

**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
(TRANSMISSION OPEN ACCESS) REGULATIONS, 2005**

INDEX		
Sr. No	Particulars	Page No.
1	Short Title, extent and commencement	1
2	Definitions	1
3	Provision of non-discriminatory open access	2
4	Eligibility to seek open access	2
5	Transmission System Users	3
6	Application	4
7	Processing of applications	4
8	Transmission system planning	5
9	Assignment and surrender of capacity	7
10	Transmission constraints	8
11	Principles for levy of charges	9
12.	First right of refusal	9
13	Reactive energy	10
14	Energy losses	10
15	Information system	10
16	Special Energy Meters	11
17	Compliance with the State Grid Code	11
18	Fees and charges of the State Load Despatch Centre	12
19	Other commercial conditions	12
20	Existing contracts	12
21	Power to amend	13
22	Power to remove difficulties	13
23	Issue of orders and practice directions	13
24	Savings	13

**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Electricity Act, 2003

No. MERC/Legal/132/2005/0736 - In exercise of the powers conferred by section 181(2) read with sub-section (47) of Section 2, Section 30 and sub-section (3) of Section 32 of the Electricity Act, 2003 (36 of 2003), the Maharashtra Electricity Regulatory Commission hereby makes the following Regulations, namely:-

1. Short Title, extent and commencement

- 1.1 These Regulations may be called the Maharashtra Electricity Regulatory Commission (Transmission Open Access) Regulations, 2005.
- 1.2 These Regulations shall apply for access to and use of the intra-state transmission system in the State of Maharashtra.
- 1.3 These Regulations shall come into force from the date of their publication in the Official Gazette.

2. Definitions

- 2.1 In these Regulations unless the context otherwise requires:
 - (a) “**Act**” means the Electricity Act, 2003 (36 of 2003);
 - (b) “**Applicant**” means such person who has made an application for open access to an intra-state transmission system in accordance with these Regulations;
 - (c) “**Authorised Representative**” means all such officers, staff or representatives of the Transmission Licensee or the State Load Despatch Centre, discharging functions under the general or specific authority of the Transmission Licensee or the State Load Despatch Centre, as the case may be;
 - (d) “**Board**” means the Maharashtra State Electricity Board;
 - (e) “**Bulk Power Transmission Agreement**” means an executed agreement that contains the terms and conditions under which a Transmission System User is entitled to the access to an intra-State transmission system of a Transmission Licensee;
 - (f) “**Commission**” means the Maharashtra Electricity Regulatory Commission;
 - (g) “**Special Energy Meters**” means such meters, of not less than 0.2 class accuracy, as are capable of:-

- (i) recording time-differentiated measurements of active energy and voltage differentiated measurement of reactive energy, at intervals of fifteen (15) minutes;
- (ii) storing such measurements for not less than thirty-five (35) days; and
- (iii) communication of such measurements at such intervals as may be required by the State Load Despatch Centre for balancing and settlement of energy transactions;
- (h) **“Transmission System User”** means a person who has been allotted transmission capacity rights to access an intra-state transmission system pursuant to a Bulk Power Transmission Agreement, except as provided in Regulation 5.1 below;
- (i) **“Transmission capacity rights”** means the right of a Transmission System User to power transfer in MW, under normal circumstances, between such points of injection and drawal as may be set out in the Bulk Power Transmission Agreement;

2.2 Words or expressions used herein and not defined shall have the meanings assigned to them under the Act, or the rules and regulations made thereunder.

3. Provision of non-discriminatory open access

A Transmission Licensee shall provide non-discriminatory open access to the intra-State transmission system of such Transmission Licensee in accordance with these Regulations.

4. Eligibility to seek open access

4.1 A

- (i) Generating Company which owns or operates, or intends to own or operate a generating station in the State;
- (ii) Person who has constructed, maintains and operates or intends to construct, maintain and operate a Captive generating plant in the State for his own use;
- (iii) Distribution Licensee, or a person who has applied for a licence to distribute electricity; and
- (iv) Trading Licensee, or a person who has applied for a licence for trading in electricity

shall be eligible to apply for open access to an intra-State transmission system in accordance with these Regulations.

4.2 A consumer shall be eligible to apply for open access to an intra-state transmission system upon such open access being introduced and specified by

the Commission in accordance with the provisions of sub-section (2) of section 42 of the Act:

Provided that such consumer shall be also subject to such conditions as may be specified in the regulations made by the Commission in that behalf, in addition to the conditions specified in these Regulations.

5. Transmission System Users

5.1 A user of an intra-State transmission system on the date of notification of these Regulations shall be deemed to be a Transmission System User of such intra-State transmission system:

Provided that the Government company or the company referred to in sub-section (2) of Section 131 of the Act shall be deemed to be a Transmission System User of any intra-State transmission system used by the Board with effect from the date on which a transfer scheme is prepared in accordance with that Section:

Provided further that a user of an intra-State transmission system under this Regulation shall enter into a Bulk Power Transmission Agreement with the Transmission Licensee within sixty (60) days from the date on which such user is deemed to be a Transmission System User under this Regulation.

5.2 A Transmission System User under Regulation 5.1 above shall be deemed to have transmission capacity rights in an intra-State transmission system equivalent to the total generation capacity contracted or otherwise arranged, with the approval of the Commission, by such Transmission System User as at the date of notification of these Regulations for injection into such transmission system: Provided that the duration of such transmission capacity rights as at the date of notification of these Regulations shall be the remainder of the period of the contract or arrangement under which such generating capacity is procured by the Transmission System User:

Provided further that a Transmission System User under the first proviso to Regulation 5.1 above shall be deemed to have transmission capacity rights in an intra-State transmission system equivalent to the generation capacity allocated to such a Transmission System User under the terms of the transfer scheme and for the duration comprised therein:

Provided also that where a Transmission Licensee is undertaking system strengthening in order to meet a Transmission System User's future requirement as at the date of notification of these Regulations, then such Transmission System User shall be entitled to be allocated the transmission capacity rights over the capacity created as a result of such system strengthening, upon such capacity becoming available.

6. Application

- 6.1 Every application for open access under these Regulations shall be made to the State Transmission Utility.
- 6.2 The State Transmission Utility shall put up, on its internet website, necessary guidelines, procedures and application forms within ninety (90) days of notification of these Regulations.
- 6.3 The application shall be accompanied by a fee of Rupees ten thousand for processing such application.
- 6.4 The State Transmission Utility shall forward a copy of the application to the Transmission Licensee in whose system open access has been applied for, the State Load Despatch Centre and to every other Transmission Licensee whose intra-State transmission system is likely to be affected by such application.
- 6.5 An application shall contain such information as may be specified by the State Transmission Utility, including required capacity, points of injection and drawal, duration of use, peak load and average load.

7. Processing of applications

- 7.1 Where capacity is available in the intra-State transmission system, the State Transmission Utility shall consider applications for open access on a “first come, first served” basis.
- 7.2 Where two or more applications are received on the same day an application for longer duration shall take precedence over an application for a shorter duration of access to the intra-State transmission system:

Provided that two or more applications for the same duration of access received on the same day shall be treated *pari passu* for allotment of transmission capacity rights and in case of insufficient available capacity to accommodate all applications, the applicants shall be allotted a pro rata share in the available capacity proportionate to the capacities applied for.

- 7.3 Upon receipt of an application made in accordance with Regulation 6 above, the State Transmission Utility shall undertake a system study and, within forty-five (45) days from the receipt of application, shall intimate the applicant as to whether open access can be allowed without any further transmission system strengthening:

Provided that where the application under Regulation 6 covers open access to the intra-State transmission system of a Transmission Licensee other than the State Transmission Utility, then such Transmission Licensee shall provide such information as the State Transmission Utility may require to undertake the system study within the time period specified in this Regulation 7.3.

- 7.4 Where the State Transmission Utility has determined that transmission system strengthening is required before open access can be provided to the applicant, the State Transmission Utility shall intimate, within the said period of forty-five (45) days, the approximate date by which such access may be provided to the applicant on the basis of the transmission system plan for the intra-state transmission system developed in accordance with Regulation 8 below:

Provided that the intimation referred to under this Regulation shall not be deemed to create any transmission capacity rights in an intra-State transmission system in favour of the applicant until such time as the capacity created through the system strengthening becomes available:

Provided further that, in determining whether transmission strengthening is required, the State Transmission Utility shall use such methods of assessment as may be approved by the Commission from time to time:

Provided also that such methods of assessment shall take account of the stability and proper operation of the intra-State transmission system, be transparent and take account of the requirements of the State Grid Code.

- 7.5 Where transmission capacity rights have been allotted to an applicant in accordance with this Regulation, the applicant shall, to the extent of the transmission capacity rights so allotted and subject to the limitations specified in these Regulations and in the State Grid Code, rank *pari passu* with all other Transmission System Users as regards access to the intra-State transmission system of the Transmission Licensee.
- 7.6 Every Transmission System User shall, at the time of allotment of transmission capacity rights to him, enter into a Bulk Power Transmission Agreement with the Transmission Licensee for access to and use of the intra-State transmission system of the Transmission Licensee.
- 7.7 Every Transmission Licensee shall put up, on its internet website, necessary guidelines, procedure and form of Bulk Power Transmission Agreement within ninety (90) days of notification of these Regulations.

8. Transmission system planning

- 8.1 The State Transmission Utility shall, within one hundred and eighty (180) days from the date of notification of these Regulations, publish on its internet website the transmission system plan for the intra-State transmission system and shall also make the same available to any person upon request.
- 8.2 Such transmission system plan shall cover a plan period of five (5) years commencing from the financial year immediately following the year in which it is published:

Provided that the transmission system plan shall be updated by the State Transmission Utility each year and published in the manner specified in Regulation 8.1 by the 30th day of September each year and shall cover a plan period of five (5) years commencing from the financial year immediately following the year in which it is published.

8.3 The transmission system plan shall describe the plan for the intra-State transmission system and shall include the proposed intra-State transmission schemes and system strengthening schemes for the benefit of all users.

8.4 The State Transmission Utility may, for the purpose of preparing the transmission system plan under these Regulations, seek such information as may be required by it, including generation capacity addition, system augmentation and long-term load forecast and all applications for open access under Regulation 7.4:

Provided that the State Transmission Utility shall consider, but shall not be bound by, the information provided under this Regulation in preparing the transmission system plan.

8.5 The State Transmission Utility shall also consider the following for the purpose of preparing the transmission system plan under these Regulations -

- (i) plans formulated by the Authority for the transmission system under the provisions of clause (a) of Section 73 of the Act;
- (ii) plans formulated by the Central Transmission Utility;
- (iii) Electric Power Survey of India report of the Authority;
- (iv) Grid Standards specified by the Authority under clause (d) of Section 73 of the Act; and
- (v) recommendations/ inputs, if any, of the Regional Power Committee.

8.6 The State Transmission Utility shall, while submitting its application under subsection (1) of Section 64 of the Act to the Commission for approval, also submit therewith its investment plan based on the identified intra-State transmission schemes and system strengthening schemes projected in the transmission system plan.

8.7 Where the investment plan of the State Transmission Utility does not cover all of the identified intra-State transmission schemes or system strengthening schemes comprised in the transmission system plan, the Commission may, at its discretion, issue such orders or directions for the purpose of implementing such schemes not included in the investment plan, which may include any of the following: -

- (a) invite any other Transmission Licensee situated in such area of transmission to implement such scheme; or

- (b) invite applications for new transmission licences for the implementation of such schemes on such conditions as the Commission may in its discretion considers appropriate.

8.8 The cost of the transmission system planning study undertaken in accordance with this Regulation shall be allowed in the determination of the charges of the State Transmission Utility under clause (b) of sub-section (1) of Section 62 of the Act.

9. Assignment and surrender of capacity

9.1 Where a Transmission System User cannot use the whole or any part of his transmission capacity rights, he may assign such unutilized transmission capacity rights to any person eligible for open access under these Regulations.

Provided that such assignment shall be undertaken between the Transmission System User and the assignee on terms and conditions as may be mutually agreed upon:

Provided further that the charges for the use of any unutilized capacity of the Transmission System User, as may be assigned, shall not exceed the charges for transmission of electricity as determined by the Commission:

Provided also that the Transmission System User shall intimate to the Transmission Licensee the name of the person to whom the unutilized capacity has been so assigned, the quantum of capacity assigned and the duration of such assignment:

Provided also that the Transmission System User who has assigned his unutilized capacity shall be responsible for discharging obligations relating to use of the intra-State transmission system as may be applicable to such Transmission System User under these Regulations.

9.2 Notwithstanding the provisions contained in Regulation 9.1, a Transmission System User may surrender the whole or any part of his transmission capacity rights to the Transmission Licensee:

Provided that such surrender of capacity shall be on such terms and conditions as may be mutually agreed upon between the Transmission System User and the Transmission Licensee:

Provided further that if any dispute arises with reference to the terms and conditions of such surrender or where the Transmission System User and the Transmission Licensee cannot agree on the terms and conditions of such surrender, it shall be referred to the Commission for decision.

9.3 If a Transmission System User neither uses nor assigns the whole or part of his allotted transmission capacity the State Load Dispatch Centre shall re-allocate the whole or part of such unutilized allotted capacity at any time after the Transmission System User has intimated to the State Load Dispatch Centre his final drawal or dispatch schedule in accordance with the State Grid Code:

Provided that the whole or part of such unutilized transmission capacity rights shall be re-allocated by the State Load Despatch Centre to a person who is eligible for open access under Regulation 4:

Provided further that the charges for use of such unutilized capacity payable by such person to the Transmission Licensee shall not exceed the transmission charges of the Transmission Licensee:

Provided also that any charges earned under this Regulation shall be used to reduce the transmission charges of the Transmission Licensee recoverable from the Transmission System Users:

Provided also that the re-allocation of his unutilized capacity under this Regulation shall not discharge the Transmission System User from his obligation to pay the transmission charges pertaining to such unutilized capacity to the Transmission Licensee.

9.4 If a Transmission System User neither uses nor assigns the whole or any part of his transmission capacity for a period of one (1) continuous year, he shall be deemed to have surrendered such unutilized and unassigned capacity to the Transmission Licensee on such terms as may be specified by the Transmission Licensee in the Bulk Power Transmission Agreement:

Provided that if any dispute arises with reference to the terms and conditions of such surrender, it shall be referred to the Commission for decision.

10. Transmission constraints

10.1 Subject to any technical constraints in the operation of the State grid, the State Load Despatch Centre shall adopt the following principles for curtailment, in whole or in part, of the use of the intra-State transmission system:

- (a) In case of curtailment becoming necessary as result of a breakdown that reduces the available capacity of an intra-State transmission system or any part thereof, then the use by Transmission System Users of such intra-State transmission system or part thereof, as the case may be, shall be curtailed pro rata to the transmission capacity rights held by each such Transmission System User for such period as the breakdown continues;
- (b) In case of curtailment becoming necessary as result of deviation by a Transmission System User from the final dispatch and drawal schedule duly intimated to the State Load Despatch Centre, then the use by such Transmission System User of such intra-state transmission system shall be curtailed first, to the full extent of such deviation, following which the principle specified in clause (a) above shall apply.

10.2 Notwithstanding the provisions of these Regulations, the State Load Despatch Centre may, in cases of emergency and in order to maintain system security, follow such other principles of curtailment of use as it considers appropriate.

- 10.3 Notwithstanding the provisions of these Regulations, the State Load Despatch Centre shall follow the directions received from the Regional Load Despatch Centre in respect of curtailment of use in respect of any Transmission System User.

11. Principles for levy of charges

- 11.1 The Transmission System Users of the transmission system shall share in the aggregate revenue requirement of the Transmission Licensee as determined by the Commission in accordance with the terms and conditions for determination of tariff specified under Section 61 of the Act.
- 11.2 The charges for the use of the intra-State transmission system shall be determined and settled on a monthly basis.
- 11.3 The bill with respect to such charges shall be dispatched by the tenth (10) day of each month and shall reflect the charges determined for the preceding month.
- 11.4 A Transmission System User shall also be liable to pay an additional penal charge at the rate of twenty five (25) per cent of the transmission charges for the use of an intra-State transmission system which is in excess of the transmission capacity rights allotted to such user.
- 11.5 The amount so collected by way of penal charge in accordance with Regulation 11.4 above shall be utilized by the Transmission Licensee to reduce the transmission charges payable by Transmission System Users.
- 11.6 A Transmission System User shall not be entitled to a refund of the transmission charges paid for capacity rights not utilized by such user.

12. First right of refusal

Existing Transmission System Users who have been using the intra-state transmission system pursuant to a Bulk Power Transmission Agreement shall, upon expiry of such Agreement, have the first right of refusal for extension of the duration of such Agreement:

Provided that such right of refusal may only be exercised by Transmission System Users in respect of Bulk Power Transmission Agreements having a term of not less than one (1) year:

Provided further that such first right of refusal shall only be available where the extension sought is for a duration of not less than one (1) year.

13. Reactive energy

- 13.1 The Transmission Licensee shall be entitled to recover the reactive energy compensation provided by it through equipment installed by it as part of the transmission system as a component of transmission charges determined in accordance with the terms and conditions of tariff specified under Section 61 of the Act.
- 13.2 Where reactive energy compensation is provided by operation of the facilities of generating stations to absorb or produce reactive energy, the charges shall be as determined by the Commission and recovered from the Transmission System Users in proportion to their usage of reactive energy:

Provided that where the reactive energy compensation is provided by a Transmission System User, the charges shall be as determined by the Commission and shall be recovered from the Transmission System Users contributing to the usage of such reactive energy:

Provided further that the Transmission Licensee shall apportion the total cost of reactive energy, based on the charges as may be determined by the Commission, to Transmission System Users of the system in proportion to their usage of such reactive energy:

14. Energy losses

The energy losses in an intra-State transmission system, as determined by the State Load Despatch Centre and approved by the Commission, shall be borne by the Transmission System Users pro rata to their usage of the intra-state transmission system.

15. Information system

- 15.1 Every Transmission Licensee shall, except as provided in clause (i) below, within a period of one hundred and eighty (180) days from the date of notification of these Regulations, provide the following information on its internet website:
- (i) Terms and conditions for use of the intra-State transmission system, within a period of ninety (90) days from the date of notification of these Regulations, comprising the following:
 - (a) The form of application, the procedure and manner of submitting the application form and the fee required to accompany the application form;
 - (b) The form of Bulk Power Transmission Agreement and the procedure and manner of executing such agreement;
 - (c) The transmission charges; and

- (d) Any other terms and conditions for the use of intra-State transmission system.
- (ii) Status report on the use of intra-State transmission system, including:
 - (a) Transmission maps depicting the intra-State transmission lines, line capacity and nodes;
 - (b) The names of Transmission System Users holding transmission capacity rights over the intra-State transmission system, and the capacity, duration, points of injection and drawal for each such user
- (iii) Declaration of transmission system availability on a day ahead basis and ex-post availability for the last one (1) day, one (1) month and one (1) year;
- (iv) Energy losses in the intra-State transmission system as a percentage of total energy injected into the system, for each week of the previous fifty-two (52) weeks;
- (v) Transmission system plan developed by the State Transmission Utility under these Regulations;
- (vi) The details of planned and approved investments of the Transmission Licensee for the next five years.

16. Special Energy Meters

- 16.1 No Transmission System User shall use the intra-State transmission system except through installation of a Special Energy Meter.
- 16.2 The Transmission System User shall maintain such Special Energy Meter in suitable protective enclosures and in good working condition.
- 16.3 The Transmission System User shall allow inspection of such Special Energy Meter by an Authorised Representative of the Transmission Licensee or the State Load Despatch Centre over such intervals and in such manner as may be specified in the Bulk Power Transmission Agreement.

17. Compliance with the State Grid Code

It shall be the duty of all Transmission System Users to comply with the State Grid Code:

Provided that if any Transmission System User has failed to comply with the State Grid Code, without prejudice to any penalty to which he may be liable under the Act, the transmission capacity rights so reserved for such user shall be liable to be revoked by the Transmission Licensee who may do so after giving such Transmission System User an opportunity of being heard in the matter and after having received the approval of the Commission.

18. Fees and charges of the State Load Despatch Centre

- 18.1 The State Load Despatch Centre shall prepare a budget of its costs of operation and submit the same to the Commission for approval not later than the 30th day of November of each year with respect to the financial year ending on the 31st day of March of the following year:

Provided that for the first financial year after the notification of these Regulations, the State Load Despatch Centre shall submit the budget to the Commission not later than 4 months after such notification

- 18.2 The Commission shall, after due scrutiny of the budget submitted to it, approve the budget with such modifications as it may consider appropriate, and also specify the fees and charges to be recovered by the State Load Despatch Centre from generating companies and Transmission Licensees:

Provided that the State Load Despatch Centre shall not earn profits from its operations:

Provided further that a Transmission Licensee shall be entitled to recover the fees and charges so paid to the State Load Despatch Centre from its Transmission System Users in pro rata proportions to their transmission capacity rights.

- 18.3 The State Load Despatch Centre shall issue bills to generating companies and Transmission Licensees not later than the tenth (10) day of each month in respect of fees and charges payable for the previous month.
- 18.4 The State Load Despatch Centre shall, alongwith its budget, submit to the Commission the details of any excess or deficit in recovery of its fees and charges in the preceding financial year.
- 18.5 The Commission may, after due scrutiny of such excess or deficit in recovery of fees and charges, permit appropriate adjustments in the fees and charges for the subsequent financial year.

19. Other commercial conditions

Every Transmission Licensee shall, within a period of sixty (60) days from the date of notification of these Regulations or within sixty (60) days from the commencement date of the transmission licence, put up on its internet website, other commercial conditions for use of the intra-State transmission system of such Transmission Licensee in accordance with the Act and these Regulations:

Provided that if any dispute arises with reference to such other commercial conditions, it shall be referred to the Commission for decision.

20. Existing contracts

Any existing contract or document or instrument relating to the use of the intra-State transmission system executed prior to the notification of these Regulations shall be valid and binding only in so far as they are not inconsistent with the provisions of the Act and these Regulations.

21. Power to amend

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

22. Power to remove difficulties

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

23. Issue of orders and practice directions

Subject to the provisions of the Act, the Commission may from time to time issue orders and practice directions in regard to the implementation of these Regulations.

24. Savings

24.1 Nothing contained in these Regulations shall invalidate the Commission's powers to exempt any person from the applicability of these Regulations or any part thereof, regardless of whether such power was exercised before or after the notification of these Regulations:

Provided that the Commission shall, as far as practicable, give reasonable opportunity to any interested or affected party to make representations before granting such exemption.

24.2 Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary to meet the ends of justice or to prevent abuses of the process of the Commission.

24.3 Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Act a procedure, which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters.

24.4 Nothing in these Regulations shall, expressly or impliedly, bar the Commission dealing with any matter or exercising any power under the Act for which no Regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit.

Mumbai,
Date: 21st April, 2005

(A. M. Khan)
Secretary,
Maharashtra Electricity Regulatory Commission