

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**No. L- 1/246/2019/CERC**

**Dated 25<sup>th</sup> September, 2019**

**NOTIFICATION (DRAFT)**

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, 2019.

(2) These regulations shall be applicable to the inter-State transmission licensees, whose transmission charges is determined by the Commission under Section 62 of the Act or adopted by the Commission under Section 63 of the Electricity Act, 2003.

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

**2. Definitions and interpretation.**

(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) “**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;

(4) **“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;

(5) **“Other Business”** means any business other than the transmission business, carried out by the transmission licensee;

(6) **“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 of the Telecom Regulatory Authority of India Act, 1997;

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

(8) **“Transmission Business”** means the business of construction, operation and maintenance of the inter-State transmission system:

(9) **“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 Act, 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 for optimum utilization of its assets shall give prior intimation to the Commission by filing a petition, of its intention to undertake such Other Business.

Provided that such petition shall also contain a proposal for sharing of revenues derived from Other Business for approval of the Commission.

Provided further that the transmission licensee having undertaken Other Business before commencement of these regulations shall give such intimation within two months of coming into force of these regulations.

(2) While giving intimation in terms of Regulation 4(1) above, the transmission licensee shall furnish on affidavit, the following details:

- a) Nature of Other Business;
- b) Capital investment in Other Business;
- c) Revenue derived or estimated to be derived from Other Business;
- d) Transmission assets utilized or proposed to be utilized or additional assets to be created for Other Business;
- e) Cost of the transmission assets utilized or proposed to be utilized;
- f) Impact, if any, of use of transmission assets for Other Business on inter-State transmission of electricity;
- g) All direct and indirect costs attributed to such Other Business; and
- h) Underlying assumptions and justifications of cost and revenue considerations.

(3) The details specified under Regulation 4 (2) above shall thereafter be furnished by the transmission licensee to the Commission and the Long Term Customers on yearly basis by 31<sup>st</sup> October every year and also every time there is a change in the utilization of its assets as intimated at under Regulation 4(2)(d) above for Other Business.

**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) For 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) For 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 consideration of the value of transmission assets utilised for such Other Business, the revenue derived therefrom and other details furnished by the transmission licensee under Regulation 4 of these regulations:

Provided that before deciding the sharing of revenue, the Commission shall provide an opportunity of being heard to the transmission licensee and the Long Term Customers of the assets.

**6. Reduction in Transmission Charges:** (1) The revenue to be shared by the transmission licensee in accordance with these regulations shall be utilised towards reduction of transmission charges payable by the Long Term Customers of the transmission assets utilised for Other Business in proportion to the transmission charges payable by them to the transmission licensee and shall be adjusted in the monthly bills.

(2) For this purpose, in any financial year, the revenue of previous financial year shall be considered to arrive at monthly adjustment in the transmission charges.

**7. Maintenance of accounts:** (1) The transmission licensee shall maintain separate accounts for each of the Other Business, separately from that of the transmission business.

(2) The transmission licensee shall submit copies of the balance sheet, profit and loss account for the period ending 31st March, the auditor's reports and notes on accounts to the Commission annually on or before 31<sup>st</sup> October of the year.

**8. Restrictions.**(1) Any cost or revenue pertaining to the Other Business shall not be added to the cost or revenue of the transmission business.

(2) The transmission licensee shall not in any way, directly or indirectly encumber its transmission assets to support Other Business.

(3) The transmission licensee shall ensure that the utilisation of its assets for Other Business shall not in any manner adversely affect its performance or obligations in the transmission business.

(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 file a petition for prior approval of the Commission.

**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 assets of the transmission business being utilised for Other Business and for ensuring compliance of the Act, the Rules thereunder 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 Regulation 9(2) and after giving an opportunity of representation to the transmission licensee and the Long Term Customers of the assets, pass such order 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, do or undertake or direct the transmission licensee 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 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 is repealed herewith.

(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 relevant provisions of these regulations.

**Secretary**