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CENTRAL ELECTRICITY REGULATORY COMMISSION

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NOTIFICATION

In exercise of powers conferred under Section 178 of the Electricity Act, 2003 (36 of 2003), and all other powers enabling it in this behalf and after previous publication, the Central Electricity Regulatory Commission hereby makes the following regulations, namely:-

1. Short title, extent and commencement

- (1) These regulations may be called the Central Electricity Regulatory Commission (Sharing of revenue derived from utilization of transmission assets for other business) Regulations, 2007.

- (2) These regulations shall be applicable to the owners of the inter-State Transmission System, including any element thereof, transmission charges of which are determined by the Commission on cost-plus basis.
- (3) These regulations shall come into force on 1.1.2008.

2. **Definitions and interpretation**

- (1) **‘Act’** means the Electricity Act, 2003 (36 of 2003);
- (2) **‘Assets’** means any assets forming part of the inter-State Transmission System under the regulatory jurisdiction of the Commission;
- (3) **‘Commission’** means the Central Electricity Regulatory Commission;
- (4) **‘Other Business’** means any business other than the transmission business, carried out by the transmission owner for optimum utilization of its assets;
- (5) **‘Transmission Business’** means the business of construction, operation and maintenance of the inter-State transmission system;
- (6) **‘Transmission Owner’** means a person who owns, operates and maintains the inter-State transmission system;
- (7) Words and expressions occurring in these regulations and not defined herein shall bear the same meaning as assigned to them in the Act.

3. **Intimation of other business**

- (1) The transmission owner proposing to undertake the other business for optimum utilization of its assets shall give prior intimation, in writing, to the Commission of its intention to undertake such other business:

Provided that the transmission owner undertaking the other business before commencement of these regulations shall give such intimation within two months from the date of such commencement.

- (2) While giving intimation as aforesaid, the transmission owner shall furnish, duly supported by affidavit, the following details, namely;-
- a) nature of other business;
 - b) capital investment in other business;
 - c) revenue derived or estimated to be derived from other business;
 - d) assets utilized or proposed to be utilized for other business, such as length of right-of-way utilised or proposed to be utilised in case of telecommunication business;
 - e) cost of the assets utilized or proposed to be utilized; and
 - f) impact, if any, of use of assets for other business on inter-State transmission of electricity.
- (3) The details specified under clause (2) shall thereafter be furnished by the transmission owner every time there is a change in the utilization of its assets for other business:

Provided that these details in case of telecommunication business shall be furnished half-yearly by 30th April and 31st October of each year:

Provided further that in case of a business other than the telecommunication business such details shall be furnished yearly by 31st October of each year even though there is no change in utilization of the assets.

- (4) The details furnished by the transmission owner to the Commission shall also be given to the beneficiaries of the assets utilised for other business.

4. Manner of sharing of revenue

- (1) The transmission owner shall share the revenue from the other business in the following manner, namely:

(a) **Telecommunication business**

- (i) In case the other business is the telecommunication business the criterion for sharing of revenue shall be the length of the right-of-way used for laying optical fibre cable or optical fibre composite overhead ground wire over the transmission towers owned by the transmission owner for telecommunication business.
- (ii) The transmission owner shall share revenue @ Rs.3000/-per year per km of the right-of-way utilised for laying one optical fibre cable or optical fibre composite overhead ground wire over the transmission towers and the revenue shared may be apportioned between the users of the optic fibre cable or optical fibre composite overhead ground wire in proportion to the number of fibres identified for utilization.

Explanation: If an optical fibre cable or optical fibre composite overhead ground wire having 'm' fibres has been installed on a transmission line, and 'n' fibres are meant to be used for telecommunication business (remaining fibres being used for Unified Load Despatch and Communication scheme), telecommunication business will reimburse Rs. $(n/m) \times 3000$ per Km to the transmission business for reduction of annual transmission charges.

- (iii) Length of the right-of-way existing on 1st April shall be considered for calculation of revenue sharable for the period 1st April to 30th September and that existing on 1st October for the period from 1st October to 31st March of the relevant financial year:

Provided that in case of the transmission owner undertaking telecommunication business before commencement of these regulations, length of right-of-way as existing on 1st January 2008 shall be considered for calculation of revenue sharable for the period 1st January 2008 to 31st March 2008.

(b) Other than telecommunication business

In case the other business is a business other than the telecommunication business, the sharing of revenue shall be decided by the Commission on case-to-case basis on consideration of the value of the assets utilised in such other business, the revenue derived therefrom and other details furnished by the transmission owner under Regulation 3 of these regulations:

Provided that before deciding the question of sharing of revenue, the Commission shall provide an opportunity of representation to the transmission owner and the beneficiaries of the assets.

5. **Reduction in Transmission Charges:** The revenue sharable by the transmission owner in accordance with these regulations shall be utilised towards reduction of transmission charges payable by the beneficiaries of the assets utilised for other business in proportion to the transmission charges payable by them to the transmission owner and shall be adjusted on monthly basis in the bills of the respective month.

6. **Maintenance of accounts**

- (1) The transmission owner shall maintain separate books of accounts for each of the other business, and separately from those of the transmission business and submit copies of the balance sheet, profit and loss account for the period ending 31st March, the auditors reports and notes on accounts to the Commission annually on or before 31st October of the year.

- (2) The books of accounts for the other business shall, inter alia, contain the details of revenue, cost, asset, liability, reserve, provision charged from or to the other business together with the basis for apportionment or allocation of charges between the transmission business and the other business.

7. Other conditions

- (1) The transmission owner shall ensure that the transmission business does not subsidise the other business.
- (2) The transmission owner shall not in any way encumber its transmission assets to support the other business.
- (3) The transmission owner shall ensure that the utilization of its assets for the other business shall not in any manner adversely affect its performance or obligations in the transmission business.

8. Powers of the Commission

- (1) The Commission may at any time direct inspection and verification of accounts, records and assets of the transmission owner for assessment of the extent of the assets of the transmission business being utilised for the other business and for ensuring compliance of the Act, the rules and these regulations.
- (2) The Commission may authorise any of its officers or any other person subject to such conditions, if any, as it may consider appropriate, to carry out inspection for the purpose of verification of the revenue sharable under these regulations and report to the Commission.
- (3) The Commission may, after considering the report under clause (2) and after giving an opportunity of representation to the transmission owner and the beneficiaries of the assets, pass such order as it may consider appropriate.

9. **Issue of orders and directions:** Subject to the provisions of the Act, the rules and these regulations, the Commission may, from time to time, issue orders and directions as it may consider necessary to give effect to the provisions of these regulations.

10. **Power to remove difficulties:** If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may, by a general or special order, do or undertake or direct the transmission owner to do or undertake things, which, in the opinion of the Commission, are necessary or expedient to do or undertake for removing the difficulty.
11. **Proceedings before the Commission:** The Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, including any statutory amendment or re-enactment thereof shall apply to the proceedings before the Commission under these regulations.

Sd/-
(K.S. DHINGRA)
Chief (Law)

NOTE: The Central Electricity Regulatory Commission (Sharing of revenue derived from utilization of transmission assets for other business) Regulations, 2007 were published in Part III, Section 4, No. 236 of the Gazette of India (Extraordinary) dated 31.12.2007.