

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 40 OF 2024

The Electricity Act, 2019
(Act No. 11 of 2019)

The Electricity (Open Access) Regulations, 2024

IN EXERCISE of the powers contained in section 52 of the Electricity Act, 2019, the following Regulations are made:

1. These Regulations may be cited as the Electricity (Open Access) Regulations, 2024. Title
2. In these Regulations, unless the context otherwise requires— Interpretation
 - “consumer has the meaning assigned to the word in the Act;
 - “distribution” has the meaning assigned to the word in the Act;
 - “distribution network service provider” has the meaning assigned to the words in the Act;
 - “distribution system” has the meaning assigned to the words in the Act;
 - “Energy Regulation Board” means the Energy Regulation Board established under the Energy Regulation Act, 2019; Act No. 12 of 2019
 - “Electricity” has the meaning assigned to the word in the Act;
 - “grid code has the meaning assigned to the words in the Act;
 - “insolvent has the meaning assigned to the word in the Corporate Insolvency Act, 2017; Act No. 9 of 2017
 - “long-term open access” means the right to use a transmission system or distribution system for a period exceeding five years;
 - “medium-term open access” means the right to use a transmission system or distribution system for a period of more than three months but not exceeding five years;

"open access" has the meaning assigned to the words in the Act;

"open access user" means a person who is granted open access to a transmission system or distribution system by a transmission network service provider or distribution network service provider in accordance with the Act and these Regulations;

"power purchase agreement" has the meaning assigned to the words in the Act;

"power supply agreement" has the meaning assigned to the words in the Act;

"qualifying participant" means a person who is eligible to apply for open access in accordance with regulation 5;

"short-term open access" means the right to use a transmission system or distribution system for a period not exceeding three months;

"supplier" has the meaning assigned to the word in the Act;

"system operator" has the meaning assigned to the words in the Act;

"system strengthening" means works carried on a transmission system or distribution system for the purposes of granting open access;

"system user" has the meaning assigned to the words in the Act;

"transmission" has the meaning assigned to the word in the Act;

"transmission network service provider" has the meaning assigned to the words in the Act; and

"transmission system" has the meaning assigned to the words in the Act.

Application

3. These Regulations shall apply to the open access use of a transmission system and distribution system in the Republic.

Categories of open access

4. Open access to a transmission system or distribution system shall be divided into the following categories:

(a) long-term open access;

(b) medium-term open access; and

(c) short-term open access.

5. (1) The following are the qualifying participants for open access:

Criteria to participate in open access

- (a) a licensee that holds a licence to trade in electricity;
- (b) a supplier;
- (c) a system user; and
- (d) a consumer.

(2) A qualifying participant under subregulation (1), qualifies to apply for open access if the participant—

- (a) is licensed by the Energy Regulation Board;
- (b) in the case of a licensee that holds a licence to trade in electricity, that licensee has a trading capacity of at least 1 Megawatt;
- (c) in the case of a supplier, has an installed generating capacity of at least 1 Megawatt;
- (d) in the case of a consumer, has a consumption capacity of at least 1 Megawatt; and
- (e) is not declared insolvent or bankrupt.

6. (1) A qualifying participant who seeks open access to a transmission system or distribution system shall apply to a transmission network service provider or distribution network service provider in Form I set out in the Schedule.

Application for open access to transmission or distribution system

(2) An application referred to under subregulation (1), shall be accompanied by—

- (a) a statement on the qualifying participant's available infrastructure, including installed energy meters and communication systems;
- (b) details of the entity from whom electricity is proposed to be procured or supplied;
- (c) the quantum of electricity to be procured or supplied;
- (d) declaration of funds to support financial viability accompanied by proof of funds or latest audited accounts, where applicable;
- (e) the quantum of electricity intended to be transmitted or wheeled at any given time by the qualifying participant;
- (f) the point at which the qualifying participant intends to inject or draw electricity;
- (g) the duration for which open access to the transmission system or distribution system is required; and
- (h) number of hours per day and time of access for which open access is required.

(3) An application referred to under subregulation (1) shall indicate the category of open access which the qualifying participant intends to participate in.

(4) An application referred to under subregulation (1) may be filled physically or electronically.

Acknowledgement Receipt

7. (1) A transmission network service provider or distribution network service provider shall, within five days of receipt of an application under regulation 6, acknowledge receipt of the application, in writing, indicating whether the application is successfully lodged.

(2) A transmission network service provider or distribution network service provider shall, where the application fails to meet or comply with the application requirements, within the period specified under subregulation (1), return the application to the qualifying participant requesting the qualifying participant to amend the application in accordance with regulation 6.

(3) An application that is amended in accordance with subregulation (2) shall be considered to be a fresh application on re-submission to a transmission network service provider or distribution network service provider.

Request for additional information

8. (1) Despite the application requirements under regulation 6, a transmission network service provider or distribution network service provider may, within the period specified by a transmission network service provider or distribution network service provider, request a qualifying participant to submit additional information that the transmission network service provider or distribution network service provider considers necessary to the application in Form II set out in the Schedule.

(2) A transmission network service provider or distribution network service provider shall, where a qualifying participant fails or neglects to submit the requested additional information under subregulation (1) within the period specified under that subregulation, reject the application, stating the reasons for the rejection.

Consideration of application for open access

9. A transmission network service provider or distribution network service provider shall, when considering an application under regulation 6, take the following into account:

(a) the available transmission or distribution capacity on the transmission system or distribution system;

(b) the utilisation of the transmission system or distribution system by other existing transmission system or distribution system users;

- (c) a qualifying participant's ability to meet its financial obligation; and
- (d) whether or not system strengthening is required on a transmission network or distribution network for the purposes of providing open access to a qualifying participant.

10. (1) The transmission network service provider or distribution network service provider shall, within thirty days of receipt of an application in accordance with regulations 6, 7 and 8, approve or reject the application.

Grant or rejection of application for open access

(2) Subject to regulation 12, a transmission or distribution network service provider shall, prior to the grant of open access, notify the system operator, in writing, of the transmission network service provider or distribution network service provider's intention to grant open access to a qualifying participant, within five days of the transmission network service provider or distribution network service provider's decision.

(3) The notice referred to under subregulation (1) shall be accompanied by an application lodged by a qualifying participant under regulation 6.

(4) Subject to the Electricity (Grid Code) Regulations, 2013, the system operator shall, within five days of receipt of the notice referred to under subregulation (2) and for the purposes of scheduling open access transactions in accordance with regulation 12, check the transmission system or distribution system for network congestion.

S.I. No. 79 of 2013

(5) The system operator shall, where the system operator on consideration of the transmission system or distribution system rejects the grant for open access, notify the transmission network service provider or distribution network service provider, in writing.

(6) The system operator shall, where the system operator is satisfied that the transmission system or distribution system is free of congestion, approve the grant for open access and shall, within five days of the system operator's decision, notify in writing, the transmission network service provider or distribution network service provider when to commence.

(7) The transmission network service provider or distribution network service provider shall issue a notice of approval in Form III set out in the First Schedule and grant open access to a qualifying participant on the terms and conditions that may be agreed between the qualifying participant and the transmission network service provider or distribution network service provider.

(8) The transmission network service provider or distribution network service provider shall reject an application for open access if—

- (a) a qualifying participant does not meet the requirements for the grant of open access under the Act and these Regulations;
- (b) the transmission network service provider or distribution network service provider does not have the capacity to grant open access; and
- (c) a system operator does not approve the grant for open access on a consideration of the transmission system or distribution system under subregulation (6).

(9) The transmission network service provider or distribution network service provider shall notify the qualifying participant of the rejection under subregulation (8) in Form IV set out in the First Schedule, stating the reasons for the rejection.

Allotment
priority for
open access

11. (1) Subject to regulation 10, a transmission network service provider or distribution network service provider shall, when allotting open access to a qualifying participant, ensure that a qualifying participant seeking long-term open access has priority, followed by a qualifying participant seeking medium-term open access and subsequently a qualifying participant seeking short-term open access.

(2) Despite subregulation (1), a transmission network service provider or distribution network service provider shall, where a qualifying participant intends to meet the electricity demand or to ensure maintenance of security of supply within the Republic, give that qualifying participant priority allotment for open access.

(3) A transmission network service provider or distribution network service provider shall, when considering an application in accordance with subregulation (1) or (2), take into account the principle of first-come, first-served basis.

Scheduling of
open access
transactions
S.I. No. 79 of
2013

12. Subject to the Electricity (Grid Code) Regulations, 2013, scheduling of open access transactions shall be the responsibility of the system operator, in consultation with a transmission network service provider or distribution network service provider and an open access user.

13. (1) A transmission network service provider or distribution network service provider shall, for the purposes of metering open access transactions, install an energy meter and quality of supply meter, in accordance with the Electricity (Grid Code) Regulations, 2013 at an appropriate injection or draw points along the transmission system or distribution system.

Metering of open access transactions

S.I. No. 79
Of 2013

(2) The energy meter and quality supply meter referred to under subregulation (1) shall—

(a) be commissioned, maintained, audited and tested in accordance with the Electricity (Grid Code) Regulations, 2013; and

S.I. No. 79
Of 2013

(b) have a facility to enable the communication of meter readings on a real time basis.

14. A transmission network service provider or distribution network service provider shall levy a transmission or distribution charge for open access transmission as approved by the Energy Regulation Board.

Transmission and distribution charges

15. The system operator shall, where the system operator determines that for the purposes of dealing with operational constraints or maintaining grid security, it has become necessary to curtail power on the transmission system or distribution system, curtail power for a short-term open access user first, followed by a medium-term open access user, and subsequently a long-term open access user.

Curtailing of power

16. An open access user shall trade in electricity if the open access user—

Trade in electricity by open access user

(a) enters into a participation and balancing agreement with the system operator;

(b) provides proof of a notice of approval from a transmission network service provider or distribution network service provider to access a transmission network service provider or distribution network;

(c) uses the transmission system or distribution system granted by the transmission network service provider or distribution network service provider;

(d) deposits with the system operator the necessary financial security to cover energy imbalances requirements; and

(e) registers with the system operator the relevant power purchase agreement or power supply agreement in the case of bilateral transactions.

- Functions of system operator
17. In addition to the functions specified under section 10 of the Act, the functions of the system operator in relation to open access are to—
- (a) keep a register of qualifying participants who are granted open access;
 - (b) manage a database of information and documentation relating to open access transactions;
 - (c) develop and administer open access guidelines with the approval of the Energy Regulation Board;
 - (d) facilitate the nomination process for bilateral trades under the open access framework; and
 - (e) monitor the compliance of open access users with the rules, codes, practices and guidelines issued by the Energy Regulation Board in relation to open access.
- Functions of Energy Regulation Board
18. Subject to the Electricity Act and the Energy Regulation Act, the functions of the Energy Regulation Board in relation to open access are to—
- (a) develop and enforce open access framework rules, codes, practices or guidelines;
 - (b) approve trading guidelines developed by the system operator;
 - (c) approve participation agreement developed by the system operator; and
 - (d) develop a pricing methodology for determination of the fees that may be charged by a licensee for the use of the transmission system or distribution system.
- Determination of available capacity
19. (1) A transmission network service provider shall be required to submit available transmission capacity on the transmission system to the system operator annually.
- (2) The system operator shall, in consultation with other participants under the grid code, determine the availability of transmission capacity in the transmission system, including existence or absence of operational constraints affecting open access.
- Indemnity
20. An open access user shall, at all times, keep the system operator indemnified against claims relating to damage of property, legal proceedings, legal fees or any other third party obligation arising from open access transactions.

21. (1) Agreements related to the supply and purchase of electricity for open access entered into prior to the commencement of these Regulations shall remain valid until expiry.

Transitional provisions

(2) The system operator shall, within one hundred and eighty days of the commencement of these Regulations, develop and submit to the Energy Regulation Board for approval, guidelines and procedures for the operation of a transmission system and distribution system in accordance with these Regulations.

SCHEDULE
(Regulations 6, 8 and 10)

FORM I
(Regulation 6 (1))

The Electricity Act, 2019
(Act No. 11 of 2019)

The Electricity (Open Access) Regulations, 2024

Addressed to:
.....
.....

APPLICATION FOR OPEN ACCESS

LONG-TERM MEDIUM-TERM SHORT-TERM
(tick where applicable)

INSTRUCTIONS	FOR OFFICIAL USE
1. Complete the form (incomplete form shall not be accepted)	File Number: _____
2. Use capital letters	Date of lodgement of application: _____

SECTION A: DETAILS OF APPLICANT:

Applicant Name: _____
Physical address: _____
Telephone number(s): _____
Email address: _____

Contract Person:

Full Name: _____

Title: _____

Physical address: _____

Cell phone number (s): _____

Email address: _____

This application is for a grant of:

Details of Energy Regulation Board Licences held, if any held by the applicant:

SECTION B:

1. Details of Capacity and period;

- (a) capacity applied for (MVA/MW):
- (b) average demand (MVA/MW):
- (c) period for which Use of System is applied for:

2. Injection Point Details;

- (a) name of Utility:
- (b) voltage level (kV):
- (c) capacity of Connection required (MVA):
- (d) short Circuit Level (MVA):
- (e) name of Substation and Feeder:

3. Drawing Point details;

- (a) name of Users:
- (b) voltage level (kV):
- (c) capacity of Connection required (MVA):
- (d) short Circuit Level (MVA):
- (e) name of Substation and Feeder:
- (f) other Transmission System connections:
- (g) does drawer have other points of Transmission connection:

SECTION C:**Attachments:**

Please tick to show that the required document is attached. After finalising, please date and sign the attached checklist and send together with the application.

- | | | |
|------|---|--|
| (i) | ZRA Tax clearance certificate | YES (<input type="checkbox"/>) NO (<input type="checkbox"/>) |
| (ii) | declaration of funds to support financial viability
Accompanied by proof of funds or latest accounts
Where applicable | YES (<input type="checkbox"/>) NO (<input type="checkbox"/>) |

SECTION D: DECLARATION BY APPLICANT

I (full names) _____ hereby declare that all information provided herein is within my personal knowledge and that -

- (a) I am duly authorised to make this declaration;
- (b) I am the designated person responsible for this application;
- (c) I have read and understood this form and all accompanying regulations related hereto; and
- (d) all information provide herein is to the best of my knowledge true and correct.

Signed at _____ (place) on this _____ day of _____ (month) (year)

Signature

FORM II
(Regulation 8 (1))

The Electricity Act, 2019
(Act No. 11 of 2019)

The Electricity (Open Access) Regulations, 2024

REQUEST FOR ADDITIONAL INFORMATION

To:.....

You are requested to provide, within of this Notice, the following information or documents in respect of your application for open access to the transmission network or distribution network.

- (a).....
- (b).....
- (c).....
- (d).....
- (e).....

If you fail to provide the requested information within the stipulated period, your application will be treated as invalid and shall be rejected.

Date this day of, 20.....

.....
Director

FORM III
(Regulation 10 (7))

The Electricity Act, 2019
(Act No. 11 of 2019)

The Electricity (Open Access) Regulations, 2024

NOTICE OF APPROVAL

(1) Here insert names and address of applicant To (1).....
.....
.....

(2) Insert reference No. of the application IN THE MATTER OF (2)
.....
.....

(3) Insert type of application You are hereby notified that your application for (3)
.....
has been approved on the following conditions*
(a)
(b)
(c)

Dated this day of 20

.....
DIRECTOR

Note Additional conditions may be attached, where necessary, on a separate sheet*

The Electricity Act, 2019
(Act No. 11 of 2019)

The Electricity (Open Access) Regulations, 2024

NOTICE OF REJECTION

(1) Here insert names and address of applicant To (1).....
.....
.....

(2) Insert reference No. of the application IN THE MATTER OF (2).....
.....

(3) Insert type of application You are hereby notified that your application for (3)
.....
has been rejected on the following ground*
(a)
(b)
(c)

Dated this day of 20.....

.....
DIRECTOR

Note Additional conditions may be attached, where necessary, on a separate sheet*

ENG. P. KAPALA,
Minister of Energy

LUSAKA
11th July, 2024
[MOE.DPI/64/9/2]