

**NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
OPEN ACCESS (INTERCONNECTION AND WHEELING OF ELECTRIC POWER)
REGULATIONS, 2022**

NOTIFICATION

Islamabad, _____, 2022

S.R.O._____. In exercise of the powers conferred by section 47 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (Act No. XL of 1997) read with all other enabling provisions thereof, the National Electric Power Regulatory Authority is pleased to make the following regulations.—

1. Short title and commencement.— (1) These regulations shall be called the National Electric Power Regulatory Authority Open Access (Interconnection and Wheeling of Electric Power) Regulations, 2022.

(2) These regulations shall come into force at once.

**PART I
GENERAL**

2. Definition.— (1) In these regulations, unless there is anything repugnant in the subject or context,—

- (a) "Act" means the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (Act No. XL of 1997), as amended from time to time;
- (b) "applicable documents" means the rules, regulations, terms and conditions of any licence, registration, authorization, determination, any codes, manuals, directions, guidelines, orders, notifications, agreements or documents issued or approved under the Act;
- (c) "applicant" means any person who submits an application for obtaining open access to the concerned transmission or distribution licensee, as the case may be;
- (d) "Connection Agreement" means an agreement between the network licensee and another person availing the interconnection services;
- (e) "Distribution Code" means the code prepared by the distribution licensees and approved by the Authority that defines the technical and operational standards and procedures for distribution licensees and all those connected to the distribution system;

- (f) "distribution system" includes the distribution facilities and electric lines or circuits, meters, interconnection facilities or other facilities operating at the distribution voltage, and shall also include any other electric lines, circuits, transformers, sub-stations, interconnection facilities or other facilities determined by the Authority as forming part of the distribution system, whether or not operating at the distribution voltage;
- (g) "Grid Code" means the code prepared by the national grid company and approved by the Authority or, when a separate entity is licensed as system operator, prepared by the system operator licensee under sections 23G and 23H of the Act and approved by the Authority;
- (h) "interconnection facilities" means the plant or equipment, including the electrical lines or circuits, transformers, switchgears, safety and protective devices and meters used for interconnection services;
- (i) "interconnection" means physical connection between:
 - (i) a generation facility and transmission system;
 - (ii) a generation facility and distribution system;
 - (iii) two transmission systems;
 - (iv) two distribution systems; or
 - (v) a transmission system and a distribution system;
 - (vi) bulk power consumer and transmission system;
 - (vii) bulk power consumer and distribution system; or
 - (viii) international interconnections with transmission and/or distribution systems;
- (j) "network licensee" shall mean a transmission licensee or a distribution licensee, as the case may be;
- (k) "open access" means allowing, subject to the terms and conditions as provided in the Act, these regulations or otherwise determined by the Authority from time to time, use of transmission or distribution systems or both, or their associated facilities, on non-discriminatory basis to:
 - (i) an electric power supplier for supply of electric power to its consumer(s); or

- (ii) a captive generating plant for delivery of the electric power from generation facility to destination of its use;
 - (iii) a bulk power consumer receiving electric power from one or more competitive suppliers; or
 - (iv) any other person including a licensee, authorized by the Authority for use of transmission or distribution systems or both, or their associated facilities for delivery of electric power from a designated place to another designated place;
- (l) "open access user" means any person who is availing open access;
 - (m) "system operator" means a person licensed under the Act to administer system operation and dispatch;
 - (n) "transmission system" includes the transmission facilities and electric lines or circuits, meters, interconnection facilities or other facilities operating at the transmission voltage;
 - (o) "Use of System Charges Agreement" means the agreement between the applicant and the concerned network licensee covering subjects as specified in schedule I; and
 - (p) "use of system charges" shall include all charges related to use of distribution facilities, transmission facilities, system operator services, market operator services, metering service provider services and any other charges related to open access as determined by the Authority.

(2) Words and expressions used but not defined in these regulations shall have the same meanings as assigned to them in the Act and the applicable documents.

PART II INTERCONNECTION

3. Interconnection facilities.— (1) Any licensee or a generation company, having concurrence under sub-section (5) of section 14B of the Act, as the case may be, or a bulk power consumer may apply to a network licensee for providing interconnection facilities in accordance with the Distribution Code or Grid Code as may be applicable.

(2) A network licensee shall be required to decide any application filed under sub-regulation (1) in accordance with the Distribution Code or Grid Code, as the case may be.

(3) Where a network licensee approves an interconnection application, it shall enter into a written connection agreement, within a period of thirty days from the date of approval of the application, with the licensee, the generation company or bulk power consumer, as the case may be, as per the respective template of the Connection Agreement approved by the Authority.

4. Financing, construction and operation of the interconnection facilities.—

(1) Where a generation facility intends to connect to a network licensee, the concerned network licensee shall be responsible for financing, constructing and operating the interconnection facilities:

Provided that where the network licensee's existing network or planned network, as per its investment plan approved by the Authority, is not available within a distance range from the proposed interconnection location as provided in the Grid Code or Distribution Code, the generation company, licensee or a bulk power consumer shall be responsible for sponsoring the interconnection facilities.

(2) In the event where network licensee is unable to construct the interconnection facilities within a reasonable time due to any financial constraints, following options may be exercised for the interconnection purposes:

(a) the generation company or licensee, as the case may be, may arrange the funding required for the interconnection facilities. The network licensee shall construct the interconnection facilities on mutually agreed terms and conditions by the parties; or

(b) the generation company or licensee, as the case may be, may construct, operate and maintain the interconnection facilities after obtaining the requisite license or approval from the Authority.

(3) The interconnection facilities referred to under sub-regulation (2) shall be constructed in accordance with the Grid Code, Distribution Code and other applicable documents.

**PART III
OPEN ACCESS**

5. Obligation to provide open access.— (1) Every network licensee shall be obligated to establish, operate and maintain its distribution system or transmission system, as the case may be, in a manner that facilitates non-discriminatory open access in accordance with the Act, these regulations and other applicable documents.

(2) Each network licensee shall, on an annual basis, prepare an open access report demonstrating compliance with these regulations and licence terms and

conditions, with the details of its open access users, available and planned capacity, any issues identified in provision of open access, and any instances where open access was denied. This report shall also include a statement of preferential treatment, if any, that was given to any particular open access applicants or open access users and justification therefor.

(3) The report required under sub-regulation (2) shall be prepared and submitted to the Authority within a period of one month from the date of end of respective financial year and shall also be made available on website of the network licensee.

6. Criteria for allowing of open access.— (1) Following shall be the eligibility criteria for allowing of an open access application.—

- (a) compliance with the requirements of the Grid Code or Distribution Code, as may be applicable, regarding interconnection;
- (b) payment of application processing fee and capability to pay the use of system charges;
- (c) open access applicant must not be a defaulter of any network licensee, electric power supplier or other service provider licensed or registered with the Authority;
- (d) open access applicant must not have been declared insolvent or bankrupt;
- (e) open access applicant must have requisite licence or concurrence from the Authority for connecting with the grid:

Provided that a person may make an open access application pending a decision on its licence or concurrence application by the Authority, however, a final decision on the open access application shall only be made when the licence or concurrence is granted by the Authority;

- (f) open access applicant shall allow installation of necessary equipment on its premises and access thereto as may be required under the Grid Code or Distribution Code;
- (g) ability to comply with the terms and conditions of the Connection Agreement and Use of System Charges Agreement; and
- (h) any other requirement as may be determined by the Authority to be applicable.

(2) All network licensees and the system operator shall ensure that all relevant requirements for making an open access application are clearly explained on its website and samples of filled application forms are available on its website for guidance of the potential open access applicants and general public within a period of ninety days from the date of notification of these regulations.

7. Determination of availability of transmission and distribution capacity.—

(1) Upon receipt of an application for open access, the concerned network licensee shall evaluate whether the capacity sought to be reserved by the applicant at a given point in time, is less than the available capacity or capacity likely to become available on or before the point of time from when open access is being requested.

(2) For evaluation of its available capacity as required under sub-regulation (1), the network licensee shall consider its approved investment plan and any future network expansion.

(3) In determination of available capacity, the network licensee shall ensure all open access applicants are treated in a non-discriminatory manner and the applications shall be processed on first come first serve basis.

8. Application procedure for open access.– (1) Any application requesting open access shall be submitted to the concerned network licensee:

Provided that where the open access applicant does not have an interconnection, an application for interconnection may be simultaneously made as required under the Grid Code or Distribution Code.

(2) The application shall be accompanied with the application processing fee as determined by the Authority and contain details, such as capacity sought, point(s) of injection, point(s) of consumption, duration of availing open access, peak load, average load and such other additional information that may reasonably be required by the network licensee for deciding the application.

(3) The network licensee shall acknowledge the receipt of the application within three days of the receipt of the same:

Provided that any application which is incomplete or not accompanied by the required information or fee, shall be returned within three days of the filing thereof, identifying in writing the deficiencies in the application, and allow reasonable time to the applicant to re-submit the application.

(4) Where open access application is made to the transmission licensee as required under sub-regulation (1), based on the transmission system expansion plan of the system operator and system impact studies to be conducted by the system operator, the transmission licensee shall, within thirty days of receipt of the application, intimate the applicant of whether or not, open access can be allowed without further system augmentation.

(5) Where open access can be allowed without further system augmentation, the network licensee shall intimate the applicant to sign Use of System Charges Agreement and allow open access from the date of signing of the Use of System Charges Agreement or such date as the parties may mutually agree. The network licensee shall be obligated to invite the applicant for signing of Use of System Charges Agreement without any delay but in any event within thirty days of such intimation.

(6) Where open access application is made to a distribution licensee as required under sub-regulation (1), based on the distribution integrated investment plan and distribution system study, the distribution licensee shall, within thirty days of receipt of the application, intimate the applicant of whether or not, open access can be allowed without further distribution system augmentation. Where open access can be allowed without further distribution system augmentation, the distribution licensee shall invite the applicant for signing of Use of System Charges Agreement without any delay but in any event within thirty days of such intimation.

(7) Any system impact study or system study required to be conducted under sub-regulations (5) and (6), shall be completed within a period of ninety days from the date of application failing which, the concerned licensee shall be considered in violation of these regulations actionable under the Act.

(8) Where open access cannot be allowed without further system augmentation the concerned network licensee shall carry out a system study to evaluate cost estimates and completion schedule for system augmentation and intimate the results to the applicant.

(9) An open access applicant, upon approval of its application, shall enter into a Use of System Charges Agreement with the concerned network licensee, for use of its system.

(10) The Use of System Charges Agreement shall provide for, amongst other things, the eventuality of premature termination of agreement and its consequences on the contracting parties.

(11) A template of the Use of System Charges Agreement shall be developed by each network licensee within ninety days of the notification of these regulations and made available on its website.

PART IV WHEELING OF ELECTRIC POWER

9. Non-utilisation of reserved transmission capacity by open access user.–

(1) In case an open access user is unable to utilise, full or substantial part of its reserved capacity, it shall inform the concerned network licensee with whom it has entered into Use of System Charges Agreement, specifying reasons for its inability to utilise the same and may surrender the reserved capacity.

(2) The concerned network licensee may reduce or cancel the reserved capacity of an open access user for non-utilization of the reserved capacity as per the signed Use of System Charges Agreement or any violation of the Act, rules, regulations, Grid Code or Distribution Code after providing an opportunity to the open access user to

explain its position with regard to the alleged violation or non-utilization of reserved capacity.

(3) The capacity surrendered by the open access user or that becomes available as a result of reduction of reserved capacity due to non-utilization, may be allocated to any other applicant.

(4) An open access user may be required to pay such fixed charges as may be determined by the Authority from time to time.

10. Open access charges.– (1) All open access users shall pay to the respective network licensee such use of system charges as may be determined by the Authority, from time to time, in accordance with section 31 of the Act.

(2) Open access charges shall include such costs as may arise on account of advent of the open access and market liberalization as may be determined by the Authority in line with the national electricity policy.

11. Collection and disbursement of charges.– (1) An open access user shall pay use of system charges, as determined by the Authority from time to time, to the designated accounts of the respective supplier of last resort or network licensee as may be agreed in the Use of System Charges Agreement or directed by the Authority.

(2) The network licensees, suppliers of last resort and other licensees shall have appropriate back-to-back arrangements in place in order to disburse use of system charges collected from the open access users.

(3) The Use of System Charges Agreement shall contain provisions for submission of security cover by the open access user to the network licensee against payment of use of system charges.

12. Open access information.– (1) The system operator and network licensees shall make available and in real time update the system capacity available for open access and the capacity reserved for existing open access users on their respective websites.

(2) The system operator shall post the following information on its websites which will be updated with every status change in the information:

(a) A status report on the current open access users indicating the:

(i) name of open access user;

(ii) period of the access granted (start date and end date);

(iii) point(s) of injection;

- (iv) point(s) of delivery;
- (v) transmission system or distribution systems used (in terms of region and ownership);
- (vi) reserved capacity; and
- (vii) actual load factor;
- (viii) energy losses for the year allowed by the Authority and actual energy losses for the respective period:

Provided that publication of web-based information system shall commence within ninety days of the notification of these regulations.

13. Complaint and dispute resolution.– (1) The network licensees shall make available a complaint-handling mechanism that provides open access users with expeditious, fair, transparent, inexpensive, accessible, speedy and effective dispute resolution without unnecessary cost or burden.

(2) Any dispute relating to open access shall be dealt with in accordance with the mechanism provided in the Use of System Charges Agreement, Grid Code or Distribution Code, as the case may be.

(3) In the event the parties to a dispute are not able to resolve their dispute as per the procedure provided in pursuance of sub-regulation (2), the matter shall be referred to the Authority.

(4) The Authority shall give its decision in any matter referred to it under sub-regulations (3), within a period of three months after providing opportunity of hearing to the concerned parties.

14. Repeal.– Upon notification of these regulations, the following regulations shall stand repealed.—

(a) National Electric Power Regulatory Authority (Wheeling of Electric Power) Regulations, 2016

(b) National Electric Power Regulatory Authority (Interconnection for Renewable Generation Facilities) Regulation, 2015;

(c) National Electric Power Regulatory Authority (Sale of Electric Power by Renewable Energy Companies) Guidelines, 2015.

SCHEDULE-I
“Use of System Charges Agreement”
See regulation 2 (1) (o)

A Use of System Agreement shall provide for the following matters amongst other things:

- (a) Detailed description of parties along with addresses and authorised representatives;
- (b) Effective date and term;
- (c) Provisions on applicability (compliance with) and hierarchy of applicable documents;
- (d) Provision establishing that open access charges will be in accordance with NEPRA tariff determinations;
- (e) Invoicing and payments of open access charges;
- (f) Arrangement in case of failure to provide open access;
- (g) Dispute resolution mechanisms;
- (h) Security cover;
- (i) Provisions ensuring compliance of these regulations, the Grid Code, the Distribution Code as applicable;
- (j) Notice of Force Majeure Events;
- (k) Representation and Warranties;
- (l) Termination notice;
- (m) Conditions for Assignment of open access rights;
- (n) Provisions related to posting of notices and service address; and
- (o) Procedure of making amendments to the agreement.
