumer or class of consumers to receive supply of electricity from a person other than the Distribution*

*Licensee of his area of supply, **such consumer shall be liable to pay an additional surcharge** on the charges of wheeling, as may be specified by the State Commission, **to meet the fixed cost of such Distribution Licensee arising out of his obligation to supply**."* {Emphasis added}

In view of the above, it is clear that section 42(4) does not provide for any exemption from the payment of additional surcharge on a consumer or any class of consumers, including those who procure from renewable sources. Hence, this Hon'ble Commission may, keeping in view the legislative mandate under section 42(2), provide that the additional surcharge shall be applicable on renewable energy Open Access consumers of Delhi.

The draft order / proposal exempts open access consumers receiving electricity from RE sources from cross subsidy surcharge to the extent of RPO. This is legally unsustainable as the 2003 Act exempts only captive generating plants from cross subsidy surcharge and not open access consumers receiving electricity from RE sources to the extent of RPO or whatsoever. Such an exemption to open access consumers receiving electricity from RE sources has not been provided in the statute i.e. the 2003 Act which exempts captive generating plants only from the levy of cross subsidy surcharge as would be clear from the reading of the following sections:

"42..

(2) The State Commission shall introduce Open Access in such phases and subject to such conditions, (including the cross subsidies, and other operational constraints) as may be specified within one year of the appointed date by it and in

specifying the extent of Open Access in successive phases and in determining the charges for wheeling, it shall have due regard to all relevant factors including such cross subsidies, and other operational constraints:

Provided that such Open Access may be allowed before the cross subsidies are eliminated on payment of a surcharge in addition to the charges for wheeling as may be determined by the State Commission:

Provided further that such surcharge shall be utilised to meet the requirements of current level of cross subsidy within the area of supply of the Distribution Licensee:

Provided also that such surcharge and cross subsidies shall be progressively reduced and eliminated in the manner as may be specified by the State Commission.

Provided also that such surcharge shall not be leviable in case Open Access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use."

{Emphasis added}

Compensation/ Penalty [Para 10 (9)]:

The Distribution Licensee cannot be made liable for compensation due to failure of the transmission system as the transmission system is owned, operated and maintained by the transmission licensee and not by the Distribution Licensee. [Para (i)]

Also, since the planned outages of Distribution system are known in advance, an Open Access consumer can schedule its energy or shift its consumption accordingly. In any

event, planned outages are a business risk of connecting to a network and no compensation can be payable for the same.

Furthermore, similar clause of compensation of Rs. 100 per day shall be applicable to Delhi SLDC. In case a deficiency has been observed in the Open Access application, then the Open Access consumer has to pay a penalty of Rs. 1000 per day from the date of receipt of application till the deficiency has been resolved.

In accordance with the law laid down in the Hon'ble APTEL's Judgment dated July 28, 2011 in Appeal No. 36 of 2011 [Reported in (2011) APTEL 117], it would be the Commission which would have the correct jurisdiction to decide the disputes arising in relation to the Open Access matters other than billing aspects. The CGRF would have the jurisdiction to decide upon the billing aspects which arise in relation to Open Access. Furthermore, Section 32(2) of the Act which lays down the functions of the SLDC does not include adjudication of disputes.

Hence, the Nodal Agency cannot be delegated the power to adjudicate on any dispute or claim raised by the Open Access consumer for compensation or any other matter concerning compensation/penalty. [Para (i & ii)].

Violation of Provisions of the Regulations/ Order [Para 10 (10)]:

These provisions are inconsistent with section 142 and section 146 of the 2003 Act, where it is the Commission only which is empowered to decide issues of violation, Regulations, Orders and directions etc., by any person including Open Access consumer. It is the Commission which would decide on the penalty etc. to be levied on the violator. These functions cannot be delegated to the SLDC.

Para 10(10)(iv):

In case of cancellation of grant of Open Access, the cost of total energy contracted for/ procured by the Open Access consumer has to be borne by the consumer himself and no compensation would be paid by the distribution licensee to such consumers.

Therefore, the existing wordings may be replaced with the following:

> *"(iv) During the period of cancellation, total energy consumed by the open access consumer shall be billed at normal tariff by the distribution licensee. The cost of procurement of power* ***as has been contracted by the Open Access consumer*** *shall be borne by the open access consumer and no compensation for such cost shall be provided* ***by the distribution licensee.****"*

Repeal and Savings [Para 10 (12)]:

The words "shall be repealed" shall be substituted with the words "shall cease to have effect".

Clause (ii) should be qualified with the words "in so far as it is not inconsistent with the provisions of this Order and the 2005 Regulations".

Comments/ suggestions with respect to Annexure A of the draft Order/ proposal:

Eligibility Requirements [Para 2.1 A of Annexure A]:

Eligibility for STOA for generators should be 1 MW also. Further, the power scheduled under Open Access in any slot should not be less than 1 MW on RTC [Round-the-clock] basis.

Annexure - 1

Registration of Open Access consumer [Para (2) (2.1) (A) (iv) of Annexure A]:

The Open Access consumer shall also be liable to pay Registration charges amounting to Rs. 10,000, in line with SLDC registration charges, to the Distribution Licensees.

Metering Requirements [Para (2.2) (i) of Annexure A]:

Metering should be the prime responsibility of an Open Access consumer as the same creates an alleged conflict repeatedly pointed out by the consumer in several cases.

Control room [Para (2.2) (iii) of Annexure A]:

To communicate with SLDC and ALDC of a distribution licensee, each Open Access consumer/ generator shall be required to provide a RTC control room. Further, all the details vis-à-vis email ID, Contact number, shift duty operators shall be part of Open Access application. Any modification in the said details shall be approved by the Authorized signatory.

Downward revision of Consent/ NOC/ Standing Clearance/ concurrence [Para (6.6) (2) of Annexure A]:

Timeframe for downward revision of Open Access quantum should be in line with Para 4.3 of Annexure A of the said draft DERC Order/ proposal.

Late Payment Surcharge [Para (11) of Annexure A]:

LPSC should be @ 1.5% per month as the same should be aligned with penalty levied by Gencos and Transcos on DISCOMs in Tariff Regulations.

Annexure - A

As calculated by DERC

CSS Formula: S=T-[(F/R+F/100)×D×R]

S. No.	Categories	Average Realisation (ABR) (Rs./unit)	Regulatory Asset Surcharge (RAS) (Rs./unit)	Tariff Payable (Rs./unit)	Add. for Power Purchase Cost	Wheeling Charges (Rs./unit)	Applicable Loss (%)	Carrying cost on Regulatory Assets (Rs./unit)	20% Average Revenue on	Standard Rate (Rs./unit)	Effective CSS (Rs./unit)	Total Billed Units (FY 2015-16) (MU)	Cross Subsidy Surcharge (Rs Cr)	Cross Subsidy Surcharge cost @ 20% avg. collection	Notional Amount (Rs Cr)
1	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
2	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
3	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
4	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
5	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
6	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
7	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
8	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
9	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
10	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
11	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
12	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
13	[illegible]											[illegible]	[illegible]	[illegible]	[illegible]

S. No.	Particulars	Unit	Value
1	Total 400kl units in FY 16 for DA consumers	MW	1536
2	CSS on normal calculation including RAC in "2"	Rs. Cr.	600
3	CSS @ 20% avg. realisation	Rs. Cr.	300
4	Differential CSS revenue	Rs. Cr.	300
5	Net quantum from the Category (FY 16)	MU	1925
6	Revenue Base for Domestic Category	Rs. Cr	4565
7	Average Tariff for Domestic Category (FY 16)	Rs/ unit	5.37
8	Revenue base on Domestic Category	Rs. Cr	3845
9	Revised Tariff for Domestic Category	Rs/ unit	0.43
10	Tariff average	Rs/ unit	0.50

325

326

BEFORE THE APPELLATE TRIBUNAL FOR ELECTRICITY
NEW DELHI

APPELLATE JURISDICTION

I.A. No. OF 2017
IN
APPEAL No. OF 2017

IN THE MATTER OF:

BSES Rajdhani Power Ltd ... Applicant/Appellant

Versus

Delhi Electricity Regulatory Commission ... Respondent

APPLICATION SEEKING CONDONATION OF DELAY IN FILING APPEAL UNDER SECTION 111 OF THE ELECTRICITY ACT 2003

TO
THE HON'BLE THE CHAIRPERSON
AND HER COMPANION MEMBERS OF
THE APPELLATE TRIBUNAL FOR ELECTRICITY

THE HUMBLE APPLICATION OF THE
APPLICANT ABOVENAMED

MOST RESPECTFULLY SHEWETH :

The Applicant most respectfully submits as under:-

1. The Applicant/Appellant has preferred the present appeal under section 111 of the Electricity Act, 2003 against the impugned order of the Delhi Electricity Regulatory Commission dated 1-6-2017 in the matter of determination of Open Access charges and related matters.

2. That the Applicant/Appellant is a Company engaged in the business of Distribution of Electricity and supply electricity to consumers in the State of Delhi.

3. That the facts leading to the filing of the present Application are stated in detail in the main appeal. The contents of the accompanying Appeal may be read as part and parcel of the present Application and are not repeated here for the sake of brevity.

4. There is a delay of 44 days in filing the present Appeal as the impugned order dated 1-6-2017 setting out the different provisions and charges relating to the grant of open access required an indepth analysis and consultations amongst the various functionaries of the Applicant/Appellant. As such, the Appellant had to examine all the characteristics and pros and cons, financial implications as well as the various legal provisions and case laws, which was time consuming. The impugned order would not only have a serious impact on the financial condition of the Appellant distribution licensee, but also on the financial implication on the body of the subsidized consumers owing to the various dispensations (including exemptions from the levy of cross subsidy surcharge). The impugned order also has a serious impact on the grid and the distribution system.

5. The impact of the impugned order was assessed by the Appellant at various levels within the organization.

6. In view of above, it is submitted that delay was unintentional and unavoidable reasons as mentioned above including the documents being voluminous and technical. Hence the Appellants got delayed in filing the present Appeal.

7. It is respectfully submitted that the impugned order has large scale and far reaching implications on the power sector. It is submitted that the delay in filing the present Appeal is bona fide and the Appellants have a good case on merit and would suffer irreparable harm and prejudice if the present application is not allowed, however, no harm or prejudice would be caused to the Respondent if the present application is allowed.

8. That the delay in filing the present Civil Appeal is neither deliberate nor intentional. It is due to the circumstances mentioned above which was beyond the control of the Appellant. Further it is submitted that this Hon'ble Court in a catena of judgments has held that the words "sufficient cause for not making the application within the period of limitation" should be understood and applied in a reasonable, pragmatic, practical and liberal manner, depending upon the facts and circumstances of the case, and the type of case. It is respectfully submitted that the question of delay in filing the present statutory appeal would in the respectful submission of the Appellant needs to be viewed with leniency. There is sufficient cause that the present Appellant makes out that not only necessitates the present appeal to be allowed, but also necessitates condonation of delay.

9. It is, hence, respectfully submitted that the provisions concerning condonation delay will need to be interpreted so as to advance the cause of justice.

10. The words 'sufficient cause' should receive a liberal construction so as to advance substantial justice, when the delay is not on account of any dilatory tactics, want of bona fides, deliberate inaction or negligence on the part of the Appellant.

11. It is submitted that the said delay was unintentional and unavoidable and the Appellants took all steps to avoid the same.

12. That this application is made bonafide and in the interest of justice.

13. In the circumstance there has been a delay of 44 days in filing the present Appeal. The Appellants submit that the delay is unintentional and has been caused due to reasons beyond their control and on account of office procedure. It is therefore in the interest of justice that the delay is condoned and the Appeal is heard and decided on merits otherwise the Appellants will suffer irreparable injury and prejudice substantial loss and the whole purpose of filing this Appeal will be defeated.

PRAYER

It is there most respectfully prayed that this Hon'ble Tribunal may be pleased to:

(i) Condone the delay of 44 days in filing the present Appeal; and;

(ii) For such other and further relief's as the nature and circumstances of the case may require.

Dated at New Delhi this the 28th day of August, 2017.

Applicant/Appellant
BSES Rajdhani Power Limited

Through

Mulla & Mulla & Craigie Blunt & Caroe
Advocates for Applicant/Appellant
502, Nilgiri Apartments
9, Barakhamba Road
New Delhi 110 001

DECLARATION

The Applicant/Appellant abovenamed hereby solemnly declares that nothing material has been concealed or suppressed and further declares that the enclosures and typed set of material papers relied upon and filed herewith are true copies of the originals/fair reproduction of the originals/true translation thereof.

Verified at New Delhi on this the 28th day of August, 2017.

Applicant/Appellant
BSES Rajdhani Power Limited

331

[redacted]

VERIFICATION

I, Ravi Shandilya, working as Manager, Regulatory Affairs of the Applicant/Appellant, BSES Rajdhani Power Limited, having its Registered Office at "BSES Bhawan, Nehru Place, New Delhi – 110019, do hereby verify that the contents of paras 1 – 13 are true to my personal knowledge derived from official record and are believed to be true on legal advice and that I have not suppressed any material facts.

Verified at New Delhi on this the 28th day of August, 2017.

Applicant/Appellant
BSES Rajdhani Power Limited

332

BEFORE THE APPELLATE TRIBUNAL FOR ELECTRICITY
NEW DELHI

APPELLATE JURISDICTION

I.A. No. OF 2017
IN
APPEAL No. OF 2017

IN THE MATTER OF :

BSES Rajdhani Power Limited ... Applicant/ Appellant

Versus

Delhi Electricity Regulatory Commission ... Respondent

AFFIDAVIT

I, Ravi Shandilya, Manager (Regulatory) of the Applicant/Appellant, BSES Rajdhani Power Limited, having its Registered Office at "BSES Bhawan", Nehru Place, New Delhi – 110019, do hereby state on solemn affirmation as under:

1. I say that I am working as Manager (Regulatory) of the Applicant/Appellant Company above named and as such I am familiar with the facts of the case.

2. I have read and understood the contents of the accompanying Application and Annexures thereto.

3. I say that the facts stated in the accompanying Application are based on information derived from the records of the Applicant/Appellant and believed by me to be true.

4. I say that the Annexures to the Application are true copies of their respective originals.

5. I say that nothing herein is false and no material has been concealed there from.

DEPONENT

VERIFICATION

Verified at New Delhi on this the 28th day of August, 2017 that the contents of the above Affidavit are true and correct to the best of my knowledge. Nothing material has been concealed nor withheld there from.

DEPONENT

334

BEFORE THE APPELLATE TRIBUNAL FOR ELECTRICITY

(APPELLATE JURISDICTION)

I.A. No. OF 2017

IN

APPEAL No. OF 2017

IN THE MATTER OF:

BSES Rajdhani Power Limited ... Applicant/ Appellant

Versus

Delhi Electricity Regulatory Commission ... Respondent

APPLICATION FOR EXEMPTION FROM FILING CERTIFIED COPY OF IMPUGNED ORDER DATED 01-06-2017

TO

THE HON'BLE CHAIRPERSON AND HER COMPANION MEMBERS OF THE HON'BLE APPELLATE TRIBUNAL

THE HUMBLE APPLICATION OF THE APPLICANT ABOVENAMED

MOST RESPECTFULLY SHEWETH :

The Applicant most respectfully submits as under:-

1. The Applicants/Appellants herein have filed the abovementioned Appeal against the Order dated 01-06-2017 passed by the Delhi Regulatory Commission ("**Respondent Commission**") in the

matter of determination of Open Access charges and related matters. The Applicant/Appellant submit that the contents of the abovementioned appeal may be read as part and parcel of this Application.

2. The Applicant/Appellant is filing the accompanying Appeal alongwith the copy of the Order dated 01-06-2017 (Annexure - 1) which has been downloaded from the website of the Respondent Commission. The Applicant/Appellant respectfully submits that the said Order dated 01-06-2017 is the true copy of the Order which has been downloaded from the website of the Respondent-Commission and have annexed at Annexure - 1 which may kindly be taken on record.

3. The Applicant/Appellant further respectfully crave leave of this Hon'ble Tribunal to exempt the Applicants/Appellants from filing the certified copy of the Order dated 01-06-2017.

PRAYER

In the premises, it is respectfully prayed that this Hon'ble Tribunal may graciously be pleased to :

(a) Allow the present Application for Exemption from filing Certified copy of the Order dated 01-06-2017;

(b) take on record Annexure - 1 being the Order dated 01-06-2017 downloaded from the website of the Respondent-Commission;

(c) For such other and further relief's as the nature and circumstances of the case may require.

Dated at New Delhi this the 28th day of August, 2017.

Applicant/Appellant
BSES Rajdhani Power Limited

Through

Mulla & Mulla & Craigie Blunt & Caroe
Advocates for Applicant/Appellant
502, Nilgiri Apartments
9, Barakhamba Road
New Delhi 110 001

DECLARATION

The Applicant/Appellant abovenamed hereby solemnly declares that nothing material has been concealed or suppressed and further declares that the enclosures and typed set of material papers relied upon and filed herewith are true copies of the originals/fair reproduction of the originals/true translation thereof.

Verified at New Delhi on this the 28th day of August, 2017.

Applicant/Appellant
BSES Rajdhani Power Limited

337

VERIFICATION

I, Ravi Shandilya, working as Manager, Regulatory Affairs of the Applicant/Appellant, BSES Rajdhani Power Limited, having its Registered Office at "BSES Bhawan, Nehru Place, New Delhi – 110019, do hereby verify that the contents of paras 1–3 are true to my personal knowledge derived from official record and are believed to be true on legal advice and that I have not suppressed any material facts.

Verified at New Delhi on this the 28th day of August, 2017.

Applicant/Appellant
BSES Rajdhani Power Limited

338

BEFORE THE APPELLATE TRIBUNAL FOR ELECTRICITY

NEW DELHI

APPELLATE JURISDICTION

I.A. No. OF 2017

IN

APPEAL No. OF 2017

IN THE MATTER OF :

BSES Rajdhani Power Limited ... Applicant/ Appellant

Versus

Delhi Electricity Regulatory Commission ... Respondent

AFFIDAVIT

I, Ravi Shandilya, Manager (Regulatory) of the Applicant/Appellant, BSES Rajdhani Power Limited, having its Registered Office at "BSES Bhawan", Nehru Place, New Delhi – 110019, do hereby state on solemn affirmation as under:

1. I say that I am working as Manager (Regulatory) of the Applicant/Appellant Company above named and as such I am familiar with the facts of the case.

2. I have read and understood the contents of the accompanying Application and Annexures thereto.

3. I say that the facts stated in the accompanying Application are based on information derived from the records of the Applicant/Appellant and believed by me to be true.

4. I say that the Annexures to the Application are true copies of their respective originals.

5. I say that nothing herein is false and no material has been concealed there from.

DEPONENT

VERIFICATION

Verified at New Delhi on this the 28th day of August, 2017 that the contents of the above Affidavit are true and correct to the best of my knowledge. Nothing material has been concealed nor withheld there from.

DEPONENT

340

BEFORE THE APPELLATE TRIBUNAL FOR ELECTRICITY
NEW DELHI

APPELLATE JURISDICTION

I.A. No. OF 2017
IN
APPEAL No. OF 2017

IN THE MATTER OF:

BSES Rajdhani Power Limited ... Applicant/Appellant

Versus

Delhi Electricity Regulatory Commission ... Respondent

APPLICATION FOR STAY OF IMPUGNED ORDER DATED 01-06-2017

To,

THE CHAIRPERSON AND HER COMPANION MEMBERS OF THE HON'BLE APPELLATE TRIBUNAL FOR ELECTRICITY AT NEW DELHI

THE HUMBLE APPLICATION OF THE APPLICANT/ APPELLANT ABOVEMENTIONED

MOST RESPECTFULLY SHEWETH:

1. The Applicant/Appellant is filing the accompanying Appeal challenging the Impugned Order dated 01-06-2017 passed by the Delhi Electricity Regulatory Commission ("Respondent Commission), in the matter of determination of Open Access charges and related matters.

2. It is submitted that the impugned order in so far as it exempts the Railways, being a deemed distribution licensee, from the levy of cross subsidy surcharge on electricity purchased for its own consumption, is ex facie contrary to and in the teeth of the Hon'ble Supreme Court's judgment in Sesa Sterlite Ltd. Vs. OERC & Ors. (2014) 8 SCC 444. In the said Judgment the Hon'ble Supremem Court held that cross subsidy surcharge is meant to compensate the distribution licensees from the loss of cross subsidy that such distribution licensee would suffer by reason of the consumer taking supply from someone other than such distribution licensee.

3. It is submitted that the Respondent Commission without even giving any reasons as to how the Railways are a deemed licensee, held in the Impugned Order that the Railways as defined in the Indian Railways Act, 1989, is exempt from the levy of cross subsidy surcharge, being a deemed distribution licensee.

4. It is further submitted that the impugned order is also contrary to and in the teeth of the Supreme Court's judgment in Northern Railways Vs. UPSEB & Ors. (2012) 3 SCC 329 where the Hon'ble Supreme Court has equated the Indian Railways to a consumer while holding that under the 2003 Act, a direct sale of power by a generating company to a consumer is specifically permitted

under section 10(2) thereof. In case, if railways were a deemed distribution licensee vested with the authority under the Railways Act to distribute and supply electricity independent of the 2003 Act, then in that event, the Indian Railways could not have ever treated itself as a consumer under the 2003 Act for taking bulk supply of electricity from the distribution licensees. Hence, even on facts, the past conduct of the Indian Railways would show that they could not be treated as a deemed distribution licensee, but have to be treated as a consumer under the 2003 Act. The aforegoing submissions are, without prejudice to the submissions that even if the railways were to be treated as a deemed distribution licensee, they would be bound to pay cross subsidy surcharge following the law laid down by the Hon'ble Supreme Court in Sesa Sterlite *Supra*.

5. It is submitted that the Respondent Commission in its impugned order, by exempting the railways from the levy of cross subsidy surcharge is ultra vires section 2(47) of the 2003 Act in terms whereof "open access: is for use of distribution system "by any licensee", thereby clearly indicating that even a licensee including a deemed licensee are entitled to "open access" and therefore liable to consequences of the provisions of "open access".

6. It is further submitted that the revised Tariff Policy dated 28.1.2016 contemplates that the Appropriate Commission would

be required to consult the Appropriate Government for exempting levy of cross subsidy surcharge on the railways, being a deemed licensee, on electricity purchased for its own consumption. The said provision of the Tariff Policy is ultra vires and militates against section 2(47) read with section 42(2) of the 2003 Act and is contrary to the law laid down by the Hon'ble Supreme Court in Sesa Sterlite *Supra.* Without prejudice to the aforegoing submissions, it is submitted that the Respondent Commission ought to have consulted the Appropriate Government as well as heard the distribution licensees in the State of Delhi before taking a decision in the impugned order to exempt the railways from the levy of cross subsidy surcharge. However, the Respondent Commission has neither carried out any such consultation with the Appropriate Government nor has heard the distribution licensees before taking the decision to exempt the railways from payment of cross subsidy surcharge.

7. It is submitted that Respondent Commission failed to comply with the principles of natural justice and to afford a reasonable opportunity of hearing to the distribution licensees in the State of Delhi, which includes the Appellant herein, on their legitimate claims and interests, vis-a-vis the Impugned Order. It is submitted that the Respondent Commission also failed to notice that the impugned order is against the interests of the public and the consumers as the burden of exempting the levy of cross subsidy surcharge on the railways would befall on the subsidized

consumers. The Respondent Commission was therefore mandated to hear even the consumers before passing the impugned order, which the Respondent Commission miserably failed to do.

8. That the facts and circumstances leading to the filing of the present Appeal has been narrated in the accompanying Appeal and the Applicants/Appellants is not repeating the same for the sake of brevity. The Applicants/Appellants craves leave of this Hon'ble Tribunal to refer to and rely on the same as part and parcel of this Appeal.

9. That the Applicants/Appellants would be put into irreparable loss and injury if the impugned order dated 01-06-2017 is not stayed during the pendency of the present Appeal and there would be no harm or injury to the Respondents if the stay is granted.

PRAYER

In view of the foregoing, it is therefore prayed :

A. That this Hon'ble Tribunal may graciously be pleased to stay the operation and effect of the Order dated 01-06-2017 issued by Delhi Electricity Regulatory Commission ; and

B. For such other and further relief's as the nature and circumstances of the case may require.

Dated at New Delhi this the 28th day of August, 2017.

Applicant/Appellant
BSES Rajdhani Power Limited

Through

Mulla & Mulla & Craigie Blunt & Caroe
Advocates for Applicant/Appellant
502, Nilgiri Apartments
9, Barakhamba Road
New Delhi 110 001

DECLARATION

The Applicant/Appellant abovenamed hereby solemnly declares that nothing material has been concealed or suppressed and further declares that the enclosures and typed set of material papers relied upon and filed herewith are true copies of the originals/fair reproduction of the originals/true translation thereof.

Verified at New Delhi on this the 28th day of August, 2017.

Applicant/Appellant
BSES Rajdhani Power Limited

346

VERIFICATION

I, Ravi Shandilya, working as Manager, Regulatory Affairs of the Applicant/Appellant, BSES Rajdhani Power Limited, having its Registered Office at "BSES Bhawan, Nehru Place, New Delhi – 110019, do hereby verify that the contents of paras 1 – 9 are true to my personal knowledge derived from official record and are believed to be true on legal advice and that I have not suppressed any material facts.

Verified at New Delhi on this the 28th day of August, 2017.

Applicant/Appellant
BSES Rajdhani Power Limited

347

BEFORE THE APPELLATE TRIBUNAL FOR ELECTRICITY
NEW DELHI

APPELLATE JURISDICTION

I.A. No. OF 2017
IN
APPEAL No. OF 2017

IN THE MATTER OF :

BSES Rajdhani Power Limited	...	Applicant/ Appellant
Versus		
Delhi Electricity Regulatory Commission	...	Respondent

AFFIDAVIT

I, Ravi Shandilya, Manager (Regulatory) of the Applicant/Appellant, BSES Rajdhani Power Limited, having its Registered Office at "BSES Bhawan", Nehru Place, New Delhi – 110019, do hereby state on solemn affirmation as under:

1. I say that I am working as Manager (Regulatory) of the Applicant/Appellant Company above named and as such I am familiar with the facts of the case.

2. I have read and understood the contents of the accompanying Application and Annexures thereto.

3. I say that the facts stated in the accompanying Application are based on information derived from the records of the Applicant/Appellant and believed by me to be true.

4. I say that the Annexures to the Application are true copies of their respective originals.

5. I say that nothing herein is false and no material has been concealed there from.

DEPONENT

VERIFICATION

Verified at New Delhi on this the 28th day of August, 2017 that the contents of the above Affidavit are true and correct to the best of my knowledge. Nothing material has been concealed nor withheld there from.

DEPONENT

Received on 13-3-2018
3:25pm

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY AT NEW DELHI

APPELLATE JURISDICTION

APPEAL NO. 335 OF 2017

BSES Rajdhani Power Ltd. ..Appellant

VERSUS

Delhi Electricity Regulatory Commission ..Respondents

INDEX

Sr. No.	Particulars	Page No.
1.	Application for condonation of delay Along with affidavit.	1 – 6
2.	Reply on behalf of Respondent along with affidavit.	7 – 24
3.	**Annexure-R-1** Provisional Data obtained from SLDC, Delhi for FY 2014-15 and FY 2015-16 regarding the details of availability schedule and actual consumption	25-26

(NIKHIL NAYYAR, DHANANJAY BAIJAL, N. SAI VINOD,
DIVYANSHU RAI & SMRITI SHAH)
ADVOCATES FOR RESPONDENT NO.1
133, LAWYERS CHAMBERS
SUPREME COURT COMPOUND
NEW DELHI – 110 001.

DELHI

DATED: 13 .03.2018

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY AT NEW DELHI

APPELLATE JURISDICTION

APPEAL NO. 335 OF 2017

BSES Rajdhani Power Ltd. ..Appellant

VERSUS

Delhi Electricity Regulatory Commission ..Respondents

AN APPLICATION SEEKING CONDONATION OF DELAY IN FILING THE REPLY ON BEHALF OF RESPONDENT -DELHI ELECTRICITY REGULATORY COMMISSION

Respondent most respectfully submits as under:

1. That the present matter is listed before this Hon'ble Tribunal on 14.3.2018. On 10.01.2018, this Hon'ble Tribunal granted two weeks to the Respondent to file a reply. The Respondent on this day is filing the accompanying Reply.

2. That the facts of the case have been mentioned in detail in the accompanying Reply and are not being repeated herein to avoid repetition and for the sake of brevity.

3. That there is a delay of days in filing the accompanying reply, as per the directions of this Hon'ble Tribunal for the following reasons:

i. That the Counsel sought appropriate instructions and relevant documents from the Commission on the appropriate course of action, which took some time.

ii. That the para-wise remarks and various documents were sent to the office of the Counsel.

iii. That on receipt of instructions, the Counsel took time to verify the records and prepare the reply to the Appeal.

iv. That the Counsel sought certain clarifications and queries, and the same were sent to the Commission for pointed replies and instructions.

v. Thereafter, the accompanying Reply was sent to the Commission for approval and for obtaining necessary affidavit.

vi. Once the approval was received along with the affidavit, the Counsel took time to make necessary arrangements for filing.

4. That the delay so occasioned in filing the reply is *bonafide* and unintentional and is liable to be condoned in the interest of justice. No prejudice will be caused to the Appellant if this application is allowed.

PRAYER

In the circumstances set forth above, it is therefore, most respectfully prayed that this Hon'ble Tribunal may be pleased to:

A) condone the delay of 49 days in filing the Reply in Appeal No. 337 of 2015, pursuant to order dated 10.01.2018, and

B) pass any other or further orders as may be deemed fit and proper in the circumstances of the case.

FILED BY

NIKHIL NAYYAR

ADVOCATE FOR RESPONDENT

Filed on: .03.2018

DECLARATION

The applicant above named hereby solemnly declare that nothing material has been concealed or suppressed and further declare that the enclosures and typed set of material papers relied upon and filed herewith are true copies of the originals or fair reproduction of the originals or true translation thereof.

Verified at New Delhi dated this day 12th of March 2018.

Counsel for Applicant

Authorised Signatory

SURENDRA EDUPGHANTI
Secretary
Delhi Electricity Regulatory Commission
C-Block, Shivalik, Malviya Nagar.
New Delhi-110017

VERIFICATION

I, Surendra Edupghanti S/o. Shri E.V. Rao aged about 55 years, holding the post of Secretary, Delhi Electricity Regulatory Commission, situated at New Delhi-110017 do hereby verify that the contents of the paras 1 to 4 are true to my personal knowledge / derived from official record and believed to be true on legal advice and that I have not suppressed any material facts.

Date: ____.03.2018

New Delhi

Authorised Signatory

SURENDRA EDUPGHANTI
Secretary
Delhi Electricity Regulatory Commission
C-Block, Shivalik, Malviya Nagar.
New Delhi-110017

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY AT NEW DELHI

APPELLATE JURISDICTION

APPEAL NO. 335 OF 2017

BSES Rajdhani Power Ltd. ..Appellant

VERSUS

Delhi Electricity Regulatory Commission ..Respondents

AFFIDAVIT

I, Surendra Edupghanti S/o. Shri E.V. Rao aged about 55 years, do hereby solemnly affirm and state as under.

1. That I am the Secretary in the Respondent Commission and hence am conversant with the facts and circumstances of the case as borne from the records of the Commission and am therefore competent to swear the present affidavit.

2. That I have gone through the contents of the application for condonation of delay in filing the reply. The contents of Paras 1 to 4 of the application are facts as borne out from the records of the commission and the rest of the application are prayers and submissions made to this Tribunal.

NOTARY
Rajendra Kumar
Delhi
Regd. No. 5780
Date of Expiry
27th April-2018
GOVT. OF INDIA

DEPONENT

SURENDRA EDUPGHANTI
Secretary
Delhi Electricity Regulatory Commission
C-Block, Shivalik, Malviya Nagar,
New Delhi-110017

VERIFICATION

Verified at New Delhi on this the 12th day of March, 2018 and state that the contents of the present affidavit are true and correct to my knowledge and belief and nothing material has been concealed therefrom

NOTARY
Rajendra Kumar
Delhi
Regd. No. 5780
Date of Expiry
27th April-2018
GOVT. OF INDIA

DEPONENT

SURENDRA EDUPGHANTI
Secretary
Delhi Electricity Regulatory Commission
C-Block, Shivalik, Malviya Nagar,
New Delhi-110017

IDENTIFY THE EXECUTANT/
DEPONENET WHO WAS
SIGNED IN THE PRESENCE OF

Identified by
D. DIVYANSHO RAI, ADVOCATE
D/1725/2011

RAJENDRA KUMAR, NOTARY, Reg. No. 5780
F No.-5(486)
EMPOWERED TO ADMINISTER THE OATH
SECTION 139 OF CPC 1908
SECTION 297 OF CRPC 1973
DELHI HIGH COURT RULES 1967
PART-6, CHAPTER XVIII-227
EVIDENCE BY AFFIDAVIT BEFORE NOTARY
SUPREME COURT RULES, 2013
ORDER IX-7

03/12/15

ATTESTED

RAJENDRA KUMAR
NOTARY, DELHI-R-5760
GOVERNMENT OF INDIA
SUPREME COURT OF INDIA
COMPOUND, NEW DELHI
Register Pg./Sl. No.....
Ph. 9212491692
9899446209

12.03.2018

CERTIFIED THAT THE CONTENTS EXPLAINED TO THE
DEPONENT EXECUTANT WHO IS SEEMED PERFECT TO
UNDERSTAND & AFFIRMED DEPOSED BEFORE ME AT
DELHI ON 12.03.2018 IDENTIFIED BY
IDENTIFY THE EXECUTANT/DEPONENT WHO HAS
SIGNED IN MY PRESENCE

IDENTIFY THE EXECUTANT/
DEPONENET WHO WAS
SIGNED IN THE PRESENCE OF

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY AT NEW DELHI

APPELLATE JURISDICTION

APPEAL NO. 335 OF 2017

BSES Rajdhani Power Ltd. ..Appellant

VERSUS

Delhi Electricity Regulatory Commission ..Respondents

REPLY ON BEHALF OF RESPONDENT NO.1 -DELHI ELECTRICITY REGULATORY COMMISSION

Respondent most respectfully submits as under

PRELIMINARY

1. At the outset the Respondent commission states that unless specifically admitted, each and every assertion or averment made by the Appellant is denied as being false and contrary to both the law and the facts on the ground.

2. That the answering Respondent, the State Commission is a statutory authority constituted under Section 82 of the Electricity Act, 2003 [hereinafter "the Act"]. The functions of the State Commission are enumerated under Section 86 of the Act and Section 86(1)(a) specifically states that it is the function of the State Commission to 'determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the

State'; Section 86(1)(b) makes it the function of the State Commission to regulate electricity purchase, procurement, distribution including the price of the same within the State; Further, Section 86(1)(f) of the Act gives the State Commission the power to 'adjudicate upon the disputes between the licensees and generating companies and to refer any dispute for arbitration'. Furthermore, Section 181 of the Act confers on the State Commission the power to make 'regulations consistent with this Act and the rules generally to carry out the provisions of this Act.'

3. The Respondent Commission, vide Order dated 01.06.2017 passed the order in the matter of: Determination of Open Access Charges and related matters. It is submitted that the said order was passed after detailed proceedings in which responses from all stakeholders were taken and the same was done in accordance with the Electricity Act, Delhi Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2005, (hereinafter referred to as, the '**Regulations**') National Tariff Policy, 2016 and the judgments of this Hon'ble Tribunal. The Impugned Order suffers from no infirmities at all.

4. It is humbly submitted that the Appellant is only attempting to nitpick and assail the findings of the Commission, an expert

decision-making body, without any legal or factual basis for its grievances.

5. It is humbly submitted that the Appellant has broadly raised the following issues:

I. VIOLATION OF PRINCIPLES OF NATURAL JUSTICE

II. EXEMPTION TO RAILWAYS FROM THE LEVY OF CROSS SUBSIDY SURCHARGES, BEING A DEEMED DISTRIBUTION LICENSEE

III. EXEMPTION TO USER OF CAPTIVE GENERATING PLANTS FROM THE LEVY OF ADDITIONAL SURCHARGE

IV. CEILING OF CROSS SUBSIDY SURCHARGES

V. REDUCTION OF ADDITIONAL SURCHARGE FROM THE PERIOD OF MAY TO SEPTEMBER 2017

6. It is humbly submitted that the order of the Respondent Commission is a reasoned order that deliberates on each of these issues and the decision of the Respondent Commission is in accordance with the Electricity Act, Delhi Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2005, (hereinafter referred to as, the '**Regulations**') National Tariff Policy, 2016. It is however submitted that a brief response to all the above issues is provided by the Commission in the following paragraphs:

I. VIOLATION OF PRINCIPLES OF NATURAL JUSTICE

7. The Appellant has falsely stated that the Respondent Commission failed to comply with the principles of natural justice and to afford a reasonable opportunity of hearing to the distribution licensee in the state of Delhi. A mere perusal of the Impugned Order and the following sequence of events will demonstrate that the Appellant was provided sufficient opportunity of hearing.

8. It is submitted that the Respondent Commission issued a draft proposal on 15.12.2016 on its website for determination of Open Access Charges and related matters, revising its earlier Orders dated 24.12.2013, 18.5.2015 and 9.12.2015 for seeking suggestions / objections / comments from stakeholders by 20.01.2017. The public notice was also issued in the following daily newspapers on 21.12.2016 for the information of the stakeholders to submit their suggestions/objections/comments:

(i) Hindustan Times (English)

(ii) Indian Express (English)

(iii) Times of India (English)

(iv) Navbharat Times (Hindi)

(v) Dainik Jagran (Hindi)

(vi) Milap (Urdu)

(vii) Educator (Punjabi)

9. It is further submitted that the Respondent Commission has also considered the comments submitted by BRPL & BYPL in Appeal No. 164 of 2015 & IA No.264 of 2015 and Appeal No.165 of 2015 & IA No.267 of 2015 filed before the Hon'ble Appellate Tribunal for Electricity. As directed by this Hon'ble Tribunal for Electricity in its daily Order dated 9.1.2017, a meeting was also convened with the distribution companies to deliberate the issues.

10. The Appellant vide its letter dated February 08, 2017, has also submitted their comments/suggestions on Respondent Commission's Draft Proposal for Determination of Open Access Charges and related matters.

11. The Order dated 1.6.2017 in the matter of determination of Open Access charges and related matters was issued after giving an opportunity to the stakeholders including appellant to submit their comments/suggestion. The Respondent has also issued Statement of Objects and Reason on the Open Access Order dated 1.6.2017. The copy of the Impugned Order and Statement of Objects and Reasons is also available on the website of the Respondent Commission.

12. Having submitted its comments on the draft proposal and participated in the hearing, the Appellant cannot raise a plea of not being afforded a reasonable opportunity of hearing.

II. EXEMPTION TO RAILWAYS FROM THE LEVY OF CROSS SUBSIDY SURCHARGES, BEING A DEEMED DISTRIBUTION LICENSEE

13. The contention raised by the Appellant that the distribution Licensees were not heard before taking the decision to exempt the railways from payment of cross subsidy is untenable. The Respondent Commission in its draft proposal for inviting comments has specifically mentioned to exempt cross subsidy as under:-

> *"(ii) It is further clarified that no Cross Subsidy surcharge shall be payable in cases specifically exempted from payment of Cross Subsidy surcharge by the provisions of the Electricity Act, 2003 and the Tariff Policy of Government of India."*

Moreover, the Table specifying the cross-subsidy surcharge provides that the Railways are exempted as per revised National Tariff Policy. Relevant extract of the draft proposal uploaded on the website of the Respondent Commission for seeking comments/suggestion is as following:

TPDDL

Summary

(Paisa/kWh)

	Industrial	Non- Domestic	Domestic	Railway	DMRC	DJB
	Final restricted to 20%	Final restricted to 20%	Final restricted to 20%		Final restricted to 20%	Final restricted to 20%
Above 66kV level	**165.20**	**206.00**	**11.31**	**Exempted as per revised National Tariff Policy**	**136.20**	**182.20**
At 33/ 66kV level	**165.20**	**206.00**	**5.02**		**131.02**	**182.20**
At 11kV level	**165.20**	**206.00**	-		**116.08**	**182.20**
At LT level	**165.20**	**206.00**	-		**98.48**	**182.20**

BRPL

Summary

(Paisa/kWh)

	Industrial	Non- Domestic	Domestic	Railway	DMRC	DJB	DIAL
	Final restricted to 20%	Final restricted to 20%	Final restricted to 20%	Final restricted to 20%	Final restricted to 20%	Final restricted to 20%	Final restricted to 20%
Above 66kV level	**167.60**	**196.00**	**92.47**	**Exempted as per revised National**	**118.47**	**183.60**	**166.00**
At 33/ 66kV level	**167.60**	**196.00**	**25.25**		**51.25**	**183.60**	**166.00**
At 11kV level	**167.60**	**196.00**	**19.01**		**45.01**	**183.60**	**166.00**
At LT level	**167.60**	**196.00**	-		-	**183.60**	**166.00**

BYPL
Summary
(Paisa/kWh)

Voltage level	Industrial	Non- Domestic	Domestic	Railway	DMRC	DJB	DIAL
	Final restricted to 20%	Final restricted to 20%	Final restricted to 20%		Final restricted to 20%	Final restricted to 20%	Final restricted to 20%
Above 66kV level	**175.00**	**199.60**	**95.00**	**Exempted as per the revised National Tariff Policy**	**125.80**	**187.60**	-
At 33/ 66kV level	**175.00**	**199.60**	**17.57**		**103.57**	**187.60**	-
At 11kV level	**175.00**	**199.60**	**12.30**		**98.30**	**187.60**	-
At LT level	**175.00**	**199.60**	-		**42.33**	**187.60**	-

14. The Respondent Commission while exempting Railways from payment of cross subsidy surcharge has relied upon the National Tariff Policy, 2016. Relevant extract of Revised National Tariff Policy:

> *"8.5.1*
>
> .....
>
> *Provided further that the Appropriate Commission, in consultation with the Appropriate Government, shall exempt levy of cross subsidy charge on the Railways, as defined in Indian Railways Act, 1989 being a deemed licensee, on electricity purchased for its own consumption."*

15. The Hon'ble Supreme Court in its judgment in ***Energy Watchdog v. CERC & Ors.*** (2017)14 SCC 80 has held that the National Tariff Policy is a statutory document issued under Section 3 of the Act and has the force of law.

16. In addition to above, the Central Electricity Regulatory Commission in order dated November 05, 2015 in Petition No. 197/MP/2015 with respect to Railways, also stated that:

> *"(b) The petitioner is a deemed licensee under third proviso to Section 14 of the Electricity Act and no separate declaration to that effect is required from the Appropriate Commission. The petitioner as a deemed licensee shall be bound by the terms and conditions of license specified or to be specified by the Appropriate Commission under proviso to Section 16 of the Electricity Act."*

It may be pointed out that an appeal (Appeal No. 276 of 2015) has been filed against this order before this Hon'ble Tribunal, which is pending.

17. It is also submitted that the Appellant's reliance on the judgment of Hon'ble Supreme Court in ***Sesa Sterilite v. OERC & Ors.*** (2014) 8 SCC 444, is misconceived as the Hon'ble Supreme Court has held that:

> *"43. We are in agreement with the aforesaid rationale in the impugned order of the Appellate Tribunal as that is the only manner in which the two Acts can be harmoniously construed. To recapitulate briefly, in the present case no doubt by virtue of the status of a developer in the SEZ area, the Appellant is also treated as deemed Distribution Licensee. However with this, it only gets exemption from specifically applying for licence under Section 14 of the Act. In order to avail further benefits under the Act, the Appellant is also required to show that it is in fact having distribution system and has number of consumers to whom it is supplying the electricity. That is not the case here. For its own plant only, it is getting the electricity from Sterlite Ltd. for which it has entered into PPA. We have to keep in mind the object and scheme of SEZ Act which envisages several units being set up in a SEZ area. This is evident from a collective reading of the various provisions of the SEZ Act viz. Section 2(g)(j)(za)(zc), Section 3, 4, 11, 12, 13 and 15. There can be a Sector Specific SEZ with Several Units i.e. for IT, Mineral Based Industries etc. but instances of single unit SEZ like in the present case of the Appellant may be rare. The Notification dated 03.03.2010 providing for the "Developer" of SEZ being deemed as a "Distribution Licensee" was issued keeping in view the concept of Multi Unit SEZs and will apply only to such cases in which the Developer is supplying the power to multiple Units in the SEZ. The said Notification will not apply to a Developer like the Appellant who has established the SEZ only for itself."*

It can be seen from the abovementioned judgment that it is distinguishable for Railways since the Railway has its own

distribution system and it is also supplying electricity to its consumers. Whereas, Sesa Sterlite was getting the electricity for its own use only and it is on this ground, it was treated as a consumer.

18. In light of the above, the Railway, being a deemed Licensee, is exempted from the Cross Subsidy Surcharge.

19. Similarly, the Appellant's contention that even if Railway is considered a deemed licensee, it shall be liable to pay mandatory cross subsidy charge under Section 42(2) is untenable as Cross subsidy surcharge as per Section 42(2) is payable by the consumer. In certain cases where Railways being a deemed licensee is not a consumer of the distribution licensee, no cross subsidy surcharge would be applicable. However, when it being a deemed licensee is also a consumer of the distribution licensee, cross subsidy surcharges would be applicable.

20. It is also pertinent to note that the Appellant in its comments/suggestions submitted vide letter dated 8.2.2017 has not given any comments on this issue of exemption of Railways from cross subsidy. Taking into account the comments from the stakeholders, the Respondent Commission in its Statement of Objects and Reasons has deliberated on this issue as under:-

"Exemption Categories from Cross subsidy surcharge

3.7 As per sub-section (2) of Section 42 of the Electricity Act, 2003, cross subsidy surcharge is also not leviable on the person who has established a captive generating plant for carrying the electricity to the destination of his own use. Further as per

National Tariff Policy, Railways, as defined in Indian railways Act, 1989 being a deemed licensee on electricity purchased for its own consumption has also been exempted from levy of cross subsidy charge. The Commission in its draft Order at clause 10 (8) (ii) has specified that no cross subsidy surcharge shall be payable in cases specifically exempted under the Act and National Tariff Policy notified by Government of India.

The Commission received the suggestion that the cases which are exempted from payment of cross subsidy shall also be specified upfront. Accordingly, the Commission has specified these cases for exemption of cross subsidy surcharge."

III. EXEMPTION TO USER OF CAPTIVE GENERATING PLANTS FROM THE LEVY OF ADDITIONAL SURCHARGE

21. It is submitted that the Appellant has stated that the Respondent Commission has failed to comply with the Section 42 (4) of the Act, which mandates payment of additional surcharge on wheeling by a consumer or class of consumers who have been permitted to receive supply of electricity from a person other than the distribution licensee. The Respondent Commission has exempted the levy of additional surcharge on a person who has established a captive generating plant for carrying electricity to the destination of his own use.

22. The Respondent Commission while issuing the Impugned Order has considered the comments/suggestions received from the stakeholders and deliberated this issue in its Statement of Objects and Reasons dated 1.6.2017 as under:-

"Exemption of additional surcharge for captive power plants

5.7 As per sub-section (4) of Section 42 of the Electricity Act, 2003, the levy of Additional Surcharge arises where the State

Commission permits a consumer or class of consumers to receive supply of electricity from a person other than the Distribution Licensee of his area of supply. However, as per Section 9 of the Electricity Act, 2003, Captive Power Plants have been given the right to carry electricity from the Generating Plants to the destination of their own use. The question of 'permit' and 'supply' does not arise to the extent of 'self-consumption' by Captive Users of the Captive Power Plants.

Thus, the Commission is of the view that Additional Surcharge is not applicable to the open access users of Captive Power Plants to the extent of their self-consumption from such Plants.

As per the second proviso to Section 9(1), the electricity generated from a Captive Power Plant may be supplied to any consumer subject to regulations made under sub section (2) of Section 42. Therefore, Additional Surcharge shall be applicable in case of such supply from a Captive Power Plant to Open Access Consumers."

23. The Respondent Commission has exempted levy of additional surcharge to captive power plant on the above rationale. The Appellant's contention that Section 42(4) of the Act does not provide for exemption is untenable as the Respondent Commission has categorically provided in the Statement of Objects and Reasons that Section 42(4) is not applicable to the Captive Power Plants. The Respondent Commission has relied

on second proviso to Section 9 read with Section 42(2) of the Act. Thus, there is no question of providing an exemption by a judicial order.

IV. CEILING ON CROSS SUBSIDY SURCHARGES

24. It is submitted that the Appellant has stated that the Respondent Commission has failed to bring the tariff within +/- 20% of the average cost of supply but imposed the ceiling on cross subsidy surcharge payable.

25. In this regard, it is submitted that the Respondent Commission considered the issue of Cross Subsidy Surcharge and observed as following:

> ***"Modification in the formula for Cross Subsidy Surcharge and capping of 20% of tariff***
> *3.5 As regards the modification in the formula for determination of cross subsidy surcharge in National Tariff Policy notified by Government of India, the Commission noted that distribution licensees has proposed to modify the formula such that it increases the cross subsidy surcharge and whereas the open access consumers has suggested for reduction in cross subsidy surcharge. The Commission further noted from National Tariff Policy that the formula prescribed may not work for all distribution licensees particularly for those having power deficit. Delhi being power surplus state, the above provision may not be applicable to Delhi.*
>
> *Therefore, the Commission is of the view that the formula prescribed in National Tariff Policy for determination of cross subsidy surcharge does not require any revision. Capping of 20% of tariff applicable to the category of consumers seeking open access for determination of cross subsidy surcharge has also been maintained."*

26. Thus, it is submitted that the Respondent Commission has followed the National Tariff Policy after duly considering the power availability scenario in Delhi.

V. REDUCTION OF ADDITIONAL SURCHARGE FROM THE PERIOD OF MAY TO SEPTEMBER 2017

27. It is submitted that the Respondent Commission vide its Impugned Order has reduced the additional surcharge for the months of May to September to amount half of the average fixed costs for the period. The Appellant is contending that the Respondent Commission while computing the additional surcharge for the Appellant, reduced additional surcharge for the month of May to September to an amount half of the average fixed costs for the period, whereas the Appellant has proposed to two thirds of average fixed cost.

28. In this regard, it is submitted that while determining the additional surcharge, the Respondent Commission has stated that distribution licensees have surplus power during all months of the year, however during certain months, distribution licensees need to purchase additional power. The basis for the calculation is the provisional data as obtained from SLDC, Delhi for FY 2014-15 and FY 2015-16 regarding the details of availability schedule and actual consumption which is attached as **Annexure-R-1.** As per actual demand and availability, during the months of May to September, distribution licensees need to

buy more additional power to meet the demand. Accordingly, the additional surcharge was reduced to half during this period as stranded power will be lower.

29. In light of the submissions made above it is submitted that this Appeal be dismissed by this Hon'ble Tribunal with costs.

FILED BY

NIKHIL NAYYAR

ADVOCATE FOR RESPONDENT

Filed on: .03.2018

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY AT NEW DELHI

APPELLATE JURISDICTION

APPEAL NO. 335 OF 2017

BSES Rajdhani Power Ltd. ..Appellant

VERSUS

Delhi Electricity Regulatory Commission ..Respondents

AFFIDAVIT

I, Surendra Edupghanti S/o. Shri E.V. Rao aged about 55 years, do hereby solemnly affirm and state as under.

3. That I am the Secretary in the Respondent Commission and hence am conversant with the facts and circumstances of the case as borne from the records of the Commission and am therefore competent to swear the present affidavit.

4. That I have gone through the contents of the accompanying reply. The contents of 1,2,3,10,20,24,25,27 and 28 of the accompanying reply are facts true to my knowledge as borne from the records of the Respondent Commission, parts of paras 4-9,11,13,14,18,19,21,22,26 are facts true to my knowledge as borne from the records of the Respondent Commission and parts of the said paras are based on legal and advice and the

NOTARY
Rajendra Kumar
Delhi
Regd. No. 5780
Date of Expiry
27th April-2018
GOVT. OF INDIA

contents of paragraphs 12,15,16,23 and 29 are based on legal advice received by me and believed to be true and correct. Nothing material has been concealed herefrom.

DEPONENT

SURENDRA EDUPGHANTI
Secretary
Delhi Electricity Regulatory Commission
C-Block, Shivalik, Malviya Nagar.
New Delhi-110017

VERIFICATION

Verified at New Delhi on this the 12th day of March, 2018 and state that the contents of the present affidavit are true and correct to my knowledge and belief and nothing material has been concealed therefrom

NOTARY
Rajendra Kumar
Delhi
Regd. No. 5780
Date of Expiry
27th April-2018
GOVT. OF INDIA

RAJENDRA KUMAR, NOTARY, Reg. No. 5780
F No.-5(486)
EMPOWERED TO ADMINISTER THE OATH
SECTION 139 OF CPC 1908
SECTION 297 OF CRPC 1973
DELHI HIGH COURT RULES 1967
PART-6, CHAPTER XVIII-227
EVIDENCE BY AFFIDAVIT BEFORE NOTARY
SUPREME COURT RULES, 2013
ORDER IX-7

03/2014

IDENTIFY THE EXECUTANT/
DEPONENET WHO WAS
SIGNED IN THE PRESENCE OF

DEPONENT

SURENDRA EDUPGHANTI
Secretary
Delhi Electricity Regulatory Commission
C-Block, Shivalik, Malviya Nagar.
New Delhi-110017

ATTESTED

RAJENDRA KUMAR
NOTARY, DELHI-R-5760
GOVERNMENT OF INDIA
SUPREME COURT OF INDIA
COMPOUND, NEW DELHI
Regist. Sl. No.....

Ph. 9212491692
9899446209

Identified
DIVYANSHU KAZ, Adv.
D/1725/2014

12.03.2018

VERIFIED THAT THE CONTENTS EXPLAINED TO THE DEPONENT EXECUTANT WHO IS SEEMED PERFECT TO UNDERSTAND & AFFIRMED DEPOSED BEFORE ME AT DELHI ON..... IDENTIFIED BY

12.03.2018

IDENTIFY THE EXECUTANT/DEPONENT WHO HAS SIGNED IN MY PRESENCE

IDENTIFY THE EXECUTANT/
DEPONENET WHO WAS
SIGNED IN THE PRESENCE OF

ANNEXURE R-1

(25)

DELHI TRANSCO LTD

STATE LOAD DESPATCH CENTER

DETAILS OF AVAILABILITY - SCHEDULE - ACTUAL CONSUMPTION OF DELHI FOR 2014-15

ALL FIGURES IN MILLION UNITS

MONTHS	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	DEC-14	Jan-15	Feb-15	Mar-15	TOTAL
AVAILABILITY													
WITHIN DELHI	1503	1527	1505	1647	1556	1431	1451	1526	1864	1872	1568	1455	18905
INTER STATE GENERATION STATIONS	2304	2737	2802	2591	2488	2164	2167	2104	2003	2081	2051	2120	27613
ADDITIONAL PURCHASE	62	344	433	432	447	344	103	42	183	227	120	95	2830
TOTAL AVAILABILITY	3869	4608	4740	4670	4491	3939	3722	3672	4049	4180	3739	3669	49347
ENERGY CONSUMPTION	2118	2773	3192	3293	3201	2807	2340	1753	1921	2073	1676	1818	28966
SURPLUS	1751	1835	1547	1377	1290	1132	1382	1919	2128	2107	2063	1851	20382
DISPOSAL OF SURPLUS													
SALE	-288	-266	-178	-112	-117	-87	-223	-459	-454	-476	-400	-423	-3484
UI	-34	-61	-61	-86	-31	-3	-30	-42	-46	-18	-19	19	-413
TOTAL DISPOSAL	-321	-328	-239	-198	-148	-90	-253	-501	-500	-494	-420	-405	-3897
BACKING DOWN	1430	1508	1309	1178	1142	1042	1128	1417	1628	1613	1644	1446	16485

NOTE: Above figures are subject to finalization (incorporation of various revisions).

DELHI TRANSCO LTD

STATE LOAD DESPATCH CENTER

DETAILS OF AVAILABILITY - SCHEDULE - ACTUAL CONSUMPTION OF DELHI FOR 2015-16

ALL FIGURES IN MILLION UNITS

MONTHS	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	DEC-15	Jan-16	Feb-16	Mar-16	TOTAL
AVAILABILITY													
WITHIN DELHI	1308	1439	1393	1547	1427	1517	1666	1707	1771	1338	1221	1258	17591
INTER STATE GENERATION STATIONS	2311	2659	2665	2754	2738	2520	2515	2238	2097	2140	2173	2415	29226
ADDITIONAL PURCHASE	95	464	420	334	516	444	277	212	249	133	53	118	3313
TOTAL AVAILABILITY	3713	4562	4478	4635	4681	4481	4458	4156	4117	3611	3446	3791	50129
ENERGY CONSUMPTION	2245	3076	3084	3102	3073	3038	2506	1788	1890	1955	NA	NA	25756
SURPLUS	1468	1486	1394	1533	1608	1444	1952	2368	2227	1656			17136
DISPOSAL OF SURPLUS													
SALE	-140	-51	-54	-97	-77	-94	-127	-442	-549	-568	-630	-546	-3375
UI	-34	-61	-61	-86	-31	-3	-30	-42	-46	-18	-19	40	-392
TOTAL DISPOSAL	-174	-112	-115	-183	-108	-97	-157	-484	-594	-586	-649	-507	-3767
BACKING DOWN	1294	1374	1279	1350	1499	1347	1795	1884	1633	1070			14525

NOTE: Above figures are subject to finalization (incorporation of various revisions).

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY

AT NEW DELHI

APPELLATE JURUSDICTION
IA NO OF 2018
APPEAL No.335 OF 2017



IN THE MATTER OF :

BSES Rajdhani Power Limited ... Appellant

Vs.

Delhi Electricity Regulatory Commission ... Respondent

INDEX

S. No.	PARTICULARS	PAGE Nos.
1	Application for Condonation of Delay in Filing Rejoinder on behalf of Appellant	1 - 5
2	Rejoinder on behalf of Appellant with Affidavit in support	6 - 19

Filed on : 26-09-2018
New Delhi

Filed by :

Hasan Murtaza
Mulla & Mulla & Craigie Blunt & Caroe
Advocates for the Appellant
502, Nilgiri Apartments
9, Barakhamba Road
New Delhi 110 001

Standard Chartered

Standard Chartered Bank

Narain Manzil, 23, Barakhamba Road, New Delhi - 110 001 IFSC SCBL0036020

ACCOUNT PAYEE ONLY

VALID FOR THREE MONTHS FROM THE DATE OF ISSUE.

Date 2 6 0 9 2 0 1 6

D D M M Y Y Y Y

PAY TO THE ORDER OF * PAY AND ACCOUNTS OFFICER MINISTRY OF POWER NEW DELHI *

THE SUM OF RUPEES ONE THOUSAND ONLY

₹ *1,000.00

A/c No. 522-0-500037-8

CASHIER'S ORDER ISSUED BY

On A/C of : MR SURESH CHANDRA

PERSONAL BANKING / BRANCH OPERATIONS

3672
26 SEP 2016
Appellate Tribunal For Electricity

For Standard Chartered Bank

Authorised Signatory

1321087

Authorised Signatory

Please sign above this line

⑈204395⑈ ⑆110036002⑆ 500037⑈ 12

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY AT NEW DELHI

APPELLATE JURISDICTION
IA No of 2018
APPEAL No. 335 OF 2017

IN THE MATTER OF:

BSES Rajdhani Power Limited ... APPLICANT/ APPELLANT

Versus

Delhi Electricity Regulatory Commission ... RESPONDENTS

APPLICATION FOR CONDONATION OF DELAY IN FILING REJOINDER ON BEHALF OF APPELLANT
(Under Section Rule 30 ATE)

To,

The Hon'ble Chairperson and His Other Companion Members of the Appellate Tribunal for Electricity, New Delhi

The Humble Application of the Applicant/Appellant abovenamed -

MOST RESPECTFULLY SHEWETH :

1. That the above captioned Appeal has been preferred by the Appellant herein which is pending Hearing before this Hon'ble Tribunal.

2. That the above captioned Appeal was listed on 21st July, 2018 and on that day, this Hon'ble Tribunal was pleased to :

"APPEAL No. 335 of 2017

Learned counsel for the appellant seeks three weeks time to file rejoinder. He may file the same on or before 23.08.2018 after serving copy on the other side.

List the matter on 17.09.2018".

3. That the Counsel for the Appellant on the same day, informed Appellant of the time granted for filing of Rejoinder and sought instruction for drafting of the same.

4. That the Appellant, after getting necessary sanction and approval from the concerned Officials/Department as well as from the Legal Department, instructed the Counsel to draft the Rejoinder Affidavit.

5. Immediately, upon receiving the instruction from Appellant, for drafting the Rejoinder, the Counsel drafted the preliminary Rejoinder and sent the same to the Appellant for their approval.

6. That the Appellant, on receipt of the Rejoinder sought inputs/suggestions from the concerned Officials/Departments and finally send the same to their Legal Department. The Legal Department, took some time for verifying the draft Rejoinder, sent the final version of the Reply to their Counsel for filing the same before this Hon'ble Tribunal.

7. That immediately upon receipt of the Rejoinder from the Appellant, the Counsel took steps to serve the copy of the

Rejoinder upon the Counsel for the Respondent and is thus filing before this Hon'ble Tribunal. In the process, there occurred a delay of 57 days which is neither wanton or intentional, but for the reasons stated above.

In the interest of justice and fairplay, the short delay may kindly be condoned in the interest of justice.

PRAYER

In the premises, the Applicant/Respondent No. 1 most respectfully prays that this Hon'ble Tribunal may graciously be pleased to :

(a) allow the present Application for Condonation of Delay of 57 days in filing the Rejoinder on behalf of Appellant ;

(b) pass any such other order and/or orders as deemed fit and proper in the interest of justice;

Dated at New Delhi this the 26th day of September, 2018.

Hasan Murtaza
Advocate

Through

Hasan Murtaza
Mulla & Mulla & Craigie Blunt & Caroe
Advocates for Applicant/Appellant
502, Nilgiri Apartments
9, Barakhamba Road
New Delhli 110 001

DECLARATION

The Applicant/Appellant abovenamed hereby solemnly declares that nothing material has been concealed or suppressed and further declares that the enclosures and typed set of material papers relied upon and filed herewith are true copies of the originals/fair reproduction of the originals/true translation thereof.

Verified at New Delhi on this the 26th day of September, 2018.

Hasan Murtaza
Advocate

VERIFICATION

I, Hasan Murtaza, Advocate for Applicant/Appellant, BSES Rajdhani Power Limited, do hereby verify that the contents of paras 1 to 7 are true to my personal knowledge derived from official record and are believed to be true on legal advice and that I have not suppressed any material facts.

Verified at New Delhi on this the 26th day of September, 2018.

Hasan Murtaza
Advocate

5

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY AT NEW DELHI

APPELLATE JURISDICTION

APPEAL No. 335 OF 2017

IN THE MATTER OF:

BSES Rajdhani Power Limited ... APPLICANT/ APPELLANT

Versus

Delhi Electricity Regulatory Commission ... RESPONDENTS

AFFIDAVIT

I, Hasan Murtaza, Advocate for the Applicant/Appellant, having my office at 502, Nilgiri Apartment, 9, Barakhamba Road, New Delhi 110 001 do hereby solemnly affirm and state as under :

1. That I am the Advocate in the above captioned Appeal for the Appellant and as such I am aware of the facts and circumstances of the case, therefore competent to swear this Affidavit.

2. That the facts stated in the accompanying Application for Condonation of Delay in filing the Rejoinder on behalf of the Appellant is true and correct to the best of my knowledge and belief.

DEPONENT

VERIFICATION

Verified at New Delhi on this the 26th day of September, 2018 that the contents of the above Affidavit are true and correct. Nothing material has been concealed therefrom nor withheld.

DEPONENT

ATTESTED

NOTARY PUBLIC
NCT DELHI

26 SEP 2018

NOTARY
SUPREME COURT
NCT OF DELHI
R. No.-1167
GOVT. OF INDIA

6

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY

AT NEW DELHI

APPELLATE JURUSDICTION

APPEAL No.335 OF 2017

IN THE MATTER OF :

BSES Rajdhani Power Limited ... Appellant

Vs.

Delhi Electricity Regulatory Commission ... Respondent

REJOINDER ON BEHALF OF THE APPELLANT

MOST RESPECTFULLY SHEWETH:-

1. At the outset, the contentions raised by the Respondent Commission are denied.

2. The issue raised in the appeal goes to the root of the matter. It is a question of the Respondent Commission's jurisdiction.

IN RE VIOLATION OF NATURAL JUSTICE:

3. The Respondent Commission passed the Impugned Order without holding any hearing and without giving an opportunity to the persons likely to be affected by the Impugned Order before passing the same. The Respondent Commission was aware that vital interest of the distribution licensees such as the Appellant herein would be affected. The Impugned Order

is a *suo motu* order and is in excess of jurisdiction. The Respondent Commission has exceeded its jurisdiction and authority in law to pass orders suo motu in the nature of the Impugned Order *inter alia* depriving the Appellant of various open access charges.

4. The Respondent Commission has erred in following the basic principles of natural justice. It is submitted that issuance of a draft proposal is not a substantial compliance of the requirements of natural justice. The Respondent Commission has neither followed the the rule of law nor observed the basic tenets of fair play. Every adjudication and all the things contemplated by law in this case would involve, on occasion, a *lis*. Once it is adjudicated as a lis and fairly and properly so also completely, that would require the presence of the affected parties. It would necessitate a minimal opportunity to them to meet any adverse material. It would also take within its import a further opportunity to place such material as deemed fit and proper by these affected parties. On a careful consideration of such material, rival pleadings and contentions, the Respondent Commission must pass a reasoned order. The Respondent Commission has failed to comply with the above, has not adhered to these principles, and has completely ignored them, while passing the Impugned Order.

5. It is submitted that by the Impugned Order, sweeping provisions were made which were completely incomprehensible in the DERC (Terms and Conditions for Open Access) Regulations, 2005.

IN RE EXEMPTION TO RAILWAYS FROM CROSS-SUBSIDY SURCHARGE:

6. The Respondent Commission's sole reliance is on the Tariff Policy. It is submitted that the Respondent Commission has even violated the Tariff Policy by not undertaking any *"consultation with the Appropriate Government"* which was mandatory, prior to exempting levy of cross subsidy charge on the Railways. The Tariff Policy *inter alia* provides as follows:-

> *"Provided further that the Appropriate Commission, in consultation with the Appropriate Government, shall exempt levy of cross subsidy charge on the Railways, as defined in Indian Railways Act, 1989 being a deemed licensee, on electricity purchased for its own consumption."*

7. Without prejudice to the aforegoing submissions, it is submitted that the Respondent Commission did not apply its mind on the issue as to whether the Railways could be

exempted from the levy of cross subsidy charge, particularly in view of the following reasons:-

(i) Indian Railways are not authorized as a distribution licensee under the Railways Act, 1989.

(ii) Indian Railways does not "distribute[s] electricity" to consumers / public so as to qualify as a "deemed licensee" under the 3rd proviso to Section 14 of the 2003 Act.

(iii) Indian Railways have no universal service obligation, a mandate for a distribution licensee under Section 43 of the 2003 Act.

(iv) Indian Railways does not have any area of supply.

(v) In case if Railway does not pay Cross Subsidy Surcharge, then in that event the financial impact of the revenue gap resulting therefrom would fall on the consumers of the Appellant.

(vi) As recorded in the Parliamentary Standing Committee Report [Standing Committee on Energy (2002) 31st Report/The Electricity Bill, 2001], the Ministry of Railways (Railway Board) requested for being exempted from the Electricity Bill, 2001 (enacted as Electricity Act, 2003) including from the requirement to obtain license.

However, the Parliament did not accept this request while enacting the Electricity Act, 2003.

(vii) The Hon'ble Supreme Court indicated that the direct sale of power by a generating company to a consumer is specifically permitted under Section 10(2) of the Electricity Act, 2003, thereby, indicating that the Indian Railways are to be treated as a consumer under the Electricity Act, 2003. [Northern Railways Vs. Uttar Pradesh State Electricity Board and UPPCL & Ors. Vs. Railway Board].

(viii) The only exemption available under the Electricity Act, 2003, from the payment of Cross Subsidy Surcharge is to a person who has established a captive generating plant for carrying electricity to the destination of his own use. [Ref. Fourth proviso to Section 42(2)]. Section 2(8) defines 'Captive Generating Plant' *"as a power plant set up by any person to generate electricity primarily* ***for his own use*** *and includes a power plant set up by any cooperative society or association of persons for generating electricity primarily for use of members of such cooperative society or association".*

A distribution licensee does not establish a captive generating plant to generate electricity for its own use. The moment the Railways contend that they are setting up a captive generating plant, the Railways would be deemed

to be a consumer and not a distribution licensee. Furthermore, Section 42 does not exempt a distribution licensee from the liability to pay Cross Subsidy Surcharge, in case if Open Access is granted to that distribution licensee for using the distribution system of another distribution licensee for wheeling electricity.

(ix) The Supreme Court has held that *"30. ... Even a licensee which purchases electricity for its own consumption either through a "Dedicated Transmission Line" or through "Open Access" would be liable to pay Cross Subsidy Surcharge under the Act."* [Ref. Para 30 in Sesa Sterlite Ltd. Vs. OERC & Ors. (2014) 8 SCC 444]. The Supreme Court's decision would squarely cover the case of the Railways, who claim that they are a distribution licensee and wish to purchase electricity for their own consumption through Open Access and therefore the Railways would be liable to pay Cross Subsidy Surcharge under the Electricity Act, 2003.

IN RE EXEMTPION TO CAPTIVE USER FROM ADDTIONAL SURCHARGE:

8. The sole reliance placed by the Respondent Commission is on the statement of objects and reasons to the Impugned Order.

9. The Respondent Commission failed to carefully consider Section 42(4) of the Electricity Act, 2003, Clause 8.5.4 of the

Tariff Policy, 2016 and its Open Access Regulations. The Respondent Commission failed to recognised that there is a case for recovery of the part of fixed cost towards the stranded capacity arising from the power purchase obligation through levy of Additional Surcharge from captive power plant ("CPP") users and open access ("OA") consumers. Additional Surcharge, being a compensatory amount payable towards the fixed cost of stranded power resulting from approved power purchase contracts, has to be determined commonly for all the CPP and OA Users.

10. The Respondent Commission failed to note that frequently changing captive users of group CPP would be leading to stranded contracted capacity of Distribution Licensee. Such captive users are very different from static captive users of original Captive Power Plants as the latter have ceased to be consumers of Distribution Licensees having created their own permanent power requirement through captive mode. There is no power planning needed for such static captive users as against frequently switching users of group captive power plants for whom the power supply is planned and therefore becomes a stranded capacity. Such Group Captive users become liable to same Additional Surcharge due to stranded capacity as applicable to other open access consumers.

11. The Respondent Commission failed to note that most of the GCPP users avail Open Access under short term basis. The GCPP matrix also keeps on changing frequently in order to meets 26 % equity criteria under Electricity Rules, 2005. Equity is apparently purchased as preferential share at a nominal cost. Hence, change in the consumer mix whereby Consumers switching out of GCPP matrix leads to stranded capacity on Short Term Open Access (STOA) as the quantum of power keeps changing as per the fluctuating number of GCPP users. If there is stranded capacity created on account of such Consumers switching to Open Access Group Captive arrangement , the Additional Surcharge as determined by the State Commission shall be payable by such Captive Open Access users who are already factored in power procurement plan of Distribution Licensees.

12. With the increase in this GCPP based OA transactions, the obligation of the Distribution Licensee in terms of power purchase commitments has been and shall continue to be stranded, and there will be an unavoidable obligation and incidence to bear the fixed costs consequent to such commitments. Such fixed cost of power purchase has to be expected to be incurred with reasonable certainty, and also that such fixed cost of power purchase cannot be recovered from OA Consumers through Wheeling Charges or Stand-by Charges alone.

13. It is submitted that, unless such fixed costs due to stranded capacity are recovered from OA Consumers, this burden would be unjustly loaded onto other Consumers of Distribution Licensee. This would be unfair and unwarranted to pass such burden of fixed cost recovery of such stranded cost to other Consumers through consequent tariff hike.

14. However, the Respondent Commission failed to note that there is a case for recovery of the part of fixed cost towards the stranded capacity arising from the power purchase obligation through levy of Additional Surcharge from OA Consumers including the Group Captive Consumers who have availed such arrangement.

IN RE CEILING ON CROSS SUBSIDY SURCHARGE:

15. There is practically no reply on this issue by the Respondent Commission except to justify though erroneously by relying on the Tariff Policy.

16. The Respondent Commission has ignored the fact that cross subsidy surcharge presently allowed to the Appellant is not adequate and is not compensatory as envisaged under Section 42(2) of the Electricity Act, 2003.

17. The Respondent Commission has at one hand failed to bring the tariff within +/- 20% of the average cost of the supply ,

while on the other hand has imposed the ceiling on cross subsidy surcharge payable.

18. The Respondent Commission has failed to understand and achieve the objective that tariff should progressively reflect the cost of supply of electricity.

REDUCTION OF ADDITIONAL SURCHARGE FOR MAY TO SEPTEMBER 2017:

19. The Respondent Commission failed to take into account and consider the financial impact that the Appellant would be adversely affected with and retained the additional surcharge to half of the average fixed costs.

20. The computation of the additional surcharge for the months of May to September as has been done in the Impugned Order would deny the appropriate entitlement of the Appellant for additional surcharge from open access consumers to meet the stranded costs towards universal supply obligations under Section 43 of the Electricity Act, 2003.

21. In view of the above, the reply filed by the Respondent Commission is devoid of any merit.

22. The Appellant reiterates its submissions and contentions in the Appeal; the same being not repeated here for the sake of brevity and to avoid prolixity.

23- In view of the above, the reply filed by the Respondent Commission is devoid of any merit.

Appellant
BSES Rajdhani Power Limited

Through

Filed on :
New Delhi

Mulla & Mulla & Craigie Blunt & Caroe
Advocates for Appellant
502, Nilgiri Apartments
9, Barakhamba Road
New Delhi 110 001

DECLARATION

The Appellant(s) above named hereby solemnly declare(s) that nothing material has been concealed or suppressed and further declares that the enclosures and typed set of material papers relied upon and filed herewith are true copies of the original(s)/fair reproduction of the originals/true translation thereof.

Verified at New Delhi on this the 26th day of September, 2018.

ADVOCATE FOR APPELLANT

APPELLANT

17

VERIFICATION

I, Ravi Shandilya, Senior Manager - Regulatory Affairs of the Appellant Company, do hereby verify that the contents of paragraph No. are true to my personal knowledge (derived from official record) and paragraph to I believe to be true on legal advice and that I have not suppressed any material fact.

ADVOCATE FOR APPELLANT

APPELLANT

BSES RAJDHANI POWER LTD. NEW DELHI

18

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY

AT NEW DELHI

APPELLATE JURUSDICTION

APPEAL No. 335 OF 2017

IN THE MATTER OF :

BSES Rajdhani Power Ltd ... Appellant

Vs.

Delhi Electricity Regulatory Commission ... Respondent

AFFIDAVIT

I, Ravi Shandilya, Senior Manager, Regulatory Affairs of the Appellant, BSES Rajdhani Power Limited, having its Registered Office at "BSES Bhawan, Nehru Place, New Delhi – 110019 do hereby state on solemn affirmation as under:

1. I say that I am the Senior Manager, Regulatory Affairs of the Appellant Company above named and as such I am familiar with the facts of the case.

2. The statements made in the Rejoinder are true to my knowledge and belief and statements made are based on information and I believe them to be true.

NOTARY
SUSHMA GUPTA
NCT OF DELHI
R. No.-1187
GOVT. OF INDIA

19

3. I say that the Annexures to the Rejoinder are true copies of their respective originals.

4. I say that nothing herein is false and no material has been concealed there from.

DEPONENT

BSES RAJDHANI POWER LTD. NEW DELHI

VERIFICATION

Verified at New Delhi on this the day of September, 2018 that the contents of the above Affidavit are true and correct to the best of my knowledge. Nothing material has been concealed nor withheld there from.

DEPONENT

BSES RAJDHANI POWER LTD. NEW DELHI

NOTARY SUSHMA GUPTA NCT OF DELHI R. No.-1187 GOVT. OF INDIA

ATTESTED

NOTARY PUBLIC NCT DELHI

26 SEP 2018