

**GOVERNMENT OF INDIA
MINISTRY OF POWER**

**LOK SABHA
UNSTARRED QUESTION NO.1937
TO BE ANSWERED ON 10.12.2015**

OPEN ACCESS POLICY

**†1937. SHRIMATI RAMA DEVI:
SHRIMATI SAKUNTALA LAGURI:**

**Will the Minister of POWER
be pleased to state:**

- (a) the details with regard to the Open Access provisions contained in Electricity Act, 2003;**
- (b) whether open access provision is not being implemented in the country; (c) if so, the reasons therefor alongwith the various facilities being provided through this provision; and**
- (d) the details of assistance being provided under Open Access for preparing a competitive atmosphere?**

A N S W E R

**THE MINISTER OF STATE (INDEPENDENT CHARGE) FOR POWER,
COAL AND NEW & RENEWABLE ENERGY**

(SHRI PIYUSH GOYAL)

(a) : Open Access has been defined in Section 2(47) of the Electricity Act, 2003. The provisions regarding Open Access to the consumers has been provided in Section 9(2), 38(2), 39(2), 40, 42(2) and 86(1). The relevant extracts of the provisions are at Annex.

(b) to (d) : Open Access to Inter-State and Intra-State transmission system is governed by different Regulations framed by the Central Electricity Regulatory Commission (CERC) and the State Electricity Regulatory Commissions (SERCs) respectively.

The Central Commission has notified the Central Electricity Regulatory Commission (Inter-State Open Access in Transmission) Regulations, 2008 and the Central Electricity Regulatory Commission (Grant of Connectivity, Long Term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009 to facilitate Open Access in inter-State transmission of electricity. Open Access at inter-state level is fully operational.

Over 3000 Open Access consumers are buying power through Power Exchanges. The details of Open Access availed on Inter State Transmission System during the last five years are given below:

Total (Bilateral + Collective)	No. of Transactions	Approved Energy (MUs)
2008-09	15414	30521
2009-10	18128	39457
2010-11	19883	55232
2011-12	24111	66987
2012-13	32088	73153
2013-14	33917	86973
2014-15	38053	80866
2015-16 (upto Oct., 2015)	28231	61701

(Source: POSOCO/NLDC)

Open Access at intra-state level remains the responsibility of SERCs. All the SERCs/JERCs have notified Open Access Regulations.

High level of cross subsidy in tariff, High levels of Open Access charges, cross-subsidy surcharges, lack of functional and financial autonomy of SLDCs, standby charges etc. are some of the factors reported to be responsible for slow pace of Open Access implementation at distribution level.

The provisions of Open Access in Electricity Act, 2003, regulations framed by CERC/SERCs etc. have ensured competitive environment through Open Access and have facilitated inter-State trading in electricity.

ANNEX REFERRED TO IN REPLY TO PART (a) OF UNSTARRED QUESTION NO. 1937 TO BE ANSWERED IN THE LOK SABHA ON 10.12.2015.

Different provisions regarding Open Access provided in the Electricity Act 2003

Section 2(47) Definition of Open Access : “open access” means the non-discriminatory provision for the use of transmission lines or distribution system or associated facilities with such lines or system by any licensee or consumer or a person engaged in generation in accordance with the regulations specified by the Appropriate Commission;

Section 9 Captive Generation :-

(2) Every person, who has constructed a captive generating plant and maintains and operates such plant, shall have the right to open access for the purposes of carrying electricity from his captive generating plant to the destination of his use:

Provided that such open access shall be subject to availability of adequate transmission facility and such availability of transmission facility shall be determined by the Central Transmission Utility or the State Transmission Utility, as the case may be:

Provided further that any dispute regarding the availability of transmission facility shall be adjudicated upon by the Appropriate Commission.

Section 38 (2) The functions of the Central Transmission Utility shall be –

- (d) 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 Central 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.

Section 39 (2) The functions of the State Transmission Utility shall be –

- (d) 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 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.

Section 40. (Duties of transmission licensees): It shall be the duty of a transmission licensee-

- (c) 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 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.

Section 42 (Duties of distribution licensee and open access): ---

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

Provided that such open access 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.

Provided also that the State Commission shall, not later than five years from the date of commencement of the Electricity (Amendment) Act, 2003, by regulations, provide such open access to all consumers who require a supply of electricity where the maximum power to be made available at any time exceeds one megawatt.

Functions of State Commission

Section 86: --- (1) The State Commission shall discharge the following functions, namely: -

(a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State:

Provided that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;
