

JOINT ELECTRICITY REGULATORY COMMISSION
for the state of Goa and Union Territories

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DRAFT REGULATIONS
Inviting comments/suggestions

Introduction

In exercise of powers conferred by Section 181 of the Electricity Act 2003 (36 of 2003) and all other powers enabling it in that behalf, the Joint Electricity Regulatory Commission for the state of Goa and the Union Territories hereby makes the following Regulations namely:

1. Short title, extent and commencement:-

- i. These Regulations may be called the Joint Electricity Regulatory Commission for Goa & Union Territories (Treatment of Other Businesses of Transmission Licensees and Distribution Licensees) Regulations, 2009.
- ii. These Regulations shall be applicable to all Transmission Licensees and the Distribution Licensees including deemed licensees in the State of Goa and the Union Territories of Andaman & Nicobar Islands, Chandigarh, Dadra & Nagar Haveli, Daman & Diu, Puducherry and Lakshadweep.
- ii. These Regulations shall come into force on the date of their publication in the official gazette.

2. Definitions and interpretation:-

- (i). In these Regulations, unless the context otherwise requires:
 - a) “Act” means the Electricity Act, 2003 (36 of 2003);
 - b) “Commission” means the Joint Electricity Regulatory Commission for the state of Goa and the Union Territories, constituted by the Central Government under sub-section (5) of section 83 of the Act;
 - c) “Licence” means a licence granted under Section 14 of the Act by the Commission to undertake, Transmission or Distribution of electricity;

- d) “Licensed Business” shall mean the function and activities the Licensee is required to undertake in terms of the Licence granted, or as a deemed Licensee, under the Act.
 - e) “Licensee” means a person who has been granted a licence under Section 14 of the Act by the Commission to undertake, Transmission or Distribution of electricity and includes a deemed licensee.
 - f) “Other Business” means any business by the Licensee other than the Licensed Business: undertake for optimum utilization of its Assets.
- (ii) Words and expressions used herein and not specifically defined herein but defined in the Act shall have the meanings respectively assigned to them under the Act.

3. Intimation of other business:-

- (1) In the event a Licensee engages in any other business for optimum utilization of the assets, he shall give prior intimation in writing to the Commission of such Other Business, along with, inter-alia, the following details
 - a) the nature of the Other Business;
 - b) the proposed capital investment in the Other Business;
 - c) the impact of the use of assets and facilities of the Licensed Business for the Other Business;
 - d) the manner in which the assets and facilities of the Licensed Business and of the Other Business shall be used, demonstrating that there would be no adverse impact on the Licensed Business and on the ability of the Licensee to carry out the duties and obligations of the Licensed Business; and
 - e) a proposal for sharing the revenue derived from the Other Business with the Licensed Business, in the manner envisaged in regulation 5(3); the proposal should include the methodology used for arriving at the proposed sharing, supported by business plan of the Other Business (including expected annual revenues for the next five years):

Provided that a Transmission licensee shall not engage in the business of trading in electricity.

- (2) The Licensee shall have the absolute responsibility to ensure that the utilization of the assets and facilities of the Licensed Business for Other Business shall not in any manner affect the performance of the obligations under the Licensed Business

or the quality of service required from the Licensee, and any such utilization shall be entirely at the cost and risk of the Licensee.

- (3) Failure to submit prior intimation in writing to the Commission will invite a penalty as may be fixed by the Commission.

4. Accounts:-

- (1) The Licensee shall for each of the Other Business
 - a) maintain separate accounting records, such as amount of revenue, costs, assets, liabilities, reserves, or provisions which have been charged from or to the Other Business. He shall maintain a description of the basis for the charge or its determination by apportionment or allocation between the various business activities;
 - (b) prepare on a consistent basis from such records accounting statements for each financial year comprising a profit and loss account, a balance sheet and a statement of sources and application of funds;
 - (c) provide in respect of the accounting statements so prepared, a report by the Auditors in respect of each financial year, stating whether in their opinion the statements have been properly prepared and give a true and fair view of the revenue, costs, assets, liabilities, reserves and provisions reasonably attributable to the business to which the statements relate;
 - (d) submit copies of the accounting statements and Auditor's report thereon not later than six months after the close of the financial year to which they relate; and
 - (e) submit to the Commission such additional information that the Commission may require from time to time.
- (2) The Licensee shall ensure and, if so required by the Commission, establish to the satisfaction of the Commission that the Other Business bears an appropriate share of overhead costs and other common costs.
- (3) Any person authorized by the Commission shall be entitled to inspect and verify the accounts of the Licensee and the licensee shall render all necessary assistance to such person.

5. Financial implications:-

- (1) The Licensee shall not in any manner utilize the assets and facilities of the Licensed Business or otherwise directly or indirectly allow the Other Business to be undertaken in a manner that the Licensed Business results in subsidising the Other Business.

- (2) The Licensee shall not in any manner, directly or indirectly encumber the assets and facilities of the Licensed Business for the Other Business or for any activities other than the Licensed Business.
- (3) The Other Business shall pay to the Licensed Business a reasonable proportion of the revenues of the Other Business, subject to a minimum amount which may reflect the allocable costs or market value of the assets and facilities of the Licensed Business utilised/being utilised for Other Business.
- (4) The Commission will determine the reasonable proportion of revenues of the Other Business and the minimum amount to be paid to the Licensed Business, on a case-to-case basis, as and when a licensee informs the Commission about his intention of utilizing the assets and facilities for use for any Other Business. In deciding the amount to be paid by the Other Business, the Commission will consider the submissions of the Licensee, but may use any alternate approach or methodology that it considers appropriate:

Provided that as and if deemed appropriate by it, the Commission may determine the reasonable proportion of revenues, etc. to be paid to the Licensed Business in respect of a class of Other Businesses as a whole, instead of on a case-to-case basis.

- (5) The proportion of revenues or the minimum amount to be shared from the Other Businesses under sub-regulation (4) above shall be the income of the Licensed Business of the Licensee and shall be utilized for reducing the charges of transmission or wheeling, as the case may be, of electricity by the Licensee.

6. Powers of the Commission:-

- (1) The Commission may at any time direct investigation of the assets and facilities of the Licensed Business for the Other Business of the Licensee with a view to ascertaining adherence to these Regulations, covering inter alia:
 - (a) whether the costs and expenses are being appropriately adjusted and paid as specified in regulation 5 above; and
 - (b) whether the revenues of the Other Business are properly accounted for to determine the gross turnover and the amounts payable to the Licensed Business.
- (2) The Commission may authorize any officer of the Commission or any professional person or expert or consultant to carry out the investigation under sub-regulation (1) above and submit a report to the Commission.

7. Issue of orders and practice directions:-

Subject to the provisions of the Electricity Act, 2003 and these Regulations, the Commission may, from time to time, issue orders and practice directions in regard to the implementation of these Regulations and procedure to be followed, and various matters which the Commission has been empowered by these Regulations to direct, and matters incidental or ancillary thereto.

8. Power to amend

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

(BY ORDER OF THE COMMISSION)

J.S. Sehwat
Secretary