

**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION, MUMBAI**

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

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## MAHARASHTRA ELECTRICITY REGULATORY COMMISSION, MUMBAI

### MAHARASHTRA ELECTRICITY REGULATORY COMMISSION (DISTRIBUTION OPEN ACCESS) REGULATIONS, 2005

#### ELECTRICITY ACT, 2003

No. MERC/Legal/129/2005/1249 - In exercise of the powers conferred by clause (k), clause (n), clause (p), clause (q) and clause (zp) of sub-section (2) of section 181 read with sub-section (47) of Section 2, sub-clause (ii) of clause (d) of sub-section (2) of Section 39, sub-clause (ii) of clause (c) of Section 40 and sub-section (2), sub-section (3) and sub-section (4) of Section 42 of the Electricity Act, 2003 (36 of 2003), the Maharashtra Electricity Regulatory Commission hereby makes the following regulations for the introduction of open access in the distribution system of the State. These Regulations supersede the "Maharashtra Electricity Regulatory Commission (Distribution Open Access) Regulations, 2004".

#### **1. Short Title, extent and commencement**

- 1.1 These Regulations may be called the Maharashtra Electricity Regulatory Commission (Distribution Open Access) Regulations, 2005.
- 1.2 These Regulations shall apply for access to and use of the distribution system of Distribution Licensees 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) “**Authorised Representative**” means all officers, staff or representatives of the Distribution Licensee or the Supplier, discharging functions under the general or specific authority of the Distribution Licensee or the Supplier, as the case may be;
  - (c) “**Balancing and Settlement Code**” means such code as may be developed by the State Load Dispatch Centre and approved by the Commission for the balancing of energy accounts and settlement of differences between energy scheduled and actual energy delivered among the users of the grid in the State of Maharashtra;

- (d) “**Board**” means the Maharashtra State Electricity Board;
- (e) “**Commission**” means the Maharashtra Electricity Regulatory Commission;
- (f) “**Connection**” means the joining of the premises of the Connector with the distribution system of the Distribution Licensee so as to enable the transfer of electricity between such premises and such distribution system;
- (g) “**Connection and Use of Distribution System Agreement**” means an agreement for connection to and use of the distribution system of a Distribution Licensee entered into between-
  - (i) such Distribution Licensee;
  - (ii) a person, whose premises are situated within the area of supply of the Distribution Licensee, requiring supply of electricity from a Generating Company or Licensee other than such Distribution Licensee; and
  - (iii) a Generating Company or Licensee, as the case may be, intending to give supply of electricity to such person, using the distribution system of such Distribution Licensee for wheeling of electricity;

in accordance with these Regulations and subject to the terms and conditions contained therein;

- (h) “**Connector**” means a person who has obtained a Connection pursuant to a Connection and Use of Distribution System Agreement;
- (i) “**Consumer Grievance Redressal Forum**” means such forum for redressal of Grievances as is set up by the Distribution Licensee under the provisions of sub-section (5) of Section 42 of the Act and the regulations specified thereunder;
- (j) “**Contract demand**” means demand in kilovolt ampere (KVA) or megavolt ampere (MVA) -
  - (i) as entered into in the agreement for supply of electricity; or
  - (ii) as entered into in the Connection and Use of Distribution System Agreement; or
  - (iii) as agreed through other written communication;
- (k) “**Current level of cross subsidy**” means, for each financial year, for each approved tariff category and/or tariff sub-category of the Distribution Licensee, and/or for each tariff slab within each such tariff category/ sub-category, the difference between the approved revenue from the sale of electricity, for such financial year, for each such tariff category/sub-category/ tariff slab and the

approved cost of supply of electricity to such tariff category/sub-category/ tariff slab, where such difference is a positive value:

Provided that the cost of supply shall be calculated using such methodology as may be approved by the Commission from time to time, taking into consideration data availability, data quality and other relevant factors:

Provided further that the Commission may approve different methodologies for calculation of cost of supply for different Distribution Licensees in the State or may approve a uniform methodology for all Distribution Licensees

Provided also that the current level of cross subsidy shall be adjusted to the extent of any variation, as may be approved by the Commission, as attributable to uncontrollable factors, in accordance with the Tariff Regulations, as may be specified;

- (l) “**Electricity Supply Code**” means the regulations specified by the Commission under clause (u), clause (v), clause (w), clause (x) and clause (zp) of sub-section (2) of Section 181 of the Act;
- (m) “**Maximum Demand**” in kilowatts or kilo-volt-amperes, in relation to any period shall, unless otherwise provided in any general or special order of the Commission, mean two times the largest number of kilowatt-hours or kilo-volt-ampere-hours supplied and taken during any consecutive thirty (30) minute blocks in that period;
- (n) “**Special Energy Meters**” means meters, of such accuracy as may be specified by the Authority, as are capable of:-
  - (i) recording time-differentiated measurements of active energy at intervals of fifteen (15) minutes and voltage differentiated measurement of reactive energy;
  - (ii) storing such measurement data for not less than forty-five (45) days; and
  - (iii) communication of such measurements, including online and/ or real-time communication, where required by the Commission;
- (o) “**Standards of Performance Regulations**” means the regulations specified by the Commission under clause (za) of sub-section (2) of Section 181 of the Act;
- (p) “**Supplier**” means a Generating Company or Licensee, as the case may be, giving supply of electricity to a consumer or a person situated in the area of supply of the Distribution Licensee by using the distribution system of the Distribution Licensee in his area of supply pursuant to a Connection and Use of Distribution System Agreement;

- (q) **“Supply Agreement”** means the agreement or arrangement for supply of electricity between the Supplier and the consumer or person on such terms and conditions (including tariff) as may be agreed between the parties thereto;
- (r) **“Tariff Regulations”** means the regulations as may be specified by the Commission under clause (zd) of sub-section (2) of Section 181 read with Section 61 of the Act;
- (s) **“Transmission Open Access Regulations”** means the regulations as may be specified by the Commission under sub-section (47) of Section 2 read with Section 30 and sub-section (3) of Section 32 of the Act.

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. Eligibility to seek open access**

3.1 A consumer of a Distribution Licensee shall be eligible for open access to the distribution system of such Distribution Licensee for obtaining supply of electricity from a Generating Company or from a Licensee other than such Distribution Licensee, in accordance with the following eligibility conditions:

<b>Contract Demand of consumer</b>	<b>Date on which open access will be allowed under sub-section (2) of Section 42 of the Act</b>
Not less than 5 MVA	Publication of these Regulations in Official Gazette.
Not less than 2 MVA but less than 5 MVA	April 1, 2006
Not less than 1 MVA	April 1, 2007

Provided that such consumer shall be eligible for open access to the distribution system of such Distribution Licensee from the date his Contract Demand is equal to or greater than the threshold levels as specified above on or after the date on which open access is allowed under this Regulation 3.1:

Provided further that where a person, not being a consumer, whose premises are situated within the area of supply of a Distribution Licensee requires supply of electricity from a Generating Company or any Licensee other than such Distribution Licensee, such person shall be eligible for open access to the distribution system of the Distribution Licensee if the load applied for by such person with such Generating Company or Licensee exceeds the threshold levels as specified above on or after the date on which open access is allowed under this Regulation 3.1:

Provided also that the Maximum Demand of such consumer or person in each financial year subsequent to his being granted open access shall be equal to or greater than eighty (80) per cent of the threshold level at which he has become eligible for open access failing which the Distribution Licensee shall be entitled to withdraw the facility of open access granted to such consumer or person, as the case may be:

Provided also that where the facility of open access of such consumer or person has been withdrawn on account of failure to achieve a Maximum Demand equal to or greater than eighty (80) per cent of the threshold level, then such consumer or person, as the case may be, shall be liable to pay, to the Distribution Licensee, a penalty equal to two times the wheeling charges for the financial year or part thereof for which he had failed to achieve such Maximum Demand.

3.2 The Commission shall allow open access to the distribution system of a Distribution Licensee to a Generating Company or a Licensee, other than such Distribution Licensee, to give supply of electricity to a consumer or person, whose premises are situated within the area of supply of the Distribution Licensee, from the date on which such consumer or person, to whom such supply is to be given, becomes eligible for open access in accordance with Regulation 3.1 above:

Provided that the application for open access under this Regulation 3.2 shall be made by the eligible consumer or person, whose premises are situated within the area of supply of the Distribution Licensee, to whom supply is intended to be given by such Generating Company or Licensee.

3.3 The Commission may review, amend and modify, with or without conditions, the eligibility conditions referred to in this Regulation 3 based on the experience gained through the introduction of open access and/ or upon a consideration of all relevant factors, including operational constraints, if any, in the implementation of open access.

#### **4 Processing of applications for distribution open access**

4.1 An application for open access to the distribution system of a Distribution Licensee shall be made to such Distribution Licensee in the Form provided in Annexure I herein:

Provided that such application shall be accompanied by necessary particulars / documents and fees for processing the application as may be stipulated by the Distribution Licensee with the previous approval of the Commission:

Provided further that the requisition for information/ particulars/ documents and fees for processing the application shall be reasonable having regard to the requirement of the applicant.

Provided also that every Distribution Licensee shall put up, on its internet website, within a period of sixty (60) days prior to the date on which open access is allowed to

any consumer/ person or within sixty (60) days from the grant of licence, whichever is later, the information requirements, procedures, application forms and fees, in downloadable format, as may be necessary for an application to be made by such consumer/ person for open access to its distribution system.

#### 4.2 Application by a consumer

4.2.1 Where a consumer of the Distribution Licensee, who is eligible under Regulation 3.1, applies for open access to the distribution system so as to obtain supply from a Generating Company or a Licensee other than such Distribution Licensee, the consumer and the Distribution Licensee shall take necessary steps for termination of agreement for supply of electricity and discontinuance of supply to such consumer, in accordance with the procedure and within the time limits specified in the Electricity Supply Code.

4.2.2 Where a consumer of the Distribution Licensee, who is eligible under Regulation 3.1, applies for open access to the distribution system so as to obtain a part of his total requirement for supply from a Generating Company or Licensee other than such Distribution Licensee, the Distribution Licensee shall reduce the contract demand/ sanctioned load of such consumer, to the extent of capacity applied for under open access, in accordance with the procedure for reduction in contract demand/ sanctioned load specified in the Electricity Supply Code and within the time limits specified in the Standards of Performance Regulations.

4.2.3 Where the grant of open access does not entail extension of distribution mains or commissioning of new sub-station, the Distribution Licensee shall permit wheeling of electricity over the distribution system to such consumer from the date of termination of the agreement in accordance with Regulation 4.2.1 above or from the date of reduction in contract demand/ sanctioned load in accordance with Regulation 4.2.2 above, as the case may be.

4.2.4 Where the consumer has made, at any time prior to his application under Regulation 4.2.1 or Regulation 4.2.2 above, an application for increase in contract demand/ sanctioned load and such application is pending the completion of works relating to extension of distributing mains or commissioning of new sub-stations, the Distribution Licensee shall complete such works within the time limits contained in the Standards of Performance Regulations:

Provided that the Distribution Licensee shall continue to give supply of electricity at the existing level to the applicant until such time as the works are completed and thereafter open access shall be provided to the applicant:

Provided further that the Distribution Licensee shall be entitled to recover from the applicant such charges for the works carried out under this Regulation 4.2.4 in accordance with the principles specified by the Commission for recovery of charges in the Electricity Supply Code.

4.2.5 The final meter reading of the consumer shall be taken by the authorized representative of the Distribution Licensee at the time at which the Connection and Use of Distribution System Agreement becomes effective in accordance with these Regulations:

Provided that the final meter reading shall be taken in the presence of the authorized representative of the Generating Company or Licensee from whom the consumer intends to obtain supply of electricity.

**Provided further that the consumer or his authorized representative is entitled to be present at the time of the final meter reading.**

4.2.6 The Distribution Licensee shall be entitled to recover an additional surcharge on the charges of wheeling from a consumer seeking open access under this Regulation 4.2, in accordance with the principles specified in Regulation 12 below.

4.2.7 Notwithstanding anything contained in Regulation 4.2, the provision of open access to an eligible consumer of a Distribution Licensee shall be subject to settlement of all dues of the Distribution Licensee upto the date of termination of the agreement or reduction in Contract Demand, as the case may be:

Provided that where there is a dispute between the Distribution Licensee and an eligible consumer relating to any charge for electricity or sum other than a charge for electricity claimed by the Distribution Licensee from such consumer, then such consumer shall be allowed open access upon deposit of such amount with the Distribution Licensee, in accordance with Section 56 of the Act, pending disposal of such dispute.

**Provided that the Distribution Licensee shall pay interest at a rate equivalent to the bank rate of the Reserve Bank of India for the portion of deposit that is returned to the consumer on resolution of the dispute.**

4.3 Application by a person requiring supply, whose premises are situated within the area of supply of the Distribution Licensee

4.3.1 Where a person requiring supply, whose premises are situated within the area of supply of the Distribution Licensee, and who is eligible under Regulation 3.1, applies for open access so as to obtain supply from a Generating Company or from a Licensee other than such Distribution Licensee, the Distribution Licensee shall take the necessary steps for providing open access to its distribution system to such person:

Provided that the Distribution Licensee shall treat such applications for open access under this Regulation 4.3 in the like manner as it would treat applications for giving supply of electricity and the applicable provisions of the Electricity Supply Code and time limits specified in the Standards of Performance Regulations shall apply for processing such application and giving access to the distribution system:

4.3.2 The Distribution Licensee shall be entitled to recover from the applicant the charges for the works carried out under this Regulation 4.3 in accordance with the principles specified by the Commission for recovery of charges in the Electricity Supply Code.

4.4 Application by Generating Company or Licensee

4.4.1 Where a Generating Company or a Licensee is connected or intends to be connected to the distribution system of a Distribution Licensee and intends to give supply of electricity to an eligible consumer or to an eligible person as specified in 3.1, using such distribution system, the Distribution Licensee shall, within a period of thirty (30) days from the receipt of application for open access, intimate such Generating Company or Licensee of the technical requirements, details of works to be carried out, charges to be paid and estimated time period for completion of works in order to provide or enable such Generating Company or Licensee to give such supply:

Provided that the Distribution Licensee shall be entitled to recover all expenses reasonably incurred to provide open access under this Regulation 4.4 from such Generating Company or Licensee:

Provided further that while determining the expenses to be recovered from the Generating Company or Licensee, the Distribution Licensee shall take into account the details of the works planned to be undertaken in accordance with the investment plan of the Distribution Licensee to be submitted as part of the application for determination of tariff made in accordance with the provisions of sub-section (1) of Section 64 of the Act.

4.5 The applicant for open access shall arrange for all consents and statutory permissions, as are required by the Distribution Licensee from the applicant under the Act or any other law for the time being in force, for carrying out works required to give open access to the applicant.

4.6 The Distribution Licensee may require the applicant for open access to make available to the Distribution Licensee, by way of lease, a suitable piece of land or room on the applicant's premises for installation of electrical plant or equipment required to provide the Connection:

Provided that the aforesaid lease shall be on mutually agreed terms, having regard to the prevailing market rates.

4.7 Notwithstanding anything contained in Regulation 4.6, where the provision of such land or room is required under the Development Control Rules of the local authority or by any appropriate authority of the State Government, the terms and conditions for such lease shall be determined in accordance with such Rules or by the said authority.

## 5 Agreements

5.1 A Connection and Use of Distribution System Agreement for connection to and use of the distribution system of a Distribution Licensee shall be entered into between-

- (i) such Distribution Licensee;
- (ii) a Consumer or person, whose premises are situated within the area of supply of the Distribution Licensee, requiring supply of electricity from a Generating Company or Licensee other than such Distribution Licensee; and
- (iii) the Generating Company or Licensee, intending to give supply of electricity to such consumer or person, by using the distribution system of such Distribution Licensee for wheeling of electricity

in the Form provided in Annexure II herein upon grant of open access in accordance with these Regulations:

Provided that the Distribution Licensee shall put up the said Form of the Connection and Use of Distribution System Agreement on its internet website, in downloadable format, within sixty (60) days from the date on which such consumer/ person becomes eligible for open access or within sixty (60) days from the grant of licence, whichever is later, to enable such consumer/ person to obtain supply through open access in accordance with these Regulations:

5.2 The Distribution Licensee shall give to the eligible consumer / person notice of not less than two (2) days prior to signing of the Connection and Use of Distribution System Agreement, -

- (i) confirming completion of all works and fulfillment of all requirements under the Act and these Regulations for grant of open access to such consumer/ person;
- (ii) intimating the date and time of the final meter reading of the consumer's premises, if applicable; and
- (iii) intimating the date and time of termination of the agreement of supply, if applicable, and commencement of the Connection and Use of Distribution System Agreement.

- 5.3 A consumer or a person requiring supply, whose premises are situated within the area of supply of the Distribution Licensee and who has been granted open access in accordance with these Regulations may enter into an agreement or arrangement for supply of electricity with a Generating Company or Licensee on such terms and conditions (including tariff) as may be agreed upon by the parties thereto:

Provided that such terms and conditions (including tariff) as may be agreed upon by the parties shall not be inconsistent with the provisions of the Act and these Regulations.

## **6 Access to premises and property**

- 6.1 No person other than the Authorised Representative of the Distribution Licensee or any other person authorized under the Act and the rules and regulations laid down thereunder shall be authorized to operate, handle or remove any electrical plant, electric lines or meter or break, remove, erase or otherwise interfere with the seals, name plates and distinguishing numbers or marks affixed on the property of the Distribution Licensee in the Connector's premises:

Provided that such Authorised Representative shall not perform any of the aforesaid acts except in the presence of the Connector or his representative:

Provided further that the Distribution Licensee shall provide prior intimation of the visit of the Authorised Representative to the Connector's premises, except where there is reason to believe that any person is indulging in unauthorized use of electricity and/ or is committing an offence of the nature provided in Part XIV of the Act on such premises.

- 6.2 Where an inspection of premises is being carried out on a presumption of unauthorized use of electricity or an offence under Part XIV of the Act on such premises, the visit by the officer designated by the State Government under Section 126 of the Act or by the officer authorized by the State Government under Section 136 of the Act, as the case may be, shall be recorded in a log book to be maintained by the Distribution Licensee along with the name of such officer and details of the visit to the Connector's premises:

Provided that, where possible, two independent witnesses shall be taken for the visit and a report prepared by such officer, of the findings of the visit to the Connector's premises, which shall be signed along with his remarks, if any, by the Connector and/ or his representative and by such witnesses:

Provided also that the refusal of the Connector or his representative to sign on the report shall also be recorded in the said report:

Provided also that a copy of the inspection report shall be provided to the Connector upon request.

## **7. Metering**

7.1 Every Connector shall install or have installed a correct meter in accordance with the regulations made in this behalf by the Authority under Section 55 of the Act:

Provided that every Connector who is either-

- (i) a consumer under Regulation 4.2 with a contract demand in excess of 1 MVA; or
- (ii) a person under Regulation 4.3 with a contract demand in excess of 1 MVA; or
- (iii) a Supplier directly connected to the distribution system of the Distribution Licensee under Regulation 4.4

shall install or have installed a Special Energy Meter:

Provided further that such meters may be procured from the Distribution Licensee or from any supplier of correct meters in accordance with specifications laid down by the Authority in the regulations made in exercise of the powers under Section 55 of the Act:

Provided also that till the regulations are specified by the Authority under Section 55 of the Act, such meters may be procured in accordance with specifications laid down by the Distribution Licensee:

Provided also that where such meter has been procured from a supplier of meters other than the Distribution Licensee, the Distribution Licensee shall be entitled to test the correctness of the meter prior to installation:

Provided also that the meters shall be maintained by the Distribution Licensee over the duration of the Connection Agreement.

7.2 The obligations of the Distribution Licensee and the Connector as regards installation of meter, maintenance, testing of meter and dealing with defective, lost and burnt meters shall be the same as specified by the Commission for Distribution Licensees and consumers respectively in the Electricity Supply Code and Standards of Performance Regulations.

7.3 The Distribution Licensee shall be responsible for reading the consumer's meter at intervals of at least once in every two months:

Provided that the authorized representative of the Supplier shall be entitled to be present at the time of meter reading:

Provided further that the authorized representative of the Distribution Licensee shall be entitled to access the premises of the consumer for meter reading, inspection and testing

at such times and in such manner as in the case of the Distribution Licensee's own consumers in accordance with the Act and the Electricity Supply Code.

## **8. Billing**

8.1 The bill for supply of electricity to the consumer shall be raised by the Supplier and such bill shall separately and clearly indicate the following:

- (i) charges for supply of electricity, in accordance with the terms and conditions of the Supply Agreement;
- (ii) transmission charges;
- (iii) wheeling charges;
- (iv) cross-subsidy surcharge, as stipulated by the Commission in accordance with Regulation 13 below;
- (v) additional surcharge on the charges of wheeling, in accordance with Regulation 12 below; and
- (vi) any other charge or other sum recoverable from the consumer under the Act or these Regulations or any other law for the time being in force.

8.2 The bill for use of the distribution system for wheeling of electricity shall be raised by the Distribution Licensee on the Supplier and shall separately and clearly indicate the following:

- (i) wheeling charges, recovered or recoverable from consumers in accordance with Regulation 8.1 above;
- (ii) cross-subsidy surcharge, recovered or recoverable from consumers in accordance with Regulation 8.1 above;
- (iii) additional surcharge on the charges of wheeling, recovered or recoverable from consumers in accordance with Regulation 8.1 above; and
- (iv) any other charge or other sum recoverable from the Supplier under the Act or these Regulations or any other law for the time being in force:

Provided that the non-payment of any bill issued under Regulation 8.1 by the consumer shall not excuse the Supplier from making payment of any bill issued under Regulation 8.2 to the Distribution Licensee.

- 8.3 The bills under this Regulation 8 shall be issued on a monthly basis.
- 8.4 The bills issued under this Regulation 8 shall be payable within such period as may be specified in the Electricity Supply Code.

## **9. Security Deposit**

- 9.1 Except where the Connector elects to purchase the meter, the Distribution Licensee may require the Connector to provide security for the price of the meter, in accordance with the provisions of clause (b) of sub-section (1) of Section 47 of the Act:

Provided that in no case shall the amount of the security exceed the price of the meter.

- 9.2 The Distribution Licensee may require the Supplier to provide security equivalent to one month billing for wheeling charge, cross-subsidy surcharge and additional surcharge on charges of wheeling, calculated in accordance with the terms and conditions of the Connection and Use of Distribution System Agreement.

- 9.3 Where the security deposit from the Supplier under Regulation 9.2 is required at the commencement of the Connection and Use of Distribution System Agreement, such security deposit under Regulation 9.2 shall be calculated based on estimated use of the distribution system for wheeling of electricity:

Provided that the amount of the security deposit may be adjusted when the amount of additional security required or surplus security held exceeds ten (10) per cent of the balance held with the Distribution Licensee.

- 9.4 The Distribution Licensee shall also be entitled to require the Supplier to provide security equivalent to one (1) month's cost of supply for electricity wheeled for such Supplier over the distribution system of the Distribution Licensee:

Provided that such security shall be maintained for enabling the Distribution Licensee to give supply of electricity to consumers of such Supplier in the event of unforeseen disruption or termination of supply by such Supplier on account of bankruptcy, insolvency or any other reason:

Provided further that in the event of unforeseen disruption or termination of supply by the Supplier, the Distribution Licensee shall arrange to continue supply to consumers of such Supplier until such time as such security is exhausted or alternative arrangements for supply have been entered into, whichever is earlier.

Explanation – for the purpose of this Regulation 9.4, the term “cost of supply” shall mean the cost of supply of electricity of the Distribution Licensee, as approved by the Commission, as if such consumers of the Supplier were consumers of the Distribution Licensee.

9.5 The security under this Regulation 9 may, at the option of the person giving such security, be by way of cash (including cheque and demand draft), irrevocable letter of credit or unconditional bank guarantee issued by a scheduled commercial bank:

Provided that where the security deposit is in the form of cash, it shall earn interest at a rate equivalent to the bank rate of the Reserve Bank of India:

Provided further that the security shall be deposited within fifteen (15) days from the date of receipt of notice from the Distribution Licensee.

## **10. Charging principles**

10.1 The Supplier shall pay charges for wheeling of electricity as determined by the Commission in accordance with the Tariff Regulations:

Provided further that the wheeling charges payable by the Supplier may also take into consideration factors as may be specified by the Commission, such as voltage, distance, direction, quantum of flow and time of use.

## **11. Compliance with State Grid Code**

11.1 It shall be the duty of all Connectors and all Suppliers to comply with the State Grid Code, as may be specified, to the extent made applicable to them:

Provided that failure of the Connector and/ or Supplier to comply with the State Grid Code shall render such Connector and/ or Supplier, as the case may be, liable to the consequences for contravention of the Act:

Provided further that failure of the Connector and/ or Supplier to comply with the State Grid Code may also render such user liable to revocation of the Connection and Use of Distribution System Agreement:

11.2 Every person who has been granted open access in accordance with these Regulations shall comply with the provisions of the Balancing and Settlement Code, to the extent made applicable to them:

Provided that every such person may be required to pay such charges as may be provided in the Balancing and Settlement Code including charges for unscheduled use of the transmission system and unscheduled interchange of electricity.

## **12. Additional surcharge on charges of wheeling**

12.1 The Distribution Licensee is entitled to recover an additional surcharge on charges of wheeling from a consumer of such Distribution Licensee who is granted open access in accordance with these Regulations.

Provided that the Distribution Licensee is entitled to raise the bill on and recover the charges from the Supplier in accordance with Clause 8.2

12.2 The Distribution Licensee shall, upon application for open access by a consumer under Regulation 4.2, intimate to such consumer the additional surcharge payable by such consumer, alongwith the details of such calculation, if open access is to be provided.

12.3 The additional surcharge to meet the fixed cost of the Distribution Licensee arising out of its obligation to supply shall be calculated by the Distribution Licensee, based on the following principles:

- (i) The cost must have been incurred by the Distribution Licensee or is expected, with reasonable certainty, to be incurred on account of such consumer; and
- (ii) The cost has not been or cannot be recovered from the consumer, or from other consumers who have been given supply from the same assets or facilities, or from other Connectors, either through wheeling charges, standby charges or such other charges as may be approved by the Commission in exercise of powers under Section 64 of the Act.

12.4 The amount of additional surcharge on the charges of wheeling shall be paid by the Supplier to the Distribution Licensee in accordance with the terms and conditions of the Connection and Use of Distribution System Agreement.

## **13. Cross -Subsidy Surcharge**

13.1 Every consumer and person requiring supply of electricity who has been granted open access in accordance with these Regulations shall be liable to pay a cross-subsidy surcharge, as may be stipulated, as a condition for availing of open access:

Provided that such cross-subsidy surcharge shall be based on the current level of cross-subsidy of the tariff category / tariff slab and/ or voltage level to which such consumer or person belong or are connected to, as the case may be, and shall not be leviable if such tariff category / tariff slab or voltage level of connection does not bear any current level of cross-subsidy:

**Provided that the Distribution Licensee is entitled to raise the bill on and recover the charges from the Supplier in accordance with Clause 8.2**

Provided further that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant, in respect of his captive generation, for carrying the electricity to a destination of his own use.

13.2 Every Distribution Licensee shall, within three (3) months from the date of notification of these Regulations, submit to the Commission the methodology that he proposes to adopt to calculate the current level of cross subsidy within his area of supply:

Provided that the Distribution Licensee shall provide to the Commission, full details of all relevant aspects relating to such calculation, including:

- (a) sources of information proposed to be used;
- (b) proposed sample size; and
- (c) agency, if any, through whom the Distribution Licensee proposes to undertake the calculation.

13.3 The Commission shall, after due scrutiny of the proposed methodology for calculating the current level of cross subsidy, either-

- (a) approve such methodology with such alterations and amendments as it may deem appropriate; or
- (b) reject such methodology for reasons recorded in writing and direct the Distribution Licensee to submit a revised methodology within such time period and taking into consideration such factors as may be contained in the said direction:

Provided that the Distribution Licensee shall provide to any person copies of documents and papers made available to the Commission relating to the proposed methodology and/or place it on the internet website of the Distribution Licensee for making comments/suggestions, to the Commission and the Distribution Licensee deems appropriate:

Provided further that the Distribution Licensee shall be given a reasonable opportunity of being heard before his proposed methodology is rejected by the Commission:

Provided also that where the Commission has rejected the proposed methodology of the Distribution Licensee for reasons to be recorded in writing, the Commission may stipulate an alternative methodology to be adopted by the Distribution Licensee.

13.4 The Commission may, based on the methodologies proposed by the Distribution Licensees, stipulate by order, a uniform methodology for calculation of the cross-subsidy surcharge by any class or classes of licensees or by all licensees in the State.

- 13.5 The Distribution Licensee shall, for each financial year, submit full details of the calculation of the current level of cross subsidy within the area of supply of such Distribution Licensee together with its application for determination of tariff submitted to the Commission in accordance with the provisions of clause (d) of sub-section (1) of Section 62 of the Act:

Provided that the Distribution Licensee shall provide to any person copies of documents and papers made available to the Commission relating to such calculation and/ or place such calculation on the internet website of the Distribution Licensee for making comments/ suggestions, to the Commission and Distribution Licensee.

- 13.6 The Commission shall, after due scrutiny of the calculation submitted by the Distribution Licensee, either-
- (a) approve the current level of cross subsidy within the area of supply of the Distribution Licensee; or
  - (b) reject the calculation for reasons recorded in writing if such calculation is not in accordance with the methodology previously approved by the Commission or is not in accordance with the provisions of the Act or rules and regulations made thereunder and either direct the Distribution Licensee to re-submit his calculation or stipulate such amount as it deems appropriate as the current level of cross subsidy within the area of supply of such Distribution Licensee:

Provided that the Distribution Licensee shall be given a reasonable opportunity of being heard before his calculation is rejected by the Commission.

- 13.7 Where the Distribution Licensee fails to calculate the current level of cross subsidy in accordance with these Regulations, the Commission may, where the Distribution Licensee is unable to show adequate cause for such failure, stipulate such amount as it deems appropriate as the current level of cross subsidy within the area of supply of such Distribution Licensee.
- 13.8 The Commission shall, based on the approved current level of cross subsidy, stipulate the cross subsidy surcharge for each approved tariff category and/or sub-category and/or tariff slab, of the Distribution Licensee.

#### **14. Payment of cross-subsidy surcharge**

- 14.1 The amount of cross-subsidy surcharge shall be payable by the Supplier, on behalf of the consumer, to the Distribution Licensee against bills issued by the Distribution Licensee to the Supplier in accordance with the terms and conditions of the Connection and Use of Distribution System Agreement.
- 14.2 The amount of cross-subsidy surcharge so collected shall be utilized to meet the requirements of the current level of cross-subsidy within the area of supply of the Distribution Licensee.

## **15. Obligations of a Transmission Licensee**

- 15.1 Where the consumer or person, having been granted open access under these Regulations, obtains supply of electricity from a connection to the intra-State transmission system of a Transmission Licensee and the distribution system of the Distribution Licensee is not used for the supply of electricity to such consumer or person, the provisions of the Connection and Use of Distribution System Agreement shall not be applicable.
- 15.2 The following regulations shall apply in the circumstances referred to in Regulation 15.1:
- (i) the connection to the intra-State transmission system shall be provided based on the principles for allocation of capacity specified in the Transmission Open Access Regulations;
  - (ii) the Transmission Licensee shall bill the Transmission System User, along with the transmission charges, for cross-subsidy surcharge, as applicable, based on the rates stipulated by the Commission and intimated to the Transmission Licensee by the Distribution Licensee;
  - (iii) the Transmission Licensee shall require the Transmission System User to deposit security towards one (1) month equivalent of cross-subsidy surcharge;
  - (iv) the Transmission Licensee shall make payment to the Distribution Licensee of the amount collected from the Transmission System User on account cross-subsidy surcharge and applicable deposits;
  - (v) the Transmission Licensee shall inform the Distribution Licensee of any change in the status of the consumer, based on information in the possession of the Transmission Licensee, which may be relevant in the determination of the cross-subsidy surcharge;
  - (vi) the Transmission Licensee shall be entitled to disconnect the consumer for any reason for which disconnection is permitted under the provisions of the Act;
  - (vii) the obligations of the Distribution Licensee under the Connection and Use of Distribution System Agreement shall not apply.

Explanation – for the purpose of this Regulation, the term “Transmission System User” shall have the same meaning as specified in the Transmission Open Access Regulations.

## **16. Information system**

16.1 The Distribution Licensee shall maintain an internet-based information system giving the following details

- (i) Form of application for open access, the procedure and manner of submitting the application form and the fee required to accompany the application form;
- (ii) Form of the Connection and Use of Distribution System Agreement;
- (iii) Wheeling charges and cross-subsidy surcharge, as may be stipulated by the Commission; and
- (iv) Number of open access consumers and aggregate load of such open access consumers.

## **17. Existing contracts**

Anything done or any action taken or purported to have been done or taken including any existing contract or document or instrument issued or executed prior to the notification of these Regulations and which relates to the use of the distribution system shall be deemed to be valid and binding only in so far as it is not inconsistent with the Act and these Regulations.

## **18. Disputes**

1. 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.
2. Any dispute under these Regulations between a Distribution Licensee and a Supplier shall be referred to the Commission for adjudication or to such other forum as may be specified.

## **19. Exemption**

Nothing contained in these Regulations shall apply to a local authority engaged in the business of distribution of electricity before the appointed date.

## **20. Power to amend**

The Commission may, at any time, vary, alter, modify or amend any provisions of these Regulations not inconsistent with the provisions of the Act.

## **21. 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.

## **22. Savings**

22.1 Nothing contained in these Regulations shall invalidate the Commission's powers to exempt, by order in writing along with reasons, any licensee or consumer or person engaged in generation or a person whose premises are situated within the area of supply of a Distribution Licensee from the application of any or all of the conditions for availing open access, whether 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.

22.2 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 abuse of the process of the Commission.

22.3 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.

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

**ANNEXURE I**

(See Regulation 4.1)

**FORM OF APPLICATION FOR OPEN ACCESS**

To

[Name of Distribution Licensee &

Address]

Sub: Open Access to Distribution System

I/ We, (name of applicant), require access to your distribution system for the purpose of obtaining supply of electricity in accordance with sub-section (47) of Section 2 read with sub-sections (2) and (3) of Section 42 of the Electricity Act, 2003 and the Regulations specified thereunder.

In this regard, I/ We request you to kindly enter into a Connection and Use of Distribution System Agreement with me/ us and with (name of Generating Company)/ (name of Licensee) for connection to and use of your distribution system based on the particulars given overleaf.

I/ We declare that I/ We am/ are eligible to obtain open access to your distribution system in accordance with the provisions of the Act and the regulations specified by the Commission in this regard.

I/ We hereby agree to comply with the provisions of the Act, the regulations specified by the Commission and the terms and conditions of the Connection and Use of Distribution System Agreement.

Dated:

Signature of applicant

Present address

*Enclosures:* Particulars/ documents accompanying the application

1. **Current status of applicant:** Consumer/ Intending consumer
2. **Particulars for connection to Consumer:**
  - (a) Consumer No.:
  - (b) Meter No.:
  - (c) Date on which present agreement for supply is to be terminated:

- (d) Whether any application for increase/ reduction of demand is pending: (Yes \ No)
- (e) If response to (d) above is “Yes”, application no. and date of application
- (f) Load applied for with Generating Company or Licensee intending to give supply, including peak load and average load
- (g) Required duration of Connection and Use of Distribution System Agreement

3. **Particulars for connection to intending Consumer or person requiring supply within area of supply of Distribution Licensee:**

- (a) Name of applicant and, where applicant is not the owner of premises, name of owner of premises
- (b) Address of premises to which access is to be provided
- (c) Purpose of usage of electricity
- (d) Load applied for with Generating Company or Licensee intending to give supply, including peak load and average load
- (e) Name, address, telephone number and e-mail ID of the Licensed Electrical Contractor who will carry out the wiring works within the premises
- (f) Required duration of Connection and Use of Distribution System Agreement

4. **Particulars for connection to Generating Company or Licensee, against application by consumer/ intending consumer:**

As provided by the Distribution Licensee based on technical requirements relating to connection to the distribution system.

## ANNEXURE II

(See Regulation 5.1)

### FORM OF CONNECTION AND USE OF DISTRIBUTION SYSTEM AGREEMENT

This agreement is made on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ between,-

- (i) \_\_\_\_\_(Name)\_\_\_\_\_ of \_\_\_\_\_(Address)\_\_\_\_\_ (hereinafter referred to as the “Distribution Licensee”);
- (ii) \_\_\_\_\_(Name)\_\_\_\_\_ of \_\_\_\_\_(Address)\_\_\_\_\_ (hereinafter referred to as the “Connector”); and
- (iii) \_\_\_\_\_(Name)\_\_\_\_\_ of \_\_\_\_\_(Address)\_\_\_\_\_ (hereinafter referred to as the “Supplier”):

Whereas the Distribution Licensee is the holder of a licence to operate and maintain a distribution system for supplying electricity to consumers in the area of supply specified in his licence:

Whereas the Connector is eligible to access and has been allowed access to the distribution system of the Distribution Licensee in accordance with the provisions of the Act and the Distribution Open Access Regulations:

Whereas the Supplier is eligible to use and has been allowed use of the distribution system of the Distribution Licensee for the purpose of wheeling of electricity in accordance with the provisions of the Act and the Distribution Open Access Regulations:

This agreement sets out the rights and obligations of the parties in respect of:

- (a) the provision of connection to the distribution system by the Distribution Licensee to the Connector and the payment for such connection by the Connector;
- (b) the obligations of the Connector in respect of such connection to the Distribution System of the Distribution Licensee;
- (c) the provision of the distribution system by the Distribution Licensee for use by the Supplier for wheeling of electricity and the payment for such use by the Supplier; and
- (d) the obligations of the Supplier in respect of the use of the distribution system provided by the Distribution Licensee.

The parties agree as follows:

## PART A: GENERAL

### 1. Definitions

In this agreement, unless the context otherwise requires-

- (a) “**Act**” means the Electricity Act, 2003 (36 of 2003);
- (b) “**Authorised Representative**” means all officers, staff or representatives of the Distribution Licensee or the Supplier, discharging functions under the general or specific authority of the Distribution Licensee or the Supplier, as the case may be;
- (c) “**Balancing and Settlement Code**” means such code as may be developed by the State Load Despatch Centre and approved by the Commission for the balancing of energy accounts and settlement of differences between energy scheduled and actual energy among the users of the grid in the State of Maharashtra;
- (d) “**Board**” means the Maharashtra State Electricity Board;
- (e) “**Commission**” means the Maharashtra Electricity Regulatory Commission;
- (f) “**Connection**” means the joining of the premises of the Connector with the distribution system of the Distribution Licensee so as to enable the transfer of electricity between such premises and the distribution system;
- (g) “**Connection Point**” means the physical point at which the premises of the Connector is connected to the distribution system;
- (h) “**Contract demand**” means demand in kilovolt ampere (KVA) or megavolt ampere (MVA) as entered into in this Connection and Use of Distribution System Agreement and is the contracted value for transfer of electricity through the Connection Point. The Contract demand can have different values for export and import of electricity through the Connection Point;
- (i) “**Dedicated distribution facilities**” means such facilities, not including a service-line, forming part of the distribution system of the Distribution Licensee which are clearly and solely dedicated to the supply of electricity to a single consumer or a group of consumers on the same premises or contiguous premises;
- (j) “**Electricity Supply Code**” means the regulations specified by the Commission under clause (u), clause (v), clause (w), clause (x) and clause (zp) of sub-section (2) of Section 181 of the Electricity Act, 2003;
- (k) “**Energise**” means the movement of any isolator, breaker or switch or the addition of any fuse or meter whereby active power or reactive power can be imported into or exported from the Connector’s premises through the Connection Point and the terms “**De-Energise**” and “**Re-Energise**” shall be construed accordingly;

- (l) **“Force Majeure Event”** means, with respect to any party, any event or circumstances which is or are not within the reasonable control of, or due to an act or omission of that party and which, by the exercise of reasonable care and diligence, that party is not able to prevent, including, without limiting the generality of the foregoing:
- (i) acts of God, including but not limited to lightning, storm, action of the elements, earthquakes, flood and natural disaster;
  - (ii) strikes, lockouts or other industrial disturbances;
  - (iii) acts of public enemy, wars (declared or undeclared), blockades, insurrections, riots, revolution, sabotage, vandalism and civil disturbance;
  - (iv) unavoidable accident, including but not limited to fire, explosion, radioactive contamination and toxic dangerous chemical contamination;
  - (v) any generation, transmission or distribution shutdown or interruption, which is required or directed by the State or Central Government or by the Commission or the State Load Despatch Centre; and
  - (vi) any shut down or interruption, which is required to avoid serious and immediate risks of a significant plant or equipment failure;
  - (m) **“Licensed Electrical Contractor”** means an electrical contractor licensed by the State Government for the purpose of carrying out electrical works;
  - (n) **“Meter”** means a set of integrating instruments used to measure, record and store the amount of electrical energy supplied or the quantity of electrical energy contained in the supply, in a given time, which include whole current meter and metering equipment, such as current transformer, capacitor voltage transformer or potential or voltage transformer with necessary wiring and accessories and also includes pre-payment meters;
  - (o) **“Point of Supply”** means the point at the outgoing terminals of the cutouts fixed in the premises of the Connector:

Provided that, in case of a Connector with HT installation, the point of supply means the point at the outgoing terminals of the Distribution Licensee’s metering cubicle placed before such Connector’s apparatus:

Provided further that, in the absence of any metering cubicle or where the metering is on the LT side of the HT installation, the point of supply shall be the incoming terminals of such Connector’s main switchgear;

- (p) “**Distribution Open Access Regulations**” means the regulations specified by the Commission under clause (p), clause (q) and clause (zp) of sub-section (2) of section 181 of the Act;
- (q) “**Rules**” means the rules, as may be prescribed, under Section 178 and Section 180 of the Act and the regulations, as may be specified, under Section 177 of the Act;
- (r) “**Supplier**” means a Generating Company or Licensee, as the case may be, giving supply of electricity to a consumer or to a person requiring supply, whose premises are situated within the area of supply of a Distribution Licensee, by using the distribution system of the Distribution Licensee, pursuant to this agreement;
- (s) “**Supply Agreement**” means the agreement or arrangement for supply of electricity between the Supplier and the consumer on such terms and conditions (including tariff) as may be agreed between the parties thereto;

Words or expressions used herein and not defined shall have the meanings assigned to them under the Act, the Rules or the Regulations.

## **2. Compliance with Act, Rules and Regulations**

- 2.1 All parties to this agreement shall comply with the provisions of the Act and the rules and regulations laid down thereunder. Where any provision of this agreement is inconsistent with the provisions of the Act and/ or the rules or regulations laid down thereunder, the provisions of the Act, rules or regulations, as the case may be, shall take precedence to the extent of such inconsistency.

## **3. Compliance with State Grid Code and Balancing and Settlement Code**

- 3.1 All parties to this agreement shall comply with the provisions of the State Grid Code and the Balancing and Settlement Code, to the extent applicable to them.

## **4. Term of agreement**

- 4.1 This agreement shall commence from the date and time of commencement, as provided in the agreement and shall continue for such duration as may be agreed between the parties, unless terminated in accordance with clause 5 herein.

## **5. Termination of agreement**

- 5.1 Any party intending to terminate this agreement shall give the other parties not less than thirty (30) days prior written notice of termination of this agreement:

Provided that termination shall be subject to settlement of all dues of the Distribution Licensee in accordance with the Act, the Regulations and this agreement.

- 5.2 The Distribution Licensee may terminate this agreement and disconnect the Connector in the following circumstances, in accordance with the provisions of the Act:-
- (a) the Connector defaults in the payment of any charge or any other sum due from him as provided under Section 56 of the Act;
  - (b) the Connector does an act referred to in sub-section (3) of Section 163 of the Act; or
  - (c) the disconnection is authorized under any other provision of the Act, the rules and regulations made thereunder and/ or any other law for the time being in force.
- 5.3 The Distribution Licensee shall give a fifteen (15) days prior written notice of termination of this agreement to the Supplier where:-
- (a) the Supplier defaults in the payment of any charge or any other sum due from him in accordance with the Act, the Regulations and this agreement;
  - (b) where the Supplier fails to perform any of his obligations under this agreement which is likely to result in a loss to the Distribution Licensee;
  - (c) where the Supplier becomes insolvent.
- 5.4 The Supplier shall, within the notice period under clause 5.3 above, remedy or remove the cause or causes stated in the notice failing which the Distribution Licensee may terminate this agreement from the date stated in the notice.
- 5.5 Notwithstanding anything contained in this clause 5, where termination of agreement results in disconnection of the consumer, it shall be only for the reasons authorized by the Act.
- 5.6 The reconnection of a disconnected consumer shall be in accordance with the provisions of the Act and the Regulations.

## **6. Dispute resolution**

- 6.1 Each party shall use all reasonable endeavours to resolve any disputes through bilateral mechanisms that may be mutually agreed upon.
- 6.2 Where any dispute between
- (a) the Distribution Licensee and the Connector; or
  - (b) the Distribution Licensee and the Supplier

under this agreement cannot be bilaterally resolved, it shall be resolved in accordance with the Distribution Open Access Regulations.

## **7. Force Majeure**

- 7.1 If either party is unable wholly or partly to perform on time any obligation under this agreement by reason of occurrence of a Force Majeure Event, that obligation shall be suspended, without liability, so far as the party's ability to perform is affected by the Force Majeure Event.
- 7.2 A party affected by a Force Majeure Event shall use all reasonable endeavours to remove the effect of each Force Majeure Event affecting its performance of this agreement.
- 7.3 Subject to clause 7.2, if a party considers that a circumstance has arisen which constitutes or is likely to constitute or result in a Force Majeure Event, it shall as soon as reasonably practicable thereafter give to the other party, notice containing particulars of the Force Majeure Event including-
- (a) its nature and likely duration,
  - (b) the obligations affected by it and the nature and extent of its effect on those obligations; and
  - (c) the steps taken to remove, overcome or minimize its effect.

## **8. Representations and warranties**

- 8.1 The Supplier represents and warrants that he is a Generating Company or Licensee who is supplying to or intends to supply to an eligible person requiring supply, in accordance with the provisions of the Act and the Distribution Open Access Regulations.
- 8.2 The Connector represents and warrants that -
- (a) he is a consumer or a person requiring supply and whose premises are situated within the area of supply of the Distribution Licensee and who is eligible for open access to the distribution system in accordance with the provisions of the Act and the Distribution Open Access Regulations; or
  - (b) he is a Generating Company or Licensee who is supplying to or intends to supply to an eligible consumer or person requiring supply, in accordance with the provisions of the Act and the Distribution Open Access Regulations.
- 8.3 The Distribution Licensee represents and warrants that he holds and will continue to hold a licence to distribute electricity for the duration of the agreement.

## **9. Changes to agreement**

- 9.1 The parties agree to negotiate in good faith any amendments to this agreement that may be reasonably required as a result of experience gained in the introduction of open access in the State.

## **PART B: CONNECTION**

## **10. Agreement to Connect**

- 10.1 This agreement shall be entered into pursuant to an application made by:

- (a) a consumer; or
- (b) a person requiring supply, whose premises are situated within the area of supply of a Distribution Licensee

for access to the distribution system of the Distribution Licensee in accordance with the provisions of the Act and the Distribution Open Access Regulations.

- 10.2 Subject to the terms and conditions of this agreement, the Distribution Licensee agrees to the Connector's premises being connected and remaining connected to the distribution system at the Connection Point and to the Connection Point remaining Energised for the term of this agreement, except where authorized under the Act or the Distribution Open Access Regulations.

- 10.3 The Connector shall take all reasonable precautions as regards his connection to the distribution system of the Distribution Licensee to prevent any adverse effect on the:

- (a) use of the distribution system of the Distribution Licensee;
- (b) quality and reliability of supply of electricity through the distribution system of the Distribution Licensee; and
- (c) safety of the Distribution Licensee's works and personnel, as may be required of the Connector in accordance with the regulations specified under Section 53 of the Act.

## **11. Processing of applications for new connection**

- 11.1 Upon receipt of an application under clause 10.1 above, the Distribution Licensee shall, where the applicant is not an existing consumer, send his Authorised Representative to-

- (a) study the technical requirements of making the connection to the distribution system; and

- (b) inspect the premises which is to be connected, with prior intimation to the applicant.

11.2 The Authorised Representative shall, in agreement with the applicant, fix the position of the mains, cut-outs or circuit breakers and meters and sanction the load for the premises:

Provided that the service position shall normally be at an accessible location and the meter shall be fixed at a height so as to enable convenient reading of meter and to protect the meter from any adverse weather conditions.

11.3 After an inspection referred to in clause 11.1 above is carried out, the Distribution Licensee shall intimate the applicant of the details of any works that are required to be undertaken for giving the connection, the charges to be borne by the applicant thereon in accordance with clause 13 below and list of outstanding documents and consents/ statutory permissions required to be obtained by the applicant.

11.4 Upon receipt of a duly complete application accompanied with the required charges and availability of suitable piece of land or room and all other consents and permissions as may be required in accordance with clause 12 below, the Distribution Licensee shall sanction and carry out or may also permit to be carried out the works required to Energise the Connection Point.

11.5 The Distribution Licensee shall give the Connector not less than two (2) days prior notice of any tests for Energising the Connection and shall, immediately after Energising the Connection, notify the Connector of the time and date of Connection of the Facility.

11.6 The Connector shall not, prior to receipt of such notification under clause 11.5, perform any act so as to import electricity from or export electricity to the distribution system through the Connection Point.

11.7 The works undertaken to provide the connection to the distribution system shall be maintained by the Distribution Licensee over the term of this agreement.

11.8 The Distribution Licensee shall be entitled to use such works to provide a connection to any other eligible person or to provide supply to any consumer of such Distribution Licensee, except if such use is detrimental to the connection to the Connector or to the use of distribution system in relation to such Connector.

## **12. Rights of Way and Access Conditions**

12.1 The applicant shall grant to the Distribution Licensee all consents that the applicant is empowered to give as are required by the Distribution Licensee for carrying out of works to give access to the distribution system.

- 12.2 Where, in the opinion of the Distribution Licensee, the connection requires the installation of a distribution transformer on the applicant's premises, the applicant shall make available to the Distribution Licensee, by way of lease, for the term of this agreement, a suitable piece of land or a suitable room within such premises for such works:

Provided that the terms and conditions for such lease of land or room shall be mutually agreed between the Distribution Licensee and the applicant having regard to prevailing market rates.

- 12.3 Notwithstanding anything contained in clause 12.2 above, where the provision of land or room is required under the Development Control Rules of the local authority or by any appropriate authority of the State Government, the terms and conditions for use of such land or room shall be as determined under the said Rules or by the said authority.

### **13. Principles for levy of charges**

- 13.1 Where the connection entails works of laying a service-line from the distributing main to the applicant's premises, the Distribution Licensee shall be authorized to recover all expenses incurred on such works from the applicant based on the schedule of charges approved by the Commission under the Electricity Supply Code.
- 13.2 Where the connection entails works of installation of Dedicated distribution facilities, the Distribution Licensee shall be authorized to recover all expenses reasonably incurred on such works from the applicant based on the approved schedule of charges.
- 13.3 Where the connection entails works, not being works referred to in clause 13.1 or clause 13.2 above, for augmentation of the distribution system, the Distribution Licensee shall be authorized to recover from the applicant such proportion of the expenses reasonably incurred on such works as the Contract Demand applied for bears to the incremental capacity that will be created by augmentation of the distribution system:

Provided that where the Contract Demand applied for does not exceed 25 per cent of the capacity that will be created by augmentation of the distribution system, the Distribution Licensee shall not be entitled to recover any expenses under this clause 13.3.

- 13.4 Notwithstanding anything contained in this clause 13, where the connection is provided to a Generating Company or a Licensee, the Distribution Licensee shall be authorized to recover all expenses reasonably incurred on works relating to such connection.
- 13.5 Where the Distribution Licensee has recovered the expenses referred to in clause 13.2 or clause 13.4, the Connector shall be entitled to the recoverable amount of such facilities, as certified by a Chartered Accountant, following the

same principles as specified in the Electricity Supply Code for the Distribution Licensee's own consumers, upon termination of this agreement:

Provided that where such facilities have been provided by the Connector, then such facilities may be retained by the Connector upon termination of this agreement:

Provided however that where the termination of this agreement is due to the Connector's failure to pay any sum under Section 56 of the Act, the Distribution Licensee, in addition to the rights available under that Section, shall be entitled to adjust such sums due from the recoverable amount of facilities to which the Connector is entitled under this clause 13.5 or to retain facilities of such recoverable amount as to cover such sums due from such Connector to the Distribution Licensee.

Explanation – for the purpose of this Regulation, the term “recoverable amount” shall have the same meaning as provided in Accounting Standard (AS) 28: “Impairment of Assets” of the Institute of Chartered Accountants of India

13.6 Where the Distribution Licensee permits an applicant to carry out works for the connection through a Licensed Electrical Contractor, the Distribution Licensee shall be entitled to only recover charges for supervision undertaken by the Distribution Licensee up to a maximum of 15 per cent of the cost of labour that would have been employed by the Distribution Licensee in carrying out such works.

#### **14. Change of name**

14.1 A connection may be transferred in the name of another person upon death of the Connector or in case of transfer of ownership or occupancy of the premises, upon application for change of name by the new owner or occupier:

Provided that such change of name shall not entitle the applicant to require shifting of the connection to a new premises.

14.2 The application for change of name shall be accompanied by such charges of the Distribution Licensee as are approved under the Electricity Supply Code.

14.3 The application under clause 14.1 shall be accompanied by:

- (i) consent letter of the transferor for transfer of connection in the name of transferee;
- (ii) in the absence of a consent letter, any one of the following documents in respect of the premises: (a) proof of ownership of premises; (b) in case of partition, the partition deed; (c) registered deed; or (d) succession certificate;
- (iii) photocopy of licence / clearance with respect to the purpose for which electricity is being supplied to the premises, if required by statute;
- (iv) processing fee or receipt thereof.

- 14.4 The Distribution Licensee shall communicate the decision on change of name to the applicant for change of name within two (2) months from the date of application for change of name:

Provided where the Distribution Licensee disallows or refuses to the change of name, it shall do so after affording the applicant for change of name a reasonable opportunity of being heard in the matter:

Provided further that the Distribution Licensee shall communicate the reasons of refusal in writing to the applicant for change of name.

- 14.5 Any charge or any sum other than a charge due to the Distribution Licensee which remains unpaid by a deceased Connector or erstwhile owner / occupier of premises, as the case may be, shall be a charge on the premises transmitted to the legal representatives / successors-in-law or transferred to the new owner / occupier of premises, as the case may be, and the same shall be recoverable by the Distribution Licensee as due from such legal representatives or successors-in-law or new owner / occupier of the premises, as the case may be:

Provided that, except in the case of transfer of connection to a legal heir, the liabilities transferred under this clause 14.5 shall be restricted to maximum period of six months of the unpaid charges due to the Distribution Licensee in accordance with Section 56 of the Act and this agreement.

## **15. Wiring of Connector's Premises**

The work of wiring at the premises of the Connector beyond the point of connection shall be carried out by the Connector and shall conform to the standards specified in the Indian Electricity Rules, 1956 until the introduction of any rules or regulations for the same under the provisions of the Act.

## **16. Limitation on Demand and Export**

- 16.1 The Connector shall not import or export electricity through the Connection Point exceeding the Contract Demand (Import or Export, as applicable) as agreed from time to time, without the prior written consent of the Distribution Licensee.
- 16.2 If the Contract Demand (Import or Export, as applicable) is exceeded, the Distribution Licensee may give notice to the Connector setting out details and requesting the Connector to remedy the situation within seven (7) days of receipt of the notice, failing which the Distribution Licensee shall have the right to impose such penalty as may be stipulated by the Commission, in addition to any other right available to the Distribution Licensee under the Act.

## **17. Power Factor / Harmonics**

- 17.1 It shall be obligatory for the Connector to maintain the average power factor of his load at levels prescribed by the Indian Electricity Rules, 1956 with such variations, if any, adopted by the Distribution Licensee in accordance with

Rule 27 of the Indian Electricity Rules, 1956 and in accordance with the relevant orders of the Commission.

- 17.2 It shall be obligatory for the Connector to control harmonics of his load at levels prescribed by the IEEE STD 519-1992, and in accordance with the relevant orders of the Commission.
- 17.3 The Distribution Licensee may require the Connector, within a reasonable time period, which shall not be less than three (3) months, to take such effective measures so as to raise the average power factor or control harmonics of his installation to a value not less than the prescribed norm:

Provided that the Distribution Licensee may charge penalty or provide incentive for low / high power factor and for harmonics, in accordance with relevant orders of the Commission.

## **18. Access to premises**

- 18.1 No person other than an Authorised Representative of the Distribution Licensee or any other person authorised under the Act and the rules and regulations made thereunder shall be authorised to operate, handle or remove any electrical plant, electric lines or meter or break, remove, erase or otherwise interfere with the seals, name plates and distinguishing numbers or marks affixed on such property of the Distribution Licensee placed in the Connector's premises:

Provided that such Authorised Representative of the Distribution Licensee shall not perform any of the acts under this clause 18 except in the presence of the Connector or his representative:

Provided further that the Distribution Licensee shall provide prior intimation to the Connector of the visit of the Authorised Representative to the Connector's premises, except where the Distribution Licensee has reason to believe that any person is indulging in unauthorized use of electricity and/ or is committing an offence of the nature provided for in Part XIV of the Act on such premises.

- 18.2 The Connector shall permit entry into his premises for the authorized representatives of the Distribution Licensee to read, inspect, test, install, remove or replace the meters or to Energise or De-Energise the Connection Point.

## 19. Meters

### 19.1 Meter specifications

19.1.1 Every Connector shall install or have installed a correct meter in accordance with the regulations made in this behalf by the Authority under Section 55 of the Act:

Provided that every Connector who is either:

- (ii) a consumer with a contract demand in excess of 1 MVA; or
- (iii) **a person requiring supply, whose premises are situated within the area of supply of the Distribution Licensee,** with a contract demand in excess of 1 MVA; or
- (iv) a Generating Company or Licensee;

shall install or have installed a Special Energy Meter:

### 19.2 Supply and Cost of Meter

19.2.1 The Connector may elect to purchase a meter from the Distribution Licensee or from any supplier of correct meters in accordance with specifications laid down by the Authority in the regulations made under Section 55 of the Act:

Provided that till the regulations are specified by the Authority under Section 55 of the Act, the Connector may purchase the meter in accordance with specifications laid down by the Distribution Licensee:

Provided further that where the Connector elects to purchase the meter from a supplier other than the Distribution Licensee, the Distribution Licensee shall be entitled to test the correctness of the meter prior to installation:

Provided also that a Connector who elects to purchase a meter from the Distribution Licensee shall purchase such meter from the Distribution Licensee at such price as may be approved by the Commission under the Electricity Supply Code.

19.2.2 Except where the Connector elects to purchase a meter, the Distribution Licensee may require the Connector to provide security for the price of the meter in accordance with the provisions of clause (b) of sub-section (1) of Section 47 of the Act:

Provided that in no case shall the amount of the security exceed the price of the meter:

Provided further that the Distribution Licensee shall pay to the Connector interest at a rate equivalent to the bank rate of the Reserve Bank of India on the amount of security deposit maintained by the consumer under this clause 19.2.2.

### 19.3 Lost / burnt meters

19.3.1 Any complaint to the Distribution Licensee regarding a lost meter shall be accompanied by a copy of the First Information Report (FIR) lodged with the concerned police station.

19.3.2 The Connection Point shall be Re-Energised after installation of a new meter, and after payment of the price of the meter, the cost of other apparatus, and any other approved charges of the Distribution Licensee.

19.3.3 Where, upon a complaint by the Connector or inspection by the Authorised Representative of the Distribution Licensee, the meter is found to be burnt, it shall be replaced and the Connection Point shall be Re-Energised as soon as possible:

Provided that the Distribution Licensee may recover the price for the meter from the Connector.

19.3.4 Except in the case of a burnt meter or a lost meter, the Distribution Licensee shall not be authorized to recover the cost of the meter more than once during the term of this agreement.

### 19.4 Testing of meter

19.4.1 The Distribution Licensee shall be responsible for the periodic testing of the meter.

19.4.2 The Connector may, upon payment of the approved testing charges, request the Distribution Licensee to test the accuracy of the meter:

Provided that the Connector may require the Distribution Licensee to get the meter tested at such facility as may be approved by the Commission.

19.4.3 The Distribution Licensee shall provide a copy of the meter test report to the Connector within a period of two (2) months from the date of request for testing of the meter by the Connector.

19.4.4 In the event of the meter being tested and found to be beyond the limits of accuracy prescribed in the Indian Electricity Rules, 1956, till the regulations are specified by the Authority under Section 55 of the Act, the

Distribution Licensee shall refund the testing charges paid by the Connector and intimate the Supplier of the results of the test to enable adjustment in the bill of the consumer:

Provided that the amount of any such excess or short billing shall be adjusted between the Distribution Licensee and the Supplier, as the case may be.

### **PART C: USE OF DISTRIBUTION SYSTEM**

#### **20. Use of distribution system**

20.1 The Distribution Licensee shall allow the Supplier to use its distribution system for wheeling of electricity, in a non-discriminatory manner, on terms and conditions that are no more onerous than those applicable to other comparable users of the distribution system of the Distribution Licensee.

20.2 The Supplier shall make reasonable use of the distribution system of the Distribution Licensee in a manner that does not, as a result of such use, adversely affect:-

- (a) use of the distribution system by other users of the Distribution Licensee;
- (b) quality and reliability of supply of electricity to consumers of the Distribution Licensee; and
- (c) safety of the Distribution Licensee's works and personnel, as may be required of the Supplier in accordance with the regulations specified under Section 53 of the Act.

#### **21. Quality and reliability of supply**

21.1 The Distribution Licensee shall maintain the standards for quality and reliability of supply of electricity over its distribution system, rectification of faults and other consumer complaints pertaining to the distribution system, in accordance with the Standards of Performance Regulations.

21.2 The Supplier recognizes that the quality and reliability of supply of electricity shall be affected by conditions prevailing in the distribution system that may be beyond the control of the Distribution Licensee:

Provided that where the supply of electricity is adversely affected due to conditions affecting the distribution system within the control of the Distribution Licensee, the Distribution Licensee shall be liable to pay compensation to the affected person, of such amount and within such time period as may be specified in the Standards of Performance Regulations:

Provided further that where such compensation is payable to the consumer, the Supplier shall be entitled to claim such compensation as a representative of the affected consumer and the benefit of the amount of such compensation so received from the Distribution Licensee shall be passed on by the Supplier to the affected consumer by way of adjustment in the bill for supply of electricity.

## **22. Information exchange**

22.1 The Distribution Licensee and the Supplier agree to use their reasonable endeavours to provide each other, in a timely manner, such information in respect of the open access consumers and their connection to and use of distribution system as either of them may possess and as the other may reasonably require to carry out their obligations under the Act, the Rules, the Distribution Open Access Regulations or this agreement:

Provided that the provision of information under this clause shall be subject to the obligations of both parties to maintain confidentiality of such information being requested for, under the Act or any other law for the time being in force.

22.2 The Distribution Licensee and the Supplier agree to take reasonable steps to ensure that all information provided by either of them to the other under this agreement is accurate and complete.

## **23. Co-ordination of services**

23.1 The Distribution Licensee and the Supplier agree to coordinate their functions to facilitate the supply of electricity to the consumer in accordance with this clause 23.

### **23.2 Meter reading**

23.2.1 The Distribution Licensee shall be responsible for reading the consumer's meter at intervals of not longer than once in every two months:

Provided that the Authorized Representative of the Supplier is entitled to be present at the time of meter reading by the Distribution Licensee or his Authorised Representative:

Provided further that the Authorized Representative of the Distribution Licensee shall be entitled to access the premises of the consumer for meter reading, inspection and testing at such times and in such manner as in the case of the Distribution Licensee's own consumers in accordance with the Electricity Supply Code.

23.2.2 The Distribution Licensee shall provide the meter reading data to the Supplier within a period of two (2) days from the date of meter reading.

23.2.3 In case of a defective meter, the results of the test taken shall be communicated to the Supplier to enable him to make an adjustment in the consumer's bill:

Provided that, subject to the provisions of Part XII and Part XIV of the Act, the consumer's bill shall be adjusted for a maximum period of three months prior to the month in which the dispute has arisen, in accordance with the results of the test taken, subject to furnishing the test report of the meter along with the assessed bill:

Provided also that in case of broken or damaged meter seal, the meter shall be tested for defectiveness or tampering. In case of defective meter, the assessment shall be carried out as per this clause 23.2.4 and, in case of tampering, the assessment shall be carried out in accordance with Section 126 or Section 135 of the Act, depending on the circumstances of the case:

Provided further that where the meter has stopped recording, the consumer shall be billed for the period for which the meter has stopped recording, up to a maximum period of three (3) months, based on the average metered consumption for the twelve (12) months prior to the month in which the billing is contemplated:

**Provided that the consumer or Supplier may require the Distribution Licensee to carry out testing of the meter subject to payment of charges for testing as are applicable to the Distribution Licensee's own consumers under the Electricity Supply Code.**

### 23.3 Rectification of faults

23.3.1 The Distribution Licensee shall be responsible for the rectification of faults in the distribution system affecting the supply of electricity by the Supplier to the consumer:

Provided that the Distribution Licensee shall rectify faults in the distribution system so affecting the supply of electricity to the consumer within the time limits as may be specified by the Commission in the Standards of Performance Regulations, except in the circumstances where an exemption is allowed in accordance with the Standards of Performance Regulations.

### 23.4 Change of name

23.4.1 The application for change of name shall be made by the consumer to the Supplier:

Provided that the Supplier shall inform the Distribution Licensee of such application for change of name immediately upon receipt of such application:

Provided that the application shall be dealt with in the manner and within the timeframe specified in the Distribution Open Access Regulations.

### 23.5 Disconnection of supply

23.5.1 Where the Distribution Licensee has received a request for disconnection of the consumer from the Supplier, the Distribution Licensee shall effect the

disconnection as soon as may be reasonably practicable after receipt of such request and, in no case, later than one (1) week from the receipt of such request:

Provided that the Supplier may request for such disconnection only for the reasons for which disconnection is authorized under the Act:

Provided further that where the Supplier has requested for disconnection for any reason for which disconnection is not authorized under the Act, the Supplier shall indemnify the Distribution Licensee for any loss or damage suffered by the Distribution Licensee on account of giving effect to such request.

### 23.6 Inspection and assessment

23.6.1 Where the Supplier has any reasonable grounds to believe that an offence of the nature provided for in Part XII or Part XIV of the Act is being committed on the premises to which supply is being given, he shall promptly inform the Distribution Licensee.

23.6.2 Notwithstanding anything contained in this agreement, where the Distribution Licensee has reasonable grounds to believe that an offence of the nature provided in Part XII or Part XIV of the Act is being committed on the premises to which supply is being given, the Distribution Licensee may take such steps, in accordance with the Act and the rules and regulations laid down thereunder, as it deems necessary:

Provided that the Distribution Licensee shall endeavour to inform the Supplier of such alleged offence and the proposed steps before they are taken and, in any case, shall inform the Supplier immediately after taking such steps.

## **24. Payments for services**

### 24.1 Billing

24.1.1 The Distribution Licensee shall bill the Supplier for the services provided under this agreement on a monthly basis. Bills shall be issued by the tenth (10<sup>th</sup>) day of each month for charges payable for the previous month.

24.1.2 The Supplier shall pay for the charges within such period as may be specified in the Electricity Supply Code.

24.1.3 The Supplier shall be required to pay the following charges, in accordance with the Act and the Distribution Open Access Regulations:

- (a) wheeling charges for use of the distribution system in accordance with terms and conditions specified under the Tariff Regulations;
- (b) amount payable on account of cross-subsidy surcharge, where applicable, in accordance with the Distribution Open Access Regulations;

- (c) amount payable on account of additional surcharge on charges of wheeling, where applicable, in accordance with the Distribution Open Access Regulations; and
- (d) any other sums that may be recoverable from the Supplier under the Act or any other law for the time being in force.

#### 24.2 Obligation to pay

24.2.1 The Supplier shall be obliged to pay for the charges billed by the Distribution Licensee in accordance with the Act, the Distribution Open Access Regulations and this agreement, irrespective of whether or not the same charges have been recovered from the consumer under the Supply Agreement.

#### 24.3 Delayed payment charges

24.3.1 Any delay in payment of charges shall attract a late payment surcharge at the rate of 1.25 per cent per month.

### **25. Security deposits**

25.1 The Distribution Licensee shall be entitled to security equivalent to one month's billing for wheeling charges, cross-subsidy surcharge and additional surcharge on charges of wheeling, in accordance with clause 24.1 above.

25.2 Where the security deposit is required at the commencement of this agreement, it shall be calculated based on estimated use of the distribution system for wheeling of electricity:

Provided that the amount of the security deposit may be adjusted when the amount of additional security required or surplus security held exceeds ten (10) per cent of the balance held with the Distribution Licensee.

25.3 The Distribution Licensee shall also be entitled to security from the Supplier equivalent to one (1) month's cost of supply for electricity wheeled using the distribution system of the Distribution Licensee in accordance with the Act, the Distribution Open Access Regulations and this agreement:

Provided that such security shall be for enabling the Distribution Licensee give supply of electricity to consumers of such Supplier in the event of unforeseen disruption or termination of supply by such Supplier on account of bankruptcy, insolvency or any other reason:

Provided further that in the event of unforeseen disruption or termination of supply by the Supplier, the Distribution Licensee shall arrange to continue supply to consumers of such Supplier until such time as such security is exhausted or alternative arrangements for supply have been entered into, whichever is earlier.

25.4 The security deposit may, at the option of the Supplier, be by way of cash (including cheque and demand draft), irrevocable letter of credit or unconditional bank guarantee issued by a scheduled commercial bank:

Provided further that where the security deposit is in the form of cash, it shall earn interest at the bank rate of the Reserve Bank of India:

Provided also that the security shall be deposited within fifteen (15) days from the date of receipt of notice from the Distribution Licensee.

Mumbai,  
Dated: 21<sup>st</sup> June, 2005

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