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ಸರ್ಕಾರದ ಆಯಾ ಇಲಾಖೆಗಳ ಮುಖ್ಯಸ್ಥರ ಮತ್ತು ಸ್ಥಳೀಯ ಪ್ರಾಧಿಕಾರಿಗಳಿಗೆ
ಸಂಬಂಧಿಸಿದ ಅಧಿಸೂಚನೆಗಳು

KARNATAKA ELECTRICITY REGULATORY COMMISSION
No. 16 C-1, Miller Tank Bed Area, Vasanth Nagar, Bengaluru- 560 052

NOTIFICATION

No: KERC/DD(Trans.)/KPTCL/Misc-1/2019-20/1552, Dated: 05-03-2021

**"SHARING OF REVENUE DERIVED BY TRANSMISSION AND/OR DISTRIBUTION LICENSEE(S)
FROM OTHER BUSINESS"**

In exercise of powers under Section 41 and Section 51 read with Section 181(o) and (y) of the Electricity Act, 2003 (36 of 2003), and all powers enabling it in that behalf, the Karnataka Electricity Regulatory Commission hereby makes the following Regulations to provide for sharing of revenue from other business of the licensee(s) and matters incidental and ancillary thereto:

1. Short title, extent and commencement: -

- These Regulations may be called the **Karnataka Electricity Regulatory Commission (Sharing of Revenue from Other Business of Transmission and/or Distribution Licensee(s)) Regulations, 2020.**
- These Regulations shall be applicable to all intra-State Transmission Licensee(s)/Distribution Licensee(s) in the State of Karnataka.
- These Regulations shall come into force from the date of its publication in the Official Gazette.

2. Definitions and interpretation: -

In these Regulations, unless the context otherwise requires:

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- a) "Act" means the Electricity Act, 2003 (36 of 2003);
- b) "Commission" means the Karnataka Electricity Regulatory Commission;
- c) "Gross revenue" means the gross revenue recognized in the Statement of Profit and Loss of the Transmission and/or Distribution Licensee(s) from other business during a financial year;
- d) "Licence" means a licence granted under Section 14 of the Act to undertake Intra- State Transmission/Distribution of Electricity in the State;
- e) "Licensed Business" shall mean the functions and activities, which the Licensee (including a deemed licensee) is required to undertake as specified in the Karnataka Electricity Regulatory Commission (Licensing) Regulations, as amended from time to time.
- f) "Licensee" means a Transmission Licensee(s) and or a Distribution Licensee(s) as specified under Section 2(73) and Section 2(17) of the Electricity Act 2003;
- g) "Other Business" means any business of the Licensee other than the licensed business carried out using the assets and associated facilities of the licensed business, in accordance with provision of Section 41 and Section 51 of the Act;
- h) "State" means the State of Karnataka;
- i) Words and expressions occurring in these Regulations and not defined herein above shall bear the same meaning assigned to them in the Electricity Act, 2003 or the relevant Regulations/Codes specified by the Commission.

3. Intimation of other business:

A licensee shall give prior intimation to the Commission for undertaking any business other than the licensed activity. While giving intimation in terms of Clause (1) of this regulation, the licensee shall furnish the following details:

- (a) Nature of other business;
- (b) Assets utilized or proposed to be utilized for other business;
- (c) Cost of such assets utilized or proposed to be utilized;
- (d) Revenue derived or estimated to be derived from other business;
- (e) Underlying assumptions and justifications for estimated revenue;
- (f) Impact, if any, of use of assets for other business on the intra-state transmission/distribution and retail supply of electricity; and
- (g) Any other details required by the Commission.

4. Functions of Licensee and Maintenance of Accounts: -

- (1) The Licensee may spare the idle assets for a maximum period of three years by entering into an agreement. Renewal of such agreement shall be reviewed every three years keeping in view the expected load growth during the next control period of three years and the need for extending the period of agreement for sparing such assets (except land). No agreement shall be renewed in case the assets are required for meeting the likely load growth or for meeting any other contingency to carry out the licensed activity.
- (2) The 'Other Business' activity undertaken by any Licensee shall not encumber the assets or licensed business activity of any other Licensee.
- (3) The Licensee in respect of each of the other business shall:
 - (a) Maintain proper accounts/ records for each of the Other Business activities undertaken, including the records of assets, liabilities, costs, revenues, reserves, or provisions attributable to each of the 'Other Businesses' activity, separately identifiable in the books of the Licensee;
 - (b) Prepare the following statements on a consistent basis from such accounting records and submit to the Commission the copy of such reports certified by Statutory auditors, along with annual filing of the Petition for determination of Transmission Tariff and or Distribution and Retail Supply Tariff (RST), as the case may be. Such accounting records shall consist of:
 - i) Balance sheet, profit and loss account and cash flow statement together with such supporting documents and information as may be necessary, at the time filing Petition for Annual Revenue Requirement (ARR);
 - ii) In respect of the Accounting Statements prepared in accordance with this condition, an Auditor's report in respect of each financial year, stating as to whether in their opinion, these Statements have been properly prepared and give a true and fair view of the state of affairs relating to the revenues, costs, assets, liabilities, reserves and provisions which are reasonably attributable to the Other business to which the Statements relate; and

- iii) Copies of the Accounting Statements and Auditors report shall be submitted not later than six months after the end of the financial year to which they relate.

Provided that the proportion of revenue derived from other business to be utilised for reducing charges for transmission and Distribution shall be shown under distinct account code under the head 'Other Income' in the Tariff Petition.

5. Prohibitions and 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 activities to be undertaken in a manner that it results in the Licensed Business subsidising the Other Business in any manner.
- 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 Licensee shall duly pay for all costs accounted for in the Licensed Business which have been incurred for Other Business and in the event of such cost being incurred commonly for both the Licensed Business and Other Business, shall apportion such cost and ensure due payment of apportioned costs to the Licensed Business from the Other Business.
- 4) The revenue derived from the Other Business shall commensurate with prevailing market condition for such similar business activities.
- 5) The licensee shall account for and ensure due payment to the Licensed Business a certain proportion of revenues generated from the other Business. The Licensee shall retain 66.66% of the net revenue from such business and pass on the remaining 33.34% of the net revenue to the regulated business The Licensee shall utilise the proportion of revenues derived from such business for reducing charges for transmission/distribution of electricity, as the case may be;
- 6) Licensees shall ensure that at no point of time:
 - Renting/Leasing of its assets result in lack of available capacity for its consumers/generators, to carry out its own licensed activity.

- The safety of the assets of a licensee is compromised.
- Can lease/sell its assets including land without prior approval of the Commission in accordance with Section 17(3) of the Electricity Act, 2003.

6. Payments towards Damages: -

Either of the parties shall not be liable for payment towards any damages to the assets caused under "Force Majeure Conditions".

For any reasons other than 'Force Majeure Conditions', the parties shall be liable for payment of damages, if any, to the assets caused by the party, as assessed by the affected party.

For the purpose of these regulations "Force Majeure Conditions" shall mean the events or circumstances or combination of events and circumstances including those stated below and only if such events or circumstances are not within the control of the transmission licensee or distribution licensee and could not have been avoided, had they taken reasonable care or complied with the prudent practices:

- Act of God including pandemic, lightening, drought, fire and explosion, earthquake, volcanic eruption, landslide, flood, cyclone, typhoon, tornado, geological surprises, or exceptionally adverse weather conditions which exceeds the statistical measures for the last hundred years; or
- Any act of war, invasion, armed conflict or act of foreign enemy, blockade, embargo, revolts, riot, insurgency, terrorist or military action; or
- Industrial Strikes and labour disturbances having nationwide impact in India; or
- Delay, not attributable to the Licensee;

7. Powers of the Commission:

(1) The Commission may at any time direct investigation of the assets and facilities of the Licensed Business being used for the Other Business of the Licensee to determine:

- Whether the costs and expenses are being appropriately adjusted and paid as per Clauses mentioned above;
- Whether the revenues of the Other Business are in accordance with provisions of sub-clause 4 of Regulation 5 and are reasonably and properly accounted for to determine the gross revenues and the

amounts payable to the Licensed Business.

(c) Any other matter as may be decided by the Commission.

- (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-clause (1) above and submit a report to the Commission.
- (3) The Commission may, after considering the report under sub-clause (2) above and after giving an opportunity of hearing to the Licensee, pass such orders as the Commission considers appropriate in regard to the costs and expenses to be shared by the Other Business and proportion of the revenue of the Other Business to be accounted as the income of the Licensed Business.

8. 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 on various matters, which the Commission has been empowered by these Regulations to direct, and matters incidental or ancillary thereto.

9. Power to remove difficulties:

If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, do or undertake or direct the Licensee to do or undertake things, which in the opinion of the Commission is necessary or expedient for removing the difficulties.

10. Power to amend:

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

11. Procedure for investigation, inquiries etc.:

All inquiries, investigations and collection of information shall be done by the Commission as per the provisions of its Karnataka Electricity Regulatory Commission (General and Conduct of Proceedings) Regulations, as amended from time to time.

SECRETARY
for Karnataka Electricity Regulatory Commission