

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

No. L-1 /246/2019/CERC

Date: 17th February, 2020

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, 2020.

(2) These regulations shall be applicable to the inter-State transmission licensees, whose transmission charges are determined by the Commission under Section 62 of the Act or adopted by the Commission under Section 63 of the Act.

(3) These regulations shall come into force from the date of its publication in the official gazette.

2. Definitions.

(1) “**Act**” means the Electricity Act, 2003 (36 of 2003);

(2) “**Commission**” means the Central Electricity Regulatory Commission referred to in sub-section (1) of Section 76 of the Act;

(3) “**gross revenue**” in respect of telecommunication business means the gross revenue recognized in the Statement of Profit and Loss of the transmission licensee from such business during a financial year;

(4) “**long term customer**” shall have the same meaning as defined in 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;

(5) “**Operations and Maintenance Expenses**” or “**O&M Expenses**” shall have the same meaning as defined in the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019;

(6) “**other business**” means any business including telecommunication business other than the transmission business, carried out by a transmission licensee;

(7) “**telecommunication business**” means any business of telecommunication services by utilizing transmission assets:

Provided that “Telecommunication Service” shall have the same meaning as defined in sub-clause (k) of clause (1) of Section 2 of the Telecom Regulatory Authority of India Act, 1997;

(8) “**transmission assets**” means any assets forming part of the inter-State transmission system;

(9) “**transmission business**” means the business of construction, operation and maintenance of the inter-State transmission system;

(10) “**transmission licensee**” shall have the same meaning as defined under clause (2) of Section 73 of the Act.

3. Interpretations: In these regulations, unless the context otherwise requires:

(1) Reference to any Acts, Rules and Regulations shall include amendments or consolidation or re-enactment thereof.

(2) Words and expressions occurring in these regulations and not defined herein shall bear the same meaning as assigned to them in the Act or other regulations of the Commission.

4. Intimation of other business: (1) A transmission licensee proposing to undertake other business shall give prior intimation to the Commission:

Provided that if other business is not telecommunication business, the transmission licensee shall seek prior approval of the Commission by filing a petition, as regards sharing of revenues derived from such other business;

Provided further that a transmission licensee having undertaken other business before commencement of these regulations shall give prior intimation or seek approval, as the case may be, within two months of coming into force of these regulations.

(2) While giving intimation or seeking approval in terms of clause (1) of this regulation, the transmission licensee shall furnish the following details:

- a) nature of other business;
- b) transmission assets utilized or proposed to be utilized for other business;
- c) cost of such transmission 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 transmission assets for other business on inter-State transmission of electricity; and
- g) any other details required by the Commission.

(3) The details specified under clause (2) of this regulation shall thereafter be furnished by the transmission licensee to the Commission for every financial year.

5. Manner of sharing of revenue from other business: (1) The transmission licensee shall share the revenue from the other business in the following manner:

(a) Telecommunication business: In case the transmission licensee engages in telecommunication business, an amount equal to 10% of the gross revenue from such business in a given financial year shall be shared with the long term customers.

(b) Business other than telecommunication business: In case other business is not telecommunication business, the sharing of revenue shall be decided by the Commission on case-to-case basis based on transmission assets utilized for such other business, the revenue derived or estimated to be derived from such other business and other details furnished by the transmission licensee under Regulation 4 of these regulations:

Provided that the Commission shall provide an opportunity of being heard to the transmission licensee and the long term customers of the assets before deciding the manner of sharing of revenue.

6. Reduction in Transmission Charges: The revenue to be shared by the transmission licensee in accordance with these regulations shall be utilised towards reduction of monthly transmission charges payable by the long term customers of the transmission assets in proportion to the transmission charges payable by them to the transmission licensee:

Provided that for a financial year, the revenue to be shared of the previous financial year shall be considered for reduction of monthly transmission charges.

7. Maintenance of accounts: (1) The transmission licensee shall maintain separate accounts for each of the other businesses.

(2) The transmission licensee shall submit copies of the Balance Sheet, Statement of Profit and Loss, auditor's reports and notes on accounts to the Commission for every financial year by 31st October.

8. Restrictions: (1) The transmission licensee shall not in any way, directly or indirectly, encumber its transmission assets to support other business.

(2) Any cost or revenue relating to other business shall not be added to the cost or revenue of the transmission business.

(3) Transmission assets utilised for other business shall not, in any manner, adversely affect inter-State transmission of electricity.

(4) In case the transmission licensee intends to form a subsidiary company, as defined under Companies Act, 2013, for engaging in other business utilizing the transmission assets, the transmission licensee shall seek prior approval of the Commission:

Provided that the transmission licensee shall indemnify the long term customers for any additional cost or losses or damages due to such subsidiary company.

9. Powers of the Commission: (1) The Commission may at any time direct inspection and verification of accounts, records and assets of the transmission licensee for assessment of the extent of the transmission assets being utilised for other business, revenue being derived from other business and for compliance of the Act, Rules thereunder and these regulations.

(2) The Commission may authorise any of its officers or any other person subject to such conditions as it may consider appropriate, to carry out such inspection and verification.

(3) The Commission may, after considering the report submitted in pursuance to clause 2 of this regulation and after providing an opportunity of being heard to the transmission licensee and the long term customers of the transmission assets, pass such orders as it may consider appropriate.

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, issue such directions, not inconsistent with the provisions of the Act or other regulations specified by the Commission, which may appear to be necessary for removing the difficulty in giving effect to the objectives of these regulations.

11. Proceedings before the Commission: The provisions of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 shall apply to the proceedings before the Commission under these regulations.

12. Repeal and Saving: The Central Electricity Regulatory Commission (Sharing of Revenue derived from utilisation of transmission assets for other business) Regulations, 2007 shall stand repealed.

(2) Notwithstanding such repeal, anything done or purported to have been done under the repealed regulations shall be deemed to have been done or purported to have been done under these regulations.

Sd/-
(Sanoj Kumar Jha)
Secretary