



Maharashtra State Electricity Distribution Co. Ltd.

(A Govt. of Maharashtra Undertaking)

CIN : U40109MH20005SGC153645

PHONE No. 26474753 (P)/26474211 (O)

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PLOT No. G-9, PRAKASHGAD

Prof. ANANT KANEKAR MARG

BANDRA (East)

MUMBAI-400051

No. Comm/MERC/Petition /

No 01698

Date: **24 JAN 2017**

To,

The Secretary,

Maharashtra Electricity Regulatory Commission,

13th Floor, Center No. 1, World Trade Center,

Cuffe Parade, Colaba.

Mumbai

Sub: Filing of petition for in principal approval of the pre-condition of furnishing Bank Guarantee/Revolving Letter of Credit for captive / group captive users.

Ref: 1. The Electricity Rules, 2005.

2. MERC (Distribution Open Access) Regulations 2016

Dear Sir,

Please find enclosed herewith the MSEDCL for in principal approval of the pre-condition of furnishing Bank Guarantee/Revolving Letter of Credit for captive / group captive users.

The requisite fee is submitted herewith in the form of demand draft no. 217653 dated 11.01.2017.

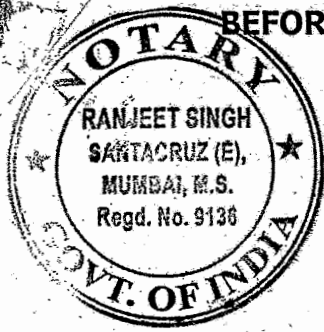
Thanking You,

Yours faithfully,

(Signature) 24.1.17
Chief Engineer (Commercial)

Copy to:

- 1) Maharashtra Energy Development Agency, II Floor, MHADA Complex, Tridal Nagar, Pune-411006.
- 2) Prayas (Energy Group), Amrita Clinic, Athawale Corner, Deccan Gymkhana Karve Road, Pune 411 004.
- 3) Mumbai Grahak Panchayat, Grahak Bhavan, Behind Cooper Hospital, Vile Parle (West), Mumbai 400 056.
- 4) The General Secretary, Thane Belapur Industries Association, Robale Village, Post Ghansoli, Navi Mumbai 400 701.
- 5) Vidarbha Industries Association, 1st Floor, Udyog Bhavan, Civil Line, Nagpur 440 001.



**BEFORE THE HON'BLE MAHARASHTRA ELECTRICITY
REGULATORY COMMISSION**

AT MUMBAI

CASE NO-

IN THE MATTER OF:

Application on behalf of Maharashtra State Electricity Distribution Company Limited (Petitioner) for in principal approval of the pre-condition of furnishing Bank Guarantee/Revolving Letter of Credit as a payment security mechanism which shall be equivalent to the CSS and additional surcharge applicable to an open access consumer to be furnished by an entity who claims itself to be a captive/group captive generator before grant of open access.

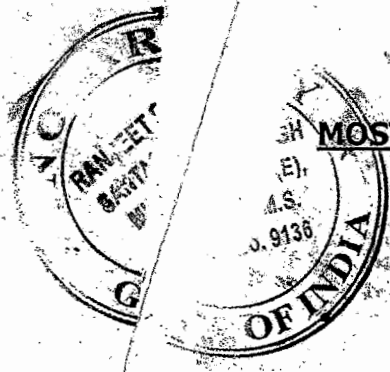
AND

IN THE MATTER OF:

In the matter of application under Regulation 36 of the Maharashtra Electricity Regulatory Commission (Distribution Open Access), Regulations, 2016.

AND

In the matter of application under Regulation 37 of the Maharashtra Electricity Regulatory Commission (Distribution Open Access), Regulations, 2016.




MOST RESPECTFULLY SHOWETH:

1. The Applicant, Maharashtra State Electricity Distribution Company Limited (*hereinafter referred to as "MSEDCL" or "The Petitioner"*) is a Company constituted under the provisions of Government of Maharashtra General Resolution No. PLA – 1003 / C. R. 8588 dated 25th January 2005 and is duly registered with the Registrar of Companies, Mumbai on 31st May 2005. The Petitioner Company is functioning in accordance with the provisions envisaged in the Electricity Act, 2003 and is engaged, within the framework of Electricity Act, 2003, in the business of distribution of electricity to its consumers situated over the entire State of Maharashtra, except Mumbai City & its suburbs (excluding Mulund & Bhandup).

2. At the outset the Petitioner submits that the other distribution licensees in the State are also being served with a copy of the present petition/application for their comments/suggestions or objections if any as any impact of the present application would also be equally applicable to all the distribution licensees.

3. That vide present application the MSEDCL prays for in principal approval of the pre-condition of furnishing Bank Guarantee/Revolving Letter of Credit as a payment security



mechanism which shall be equivalent to the CSS and additional surcharge applicable to an open access consumer to be furnished by an entity who claims itself to be a captive/group captive generator before grant of open access.

LAWS REFERRED TO:

1. Rule 3- Electricity Rules, 2005:

3. Requirements of Captive Generating Plant.-

(1) No power plant shall qualify as a 'captive generating plant' under section 9 read with clause (8) of section 2 of the Act unless-

(a) in case of a power plant -

(i) not less than twenty six percent of the ownership is held by the captive user(s), and (ii) not less than fifty one percent of the aggregate electricity generated in such plant, determined on an annual basis, is consumed for the captive use:

Provided that in case of power plant set up by registered cooperative society, the conditions mentioned under paragraphs at (i) and (ii) above shall be satisfied collectively by the members of the cooperative society:

Provided further that in case of association of persons, the captive user(s) shall hold not less than twenty six percent of the ownership of the plant in aggregate and such captive user(s) shall consume not less than fifty one percent of the electricity generated, determined on an

annual basis, in proportion to their shares in ownership of the power plant within a variation not exceeding ten percent;



in case of a generating station owned by a company formed as special purpose vehicle for such generating station, a unit or units of such generating station identified for captive use and not the entire generating station satisfy (s) the conditions contained in paragraphs (i) and (ii) of sub-clause (a) above including -

Explanation :- (1) The electricity required to be consumed by captive users shall be determined with reference to such generating unit or units in aggregate identified for captive use and not with reference to generating station as a whole; and

(2) the equity shares to be held by the captive user(s) in the generating station shall not be less than twenty six per cent of the proportionate of the equity of the company related to the generating unit or units identified as the captive generating plant.

Illustration: In a generating station with two units of 50 MW each namely Units A and B, one unit of 50 MW namely Unit A may be identified as the Captive Generating Plant. The captive users shall hold not less than thirteen percent of the equity shares in the company (being the twenty six percent proportionate to Unit A of 50 MW) and not less than fifty one percent of the electricity generated in Unit A determined on an annual basis is to be consumed by the captive users.

(2) It shall be the obligation of the captive users to ensure that the



consumption by the Captive Users at the percentages mentioned in sub-clauses (a) and (b) of sub-rule (1) above is maintained and in case the minimum percentage of captive use is not complied with in any year, the entire electricity generated shall be treated as if it is a supply of electricity by a generating company.

Explanation.- (1) For the purpose of this rule.-

- a. "Annual Basis" shall be determined based on a financial year;*
- b. "Captive User" shall mean the end user of the electricity generated in a Captive Generating Plant and the term "Captive Use" shall be construed accordingly;*
- c. "Ownership" in relation to a generating station or power plant set up by a company or any other body corporate shall mean the equity share capital with voting rights. In other cases ownership shall mean proprietary interest and control over the generating station or power plant;*
- d. "Special Purpose Vehicle" shall mean a legal entity owning, operating and maintaining a generating station and with no other business or activity to be engaged in by the legal entity.*

2. Regulation 36 of the Maharashtra Electricity Regulatory Commission (Distribution Open Access Regulation), 2016

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

puts financial burden on the common consumers of the DISCOM like MSEDCL.

- (c) In case of many captive power plants it has been observed that as a routine practice they apply for short term open access permissions on month to month basis for captive consumption. The shareholders at the time of application in each month permission are different i.e. the shareholding pattern of the captive consumers of such CPP's keeps on changing. Hence, at the end of financial year when CPP status of such CPP's are determined, MSEDCL has to rigorously follow up with the individual captive consumers of such CPP's for recovery of CSS and additional surcharge, in case they fails to satisfy the criterion of Rules applicable. In addition to that, the past history of CPP's also would attract attention of this Hon'ble Commission on the issue of deliberate manipulation in complying with the criteria set down under Rule 3 of the Electricity Rules, 2005 leading to unwarranted litigation and in a way causing wrongful loss to the distribution licensee, creating hurdles in the development progress of MSEDCL.

6

3. Regulation 37 of the Maharashtra Electricity Regulatory Commission (Distribution Open Access Regulation), 2016


If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by general or specific order, make such provisions, not inconsistent with the provisions of the Act, as may appear to be necessary or expedient for the purpose of removing such difficulty.

GROUND:

- (a) The determination of captive status of the generating plant is done only at the end of the financial year. The distribution licensee has to verify the shareholding pattern, and the generation data of the generating plant and 51% self consumption of the captive users as per the provisions contained in Electricity Rules, 2005. If the captive generating plant does not fulfill the CPP status at the end of financial year, the distribution licensee may face the brunt of loss of CSS and additional surcharge.
- (b) The charges for CSS and additional surcharge, if the same is not paid by the captive users of the CPP then has to be borne by other consumers of the distribution licensee. In the past, the disputes pertaining to CPP status

determination have gone to Hon'ble Apex Court level. Such delays in the recovery of CSS and Additional Surcharge puts financial burden on the common consumers of the DISCOM like MSEDCL.

- (c) In case of many captive power plants it has been observed that as a routine practice they apply for short term open access permissions on month to month basis for captive consumption. The shareholders at the time of application in each month permission are different i.e. the shareholding pattern of the captive consumers of such CPP's keeps on changing. Hence, at the end of financial year when CPP status of such CPP's are determined, MSEDCL has to rigorously follow up with the individual captive consumers of such CPP's for recovery of CSS and additional surcharge, in case they fails to satisfy the criterion of Rules applicable. In addition to that, the past history of CPP's also would attract attention of this Hon'ble Commission on the issue of deliberate manipulation in complying with the criteria set down under Rule 3 of the Electricity Rules, 2005 leading to unwarranted litigation and in a way causing wrongful loss to the distribution licensee, creating hurdles in the development progress of MSEDCL.



(d) In the previous financial year 2015-16, it has been noted that some CPP's have applied for short term open access permission for 1 month for captive consumption. The permission was availed on monthly basis. As per the provisions contained in the Rules, MSEDCL had not levied CSS and additional surcharge assuming that such CPP had complied with all the relevant criteria envisaged under applicable laws and rules. However, at the end of FY 2015-16, the CPP status of such entity was not established and accordingly CSS and additional surcharge was levied on captive consumers of such entity.

(e) MSEDCL humbly submits that there is an element of uncertainty in the timing and determination of the captive status of the many Captive generating plant. Determination of the captive status at the end of the financial year especially for in case of short term open access permissions for captive consumption use may result in financial loss to the DISCOM due to non fulfillment of captive status as a result of frequent change in shareholding, non self use of 51% of total generation of such captive users, non-credit worthy captive consumers etc.


(f) Contrarily, if the DISCOM charges the amount of CSS and additional surcharge upfront, then DISCOM would have to refund the amount so collected along with interest at the

9

end of the financial year if the generating plant fulfils the captive status. In this process other consumers of DISCOM would be burdened with additional interest cost.

(g) The bank guarantee or a revolving letter is an effective payment security mechanism since it would cast a responsibility on the captive generator and the captive users to comply with the CPP status. Non-compliance of the CPP status would reduce the burden on the DISCOM since DISCOM can invoke the BG/ Letter of Credit and get the amount of CSS and additional surcharge recovered without being forced to go through the tedious process of taking recourse to different Court of Law. It is a win-win situation for all the stakeholders as it is a guaranteed and secure mechanism to safeguard their financial interests. Further it is a well-established business practice to furnish bank guarantee or revolving letter of credit to secure payments.

(h) MSEDCL most respectfully submits that allowing the present application/petition will neither cause any prejudice to any stakeholder nor would in any way inconsistent to provisions of Act or affect the intention of the Electricity Rules, 2003 read with the Electricity Act, 2003



(i) Thus, on account of an un-certainty in the captive power status of generating stations in case of short term permissions as well as medium term permissions, MSEDCL seeks the leave of this Hon'ble Commission to provide in-principle approval for furnishing Bank Guarantee/ Revolving Letter of Credit as a payment security mechanism which shall be equivalent to CSS and additional surcharge applicable to an open access consumer to be furnished by an entity who claims itself to be a captive/ group captive generator before grant of open access.

(j) Alternatively, MSEDCL submits to the Hon'ble Commission to mandate that the captive consumers shall apply for medium term open access permission for a period of at least one year for captive consumption use. The short term open access permission creates technical problems since the captive status can only be determined at the end of the financial year end as per the provisions contained in the Electricity Rules, 2005. Hence, medium term open access permission for captive consumption would reduce the financial risk for the DISCOM.

(k) This Honorable Commission is vested with ample powers to amend the Regulations and to remove the difficulties.

PRAYER

In view of the above, it is most respectfully prayed that this Hon'ble Commission may graciously be pleased to:

- (a) Allow the present Petition/application of the Petitioner.
- (b) Hold that payment security mechanism in the form of bank guarantee/revolving letter of credit equivalent to future CSS and other applicable charges are a pre-requisite to avail open access for any CPP.
- (c) Allow by issuing directions that captive power producers cannot apply for short term open access permission for captive consumption during the financial year.
- (d) Pass such further orders amending relevant Regulations as this Hon'ble Commission deems fit and proper in the interest of justice and good conscience.

It is prayed accordingly.

Date:


MSEDCL

Place:

Mumbai

GOVT. OF MAHARASHTRA
MUMBAI, INDIA
Regd. No. _____

OF THE

**BEFORE THE HON'BLE MAHARASHTRA ELECTRICITY
REGULATORY COMMISSION**

AT MUMBAI

CASE NO. _____/_____/_____

IN THE MATTER OF:

Application on behalf of Maharashtra State Electricity Distribution Company Limited (Petitioner) for in principal approval of the pre-condition of furnishing Bank Guarantee/Revolving Letter of Credit as a payment security mechanism which shall be equivalent to the CSS and additional surcharge applicable to an open access consumer to be furnished by an entity who claims itself to be a captive/group captive generator before grant of open access.

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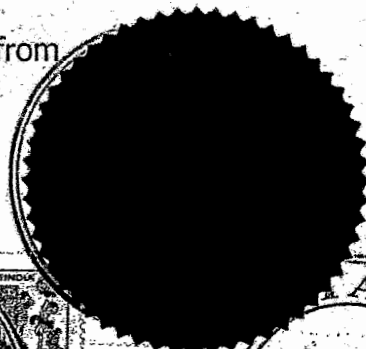
Affidavit

I, Bhalchandra Khandait s/o Yeshwant Khandait aged 54 years, having my office at Maharashtra Electricity Distribution Company Limited

18
RANJEET SINGH
SANTACRUZ (E)
MUMBAI
REGD.

(MSEDCL), Prakashgad, Plot No. G-9, Anant Kanekar Marg, Bandra
(East), Mumbai-400 051 do hereby solemnly affirm and state as
under:

1. That I am the Chief Engineer (Commercial) of MSEDCL; Petitioner in the above matter and has been duly authorized to make this affidavit on behalf of the MSEDCL.
2. The averments made in the enclosed petition are based on the information received from the concerned officers of the Company and I believe them to be true.
3. I say that there are no proceedings pending in any court of law/tribunal or arbitrator on any authority, wherein the Petitioner is a party where issues arising and /or reliefs sought are identical or similar to the issues arising in the matter pending before the Commission.
4. I solemnly affirm at Mumbai on this 24th Day of January 2017 that the contents of affidavit are true to the best of my knowledge and belief derived from the records. No part of the above affidavit is false and nothing material has been concealed there from

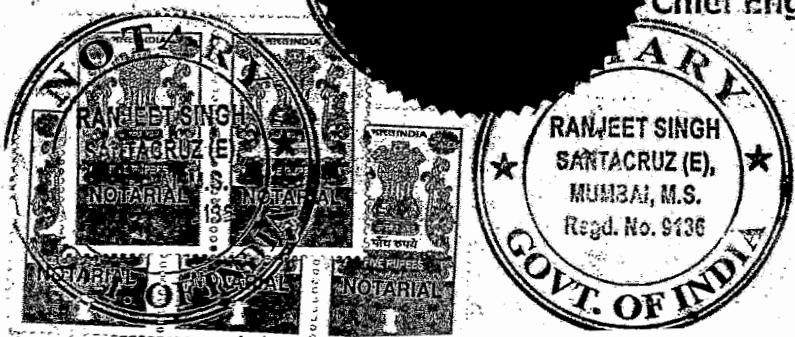


(Signature)
Chief Engineer (Commercial)

BEFORE ME

(Signature)

RANJEET SINGH
M.Sc.LL.B.
NOTARY
MAHARASHTRA
GOVT OF INDIA
24 JAN 2017



(Published in Part II, Section 3, Sub-section (i) of the Gazette of India, Extraordinary)



GOVERNMENT OF INDIA
MINISTRY OF POWER

New Delhi, the 8th, June, 2005

NOTIFICATION

G.S.R. 379(E). - In exercise of powers conferred by section 176 of the Electricity Act, 2003 (Act 36 of 2003), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement.-

- (1) These rules shall be called the Electricity Rules, 2005.
- (2) These Rules shall come into force on the date of their publication in the Official Gazette.

2. Definitions.-

In these rules, unless the context otherwise, requires:

- (a) "Act" means the Electricity Act, 2003;
- (b) the words and expressions used and not defined herein but defined in the Act shall have the meaning assigned to them in the Act.

3. Requirements of Captive Generating Plant.-

(1) No power plant shall qualify as a 'captive generating plant' under section 9 read with clause (8) of section 2 of the Act unless-

- (a) in case of a power plant -
 - (i) not less than twenty six percent of the ownership is held by the captive user(s), and
 - (ii) not less than fifty one percent of the aggregate electricity generated in such plant, determined on an annual basis, is consumed for the captive use;

Provided that in case of power plant set up by registered cooperative society, the conditions mentioned under paragraphs at (i) and (ii) above shall be satisfied collectively by the members of the cooperative society:

SINGH
UZ (E),
J. M.S

15

Provided further that in case of association of persons, the captive user(s) shall hold not less than twenty six percent of the ownership of the plant in aggregate and such captive user(s) shall consume not less than fifty one percent of the electricity generated, determined on an annual basis, in proportion to their shares in ownership of the power plant within a variation not exceeding ten percent;

(b) in case of a generating station owned by a company formed as special purpose vehicle for such generating station, a unit or units of such generating station identified for captive use and not the entire generating station satisfy (s) the conditions contained in paragraphs (i) and (ii) of sub-clause (a) above including -

Explanation :-

- (1) The electricity required to be consumed by captive users shall be determined with reference to such generating unit or units in aggregate identified for captive use and not with reference to generating station as a whole; and
- (2) the equity shares to be held by the captive user(s) in the generating station shall not be less than twenty six per cent of the proportionate of the equity of the company related to the generating unit or units identified as the captive generating plant.

Illustration: In a generating station with two units of 50 MW each namely Units A and B, one unit of 50 MW namely Unit A may be identified as the Captive Generating Plant. The captive users shall hold not less than thirteen percent of the equity shares in the company (being the twenty six percent proportionate to Unit A of 50 MW) and not less than fifty one percent of the electricity generated in Unit A determined on an annual basis is to be consumed by the captive users.

(2) It shall be the obligation of the captive users to ensure that the consumption by the Captive Users at the percentages mentioned in sub-clauses (a) and (b) of sub-rule (1) above is maintained and in case the minimum percentage of captive use is not complied with in any year, the entire electricity generated shall be treated as if it is a supply of electricity by a generating company.

Explanation.- (1) For the purpose of this rule.-

- a. "Annual Basis" shall be determined based on a financial year;
- b. "Captive User" shall mean the end user of the electricity generated in a Captive Generating Plant and the term "Captive Use" shall be construed accordingly;



- c. "Ownership" in relation to a generating station or power plant set up by a company or any other body corporate shall mean the equity share capital with voting rights. In other cases ownership shall mean proprietary interest and control over the generating station or power plant;
- d. "Special Purpose Vehicle" shall mean a legal entity owning, operating and maintaining a generating station and with no other business or activity to be engaged in by the legal entity.

4. Distribution System.- The distribution system of a distribution licensee in terms of sub-section (19) of section 2 of the Act shall also include electric line, sub-station and electrical plant that are primarily maintained for the purpose of distributing electricity in the area of supply of such distribution licensee notwithstanding that such line, sub-station or electrical plant are high pressure cables or overhead lines or associated with such high pressure cables or overhead lines; or used incidentally for the purposes of transmitting electricity for others.

5. Compliance with the directions by Transmission Licensee.-

(1) The National Load Despatch Centre, Regional Load Despatch Centre, as the case may be, or the State Load Despatch Centre, may, under section 26, sub-section (3) of section 28, sub-section (1) of section 29, sub-section (2) of section 32 and sub-section (1) of section 33 read with clause (b) of section 40 of the Act, give such directions, as it may consider appropriate for maintaining the availability of the transmission system of a Transmission Licensee and the Transmission Licensee shall duly comply with all such directions.

(2) The Appropriate Commission, on an application filed by the National Load Despatch Centre, the Regional Load Despatch Centre or the State Load Despatch Centre and after hearing the Transmission Licensee, if satisfied that the Transmission Licensee has persistently failed to maintain the availability of the transmission system, may issue such directions to the National Load Despatch Centre, the Regional Load Despatch Centre or the State Load Despatch Centre to take control of the operations of the transmission system of such Transmission Licensee for such period and on such terms, as the Commission may decide.

(3) The direction under sub-rules (1) and (2) above shall be without prejudice to any other action which may be taken against the Transmission Licensee under other provisions of the Act.

6. The surcharge under section 38 : The surcharge on transmission charges under section 38, the manner of progressive reduction of such surcharge and the manner of payment and utilization of such surcharge to be specified by the Central Commission under sub-clause (ii) of clause (d) of sub-section (2) of section 38 shall be in accordance with surcharge on the charges for wheeling, the manner of progressive reduction of such

17

surcharge and the manner of payment and utilization of such surcharge as may be specified by the Appropriate Commission of the State in which the consumer is located under sub-section (2) of section 42 of the Act.

Consumer Redressal Forum and Ombudsman.- (1) The distribution licensee shall establish a forum for redressal of grievances of consumers under sub-section (5) of section 42 which shall consist of officers of the licensee.

(2) The Ombudsman to be appointed or designated by the State Commission under sub-section (6) of section 42 of the Act shall be such person as the State Commission may decide from time to time.

(3) The Ombudsman shall consider the representations of the consumers consistent with the provisions of the Act, the Rules and Regulations made hereunder or general orders or directions given by the Appropriate Government or the Appropriate Commission in this regard before settling their grievances.

(4) (a) The Ombudsman shall prepare a report on a six monthly basis giving details of the nature of the grievances of the consumer dealt by the ombudsman, the response of the Licensees in the redressal of the grievances and the opinion of the ombudsman on the Licensee's compliance of the standards of performance as specified by the Commission under section 57 of the Act during the preceding six months.

(b) The report under sub-clause (a) above shall be forwarded to the State Commission and the State Government within 45 days after the end of the relevant period of six months.

8. **Tariffs of generating companies under section 79.-** The tariff determined by the Central Commission for generating companies under clause (a) or (b) of sub-section (1) of section 79 of the Act shall not be subject to re-determination by the State Commission in exercise of functions under clauses (a) or (b) of sub-section (1) of section 86 of the Act and subject to the above the State Commission may determine whether a Distribution Licensee in the State should enter into Power Purchase Agreement or procurement process with such generating companies based on the tariff determined by the Central Commission.
9. **Inter-State trading Licence.-** A licence issued by the Central Commission under section 14 read with clause (e) of sub-section (1) of section 79 of the Act to an electricity trader for Inter-State Operations shall also entitle such electricity trader to undertake purchase of electricity from a seller in a State and resell such electricity to a buyer in the same State, without the need to take a separate licence for intra-state trading from the State Commission of such State.
10. **Appeal to the Appellate Tribunal.-** In terms of sub-section (2) of section 111 of the Act, the appeal against the orders passed by the adjudicating officer or the

appropriate commission after the coming into force of the Act may be filed within forty-five days from the date, as notified by the Central Government, on which the Appellate Tribunal comes into operation.

11. Jurisdiction of the courts.- The Jurisdiction of courts other than the special courts shall not be barred under sub-section (1) of section 154 till such time the special court is constituted under sub-section (1) of section 153 of the Act.

12. Cognizance of the offence- (1) The police shall take cognizance of the offence punishable under the Act on a complaint in writing made to the police by the Appropriate Government or the Appropriate Commission or any of their officer authorized by them in this regard or a Chief Electrical Inspector or an Electrical Inspector or an authorized officer of Licensee or a Generating Company, as the case may be.

(2) The police shall investigate the complaint in accordance with the general law applicable to the investigation of any complaint. For the purposes of investigation of the complaint the police shall have all the powers as available under the Code of Criminal Procedure, 1973.

(3) The police shall, after investigation, forward the report along with the complaint filed under sub-clause (1) to the Court for trial under the Act.

(4) Notwithstanding anything contained in sub-clauses (1), (2) and (3) above, the complaint for taking cognizance of an offence punishable under the Act may also be filed by the Appropriate Government or the Appropriate Commission or any of their officer authorized by them or a Chief Electrical Inspector or an Electrical Inspector or an authorized officer of Licensee or a Generating Company, as the case may be directly in the appropriate Court.

(5) Notwithstanding anything contained in the Code of Criminal Procedure 1973, every special court may take cognizance of an offence referred to in sections 135 to 139 of the Act without the accused being committed to it for trial.

(6) The cognizance of the offence under the Act shall not in any way prejudice the actions under the provisions of the Indian Penal Code.

13. Issue of Orders and Practice Directions.-

The Central Government may from time to time issue Orders and practice directions in regard to the implementation of these rules and matters incidental or ancillary thereto as the Central Government may consider appropriate.

[F.No. 23/54/2004-R&R]

(Ajay Shankar)



Additional Secretary



MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
(DISTRIBUTION OPEN ACCESS) REGULATIONS, 2016

Electricity Act, 2003

No./MERC/Tech/Open Access Distribution/Regulations/2016/01742

In exercise of the powers conferred by sub-sections (1) and (2) of Section 181 read with sub-section (47) of Section 2, sub-clause (ii) of clause (d) of sub-section (2) of Section 39, sub-clause (ii) of clause (c) of Section 40 and sub-section (2), sub-section (3) and sub-section (4) of Section 42 of the Electricity Act, 2003 (36 of 2003), the Maharashtra Electricity Regulatory Commission hereby makes the following Regulations:

Part A: PRELIMINARY

1. Short Title, extent and commencement

- 1.1. These Regulations may be called the Maharashtra Electricity Regulatory Commission (Distribution Open Access) Regulations, 2016.
- 1.2. These Regulations shall apply for Open Access to and use of the Distribution System of Distribution Licensees in the State of Maharashtra, and where the network of the Distribution Licensee is not being used but supply to an Open Access Consumer is being provided within the distribution area of the Distribution Licensee.
- 1.3. These Regulations shall come into force from the date of their publication in the *Official Gazette*.

2. Definitions

2.1. In these Regulations unless the context otherwise requires:

- (1) "Act" means the Electricity Act, 2003 (36 of 2003) as amended from time to time;

34. Exemption

- 34.1. Nothing contained in these Regulations shall apply to a Local Authority engaged in the business of distribution of electricity before the appointed date.
- 34.2. Changeover Consumers shall be governed by the relevant orders of the Commission.

35. Issue of Orders and Practice Directions

Subject to the provisions of the Act, the Commission may issue Orders and Practice Directions with regard to the implementation of these Regulations.

36. Power to Amend

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

37. Powers to Remove Difficulties

If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by general or specific order, make such provisions, not inconsistent with the provisions of the Act, as may appear to be necessary or expedient for the purpose of removing such difficulty.

38. Repeal and Savings

- 38.1. Save as otherwise provided in these Regulations, the Maharashtra Electricity Regulatory Commission (Distribution Open Access) Regulations, 2014, shall stand repealed from the date of notification of these Regulations.
- 38.2. 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.