

Explanatory Memorandum for the Delhi Electricity Regulatory Commission (Terms and Conditions for Open Access) (Second Amendment) Regulations, 2025.

Background

Open Access is one of the key features of Electricity Act, 2003. However, due to very high Open Access charges levied by some State Regulators this facility of Open Access could not be utilised by the consumers to the desired level. Open Access charges must be reasonable and uniform throughout the country to facilitate the consumers like commercial establishments and industries in getting electricity through Open Access at competitive and reasonable rates. To rationalise the open access charges new rules have been prescribed with methodologies for determining various open access charges like wheeling charges, state transmission charges and additional surcharge.

1. The Section 40 of Electricity Act describes the duties of Transmission Licensee related to open access

“to provide non-discriminatory open access to its transmission system for use by-

- (i) any licensee or generating company on payment of the transmission charges ; or (ii) any consumer as and when such open access is provided by the State Commission under sub-section (2) of section 42, on payment of the transmission charges and a surcharge thereon, as may be specified by the State Commission: Provided that such surcharge shall be utilised for the purpose of meeting the requirement of current level cross-subsidy: Provided further that such surcharge and cross subsidies shall be progressively reduced in the manner as may be specified by the State Commission: Provided also that the manner of payment and utilisation of the surcharge shall be specified by the State Commission.*

2. Section 42 (2) of the Electricity Act 2003 provides following provisions wherein the powers have been given to State Commissions for specifying cross subsidy and surcharge.

“The State Commission shall introduce open access in such phases and subject to such conditions, (including the cross subsidies, and other operational constraints) as may be specified within one year of the appointed date by it and in specifying the extent of open access in successive phases and in determining the charges for wheeling, it shall have due regard to all relevant factors including such cross subsidies, and other operational constraints:

Provided that such open access shall be allowed on payment of a surcharge in addition to the charges for wheeling as may be determined by the State Commission: Provided further that such surcharge shall be utilised to meet the requirements of current level of cross subsidy within the area of supply of the distribution licensee:

Provided also that such surcharge and cross subsidies shall be progressively reduced in the manner as may be specified by the State Commission: Provided also that such surcharge shall

not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use:”

3. Further, Section 42 (4) of the Act provides following provisions related to ‘Additional Surcharge’.

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

4. Section 8.5 of the National Tariff Policy provides following provisions that deal with calculation of cross subsidy surcharge and applicability of additional surcharge to be paid by open access consumers.

“National Electricity Policy lays down that the amount of cross-subsidy surcharge and the additional surcharge to be levied from consumers who are permitted open access should not be so onerous that it eliminates competition which is intended to be fostered in generation and supply of power directly to the consumers through open access.”

“8.5.4 The additional surcharge for obligation to supply as per section 42(4) of the Act should become applicable only if it is conclusively demonstrated that the obligation of a licensee, in terms of existing power purchase commitments, has been and continues to be stranded, or there is an unavoidable obligation and incidence to bear fixed costs consequent to such a contract. The fixed costs related to network assets would be recovered through wheeling charges.”

5. The clause 8.5.6 of national Tariff Policy which stipulates that

“in case of outages of generator supplying to a consumer on open access, standby arrangements should be provided by the licensee on the payment of tariff for temporary connection to that consumer category as specified by the Appropriate Commission. Provided that such charges shall not be more than 125 percent of the normal tariff of that category.”

6. Regulation 12 of Delhi Electricity Regulatory Commission (Terms and conditions for Open Access) Regulations, 2005 states that:

Applicable Charges:

(1) The Open Access Customers shall pay the transmission charges, wheeling charges, surcharges, additional surcharges, scheduling charges (payable to State Load Dispatch Centre), unscheduled inter-change (Ul) charges, reactive energy charges and such other charges as the Commission may determine from time to time, as a part of the tariff under sections 61, 62 and 86 of the Act or otherwise decide or authorise the Nodal Agency to charge in exercise of its regulatory powers under the Act.

(2) *The Commission, while determining the charges for open access to the Transmission System or the Distribution System, provide for adjustment of losses in the system either in terms of money or in the quantum of electricity to be delivered at the destination, after the transmission and/or wheeling of electricity as the Commission considers to be appropriate.”*

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

“Regulation 1. Applicable Charges for an Open Access Consumer (1) Where a consumer opting for Open Access, he shall be liable to pay:-

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

Regulation 2.3. Additional Surcharge:

(1) An Open Access consumer, receiving supply of electricity from a person other than the distribution licensee of his area of supply, shall pay to the distribution licensee an additional surcharge on the charges of wheeling, in addition to wheeling charges and cross-subsidy surcharge, to meet out the fixed cost of such distribution licensee arising out of his obligation to supply as provided under sub-section (4) of section 42 of the Act.

(2) This additional surcharge shall become applicable only if the obligation of the licensee in terms of power purchase commitments has been and continues to be stranded or there is an unavoidable obligation and incidence to bear fixed costs consequent to such a contract. However, the fixed costs related to network assets would be recovered through wheeling charges.

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

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

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

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

8. However, Electricity (Amendment) Rules, 2024 dated 10/01/2024 states that:

22 (3) Additional Surcharge. – The additional surcharge levied on any Open Access Consumer shall not be more than the per unit fixed cost of power purchase of the distribution licensee concerned:

Provided that for a person availing General Network Access or Open Access, the additional surcharge shall be linearly reduced from the value in the year in which General Network Access or Open Access was granted so that, if it is continued to be availed by this person, the additional surcharge shall get eliminated within four years from the date of grant of General Network Access or Open Access:

Provided further that the additional surcharge shall not be applicable for Open Access Consumer to the extent of contract demand being maintained with the distribution licensees:

Provided also that the additional surcharge shall be applicable only for the Open Access Consumers who are or have been consumers of the concerned Distribution licensee.

Explanation. – For the purpose of this rule, General Network Access and Temporary-GNA shall have the same meaning as defined in the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 as amended from time to time.

10. Further, various representations have been received regarding modification of the *Additional Surcharge* for Open Access consumers, in line with the **Electricity (Amendment) Rules, 2024**, in the larger public interest and to promote Open Access in the State of Delhi.

11. Accordingly, the Commission has proposed to amend **Regulation 12(1)** of the *Delhi Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2005*.

12. In the proposed amendment, to simplify the calculation of the Additional Surcharge. Regarding the linear reduction of the Additional Surcharge, the following illustration may be referred to:

Illustration: -Additional Surcharge shall be linearly reduced as following: -

For Existing Open Access/General Network Access Consumers: -

Year Sequence	Corresponding Financial Year	% of Notified Additional Surcharge (Rs. per KWh)
FY in which the person was granted General network Access or Open Access	Say FY 2022-23	100%
First Year	FY 2023-24	75%
Second Year	FY 2024-25	50%
Third Year	FY 2025-26	25%
Fourth Year	FY 2026-27	0

For New Open Access/General Network Access Consumers: -

Year Sequence	Corresponding Financial Year	% of Notified Additional Surcharge (Rs. per KWh)
FY in which the person was granted General network Access or Open Access	FY in which the Open Access is granted (e.g. FY 2028-29)	100%
First Year	FY 2029-30	75%
Second Year	FY 2030-31	50%
Third Year	FY 2031-32	25%
Fourth Year	FY 2032-33	0

13. Further, persons availing General Network Access or Open Access shall not be eligible to seek or claim any refund, adjustment, or recovery of the additional surcharge already levied or collected under the existing Open Access Regulations.