

Bhopal: Dated 5th May 2006

No. 1192/MPERC/2006. In exercise of the powers conferred by section 181 (g) read with section 32(3) of the Electricity Act, 2003 enacted by the parliament, the Madhya Pradesh Electricity Regulatory Commission hereby makes the following Regulations for determination of Levy and Collection of Fee and Charges by State Load Despatch Centre (SLDC).

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION (LEVY AND COLLECTION OF FEE AND CHARGES BY STATE LOAD DESPATCH CENTRE) REGULATIONS, 2004, Revision –1, 2006. (RG - 16 of 2006)

1. Short Title and Commencement

- 1.1. These Regulations shall be called the “Madhya Pradesh Electricity Regulatory Commission (Levy and Collection of Fee and charges by State Load Despatch Centre) Regulations, 2004, (Revision 1, 2006) (RG - 16 of 2006)”.
- 1.2. These Regulations shall come into force from the date of their publication in the Official Gazette of the Government of Madhya Pradesh.
- 1.3. These Regulations shall apply to the Licensees and Open Access Customers using the intra-State Transmission System and Intra-State Generating Stations monitored and serviced by SLDC in the State of Madhya Pradesh.

2. Definition :

- 2.1. “Billing month “ means the calendar month ending with the last day of the month.
- 2.2. “Commission” means the Madhya Pradesh Electricity Regulatory Commission.
- 2.3. “SLDC” means the State Load Despatch Centre.
- 2.4. “Open Access Customer” and its categories of Long-Term and Short-Term Open Access Customers shall have the same meaning as assigned to them in the MPERC (Terms and Conditions for Intra-State Open Access in Madhya Pradesh) Regulation 2005 and amendments thereof.
- 2.5. Unless the context otherwise requires, the words and expressions in these Regulations, shall bear the same meaning as defined in the Electricity Act, 2003 (36 of 2003), the Madhya Pradesh Vidyut Sudhar Adhiniyam, 2000 (No. 4 of 2001), and the Madhya Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2004.

3. Functions of SLDC :

- 3.1. The State Load Despatch Centre shall be responsible for:-
 - (a) scheduling and despatch of electricity;
 - (b) carrying out real time operation for control of grid and ensuring reliability ;
 - (c) exercising the supervision and control over the intra state transmission system;
 - (d) monitoring Grid Operations;
 - (e) keeping account of the electricity transmitted through the Grid; and
 - (f) co-ordinating with Western Region Load Despatch Centre.

4. Duties and Obligations of State Load Dispatch Centre:

4.1. In discharge of functions, obligations and duties, the State Load Dispatch Centre shall be guided by the provisions of the Act, provisions of the Indian Electricity Grid Code, provisions of Availability Based Tariff Order of CERC, MP Electricity Grid Code, 'MPERC (Terms and Conditions for Intra-State Open Access in MP) Regulations and any other rules, regulation and practice direction specified by the Commission from time to time. The State Load Dispatch Centre shall also be guided by the contracts entered into between the licensees / open access customers and generating companies or between licensees and open access customers. While discharging its duties and obligations, the SLDC shall not give any preferential treatment to any of the Open Access Customers.

4.2. The State Load Dispatch Centre shall -

- (a) comply with the directions of the Regional Load Dispatch Centre;
- (b) ensure that the directions issued by the Regional Load Dispatch Centre to any transmission licensee or State Transmission Utility or other licensee of the State or Generating Company or Substations in the State are duly complied with;
- (c) maintain transparency in its functioning and operations ;
- (d) collect and maintain data of grid operation and transfer of electricity through the power system;
- (e) prepare energy account including unscheduled inter-change (UI) account;
- (f) prepare bills of unscheduled inter-change of electricity and the procedure for preparation of the same specifying therein the period of bill, mode of payment, time of payment, surcharge for delayed payment and penalty for non payment of bills; and
- (g) perform such duties as specified by the Commission in any other regulation or otherwise.

4.3. The State Load Dispatch Centre shall submit the following reports to the Commission:

- a. Monthly Energy Accounting Statement indicating source-wise input and Discom/Open Access Customer wise output of energy
- b. The reports on its operation as specified in
 - i. MP Electricity Grid Code,
 - ii. MPERC (Terms and Conditions of Intra-State Open Access in MP) Regulations,
 - iii. Commission's various Orders on Generation Tariff and Transmission Tariff and
 - iv. Any other regulations.

5. Prohibited Activities:

5.1. State Load Dispatch Centre shall not engage in the business of trading in electricity.

6. Accounts of SLDC:

6.1. Unless otherwise permitted by the Commission the financial year shall be from first April to the following thirty-first March.

6.2. From the date the SLDC is established by the Government of Madhya Pradesh under section 31 of the Electricity Act 2003, it shall maintain its financial accounts separately and account its all expenses incurred separately. If STU is operating the SLDC, the financial account related to the SLDC shall be maintained separately by STU.

7. SLDC Fee and SLDC Charges:

7.1. The SLDC may levy the following fee and charges on Long-Term customers:

- (a) Connection Fee – In accordance with Regulation 8;
- (b) SLDC Charges – In accordance with Regulation 9;
- (c) Scheduling and Operation Charges – In accordance with Regulation 10.

7.2. The SLDC may levy the following fee and charges on Short-Term customers:

- (a) Connection Fee – In accordance with Regulation 8;
- (b) SLDC Charges – In accordance with Regulation 9;
- (c) Scheduling and Operation Charges – In accordance with Regulation 10.

8. Application for Connection to Grid and Levy of Connection Fee:

8.1. All existing licensees, Open Access Customers currently using the Intra-State Transmission System, Intra-state Generating Companies already connected to the State Grid under the Long-Term agreements shall register themselves with SLDC by filing an application along with connection fee of Rs. 1,00,000.00 (Rs. One Lakh) within a month from the date of notification of these regulations.

8.2. All new licensees and Open Access Customers using the Intra-State Transmission System under the Long-Term agreements and any new Intra-State Generating Companies in Madhya Pradesh using the Intra-State Transmission system under Long-Term agreements shall get connected to the State Grid by submitting an application to the SLDC in the specified format (Annexure 1) at least one month before the proposed date of connection to the State Grid, along with connection fee of Rs. 1,00,000.00 (Rs. One Lakh).

8.3. The short term Open Access customer seeking interconnection with the Intra-State Transmission System shall get connected to the State Grid by submitting an application to the SLDC in the specified format as per provisions contained in “MPERC (Terms and Conditions for Intra-State Open Access in Madhya Pradesh) Regulation 2005 and amendments thereof, "along with connection Fee of Rs.5,000.00 (Rupees Five Thousand only) per month or part thereof. The Long-term Open Access Customers who have already paid the connection fee of Rs. One Lakh only will not require to pay any connection fee if they seek the short-term open access, but they shall have to file the application for short-term open access as per the MPERC (Terms and Conditions for Intra-State Open Access in MP) Regulations, 2005 and amendments thereof".

8.4. The SLDC, after scrutinising the application and satisfaction of the completeness and correctness of the information furnished in the application, shall register the application in SLDC records duly intimating the applicant regarding the acceptance. SLDC shall file information about the Licensees, Long-Term open Access Customers using the Intra-State Transmission System and Intra-State Generating Companies connected to the State Grid and being monitored/ serviced by them to the Commission every year by November 15th.

8.5. The Application fee as defined in the MPERC (Terms and Conditions of Intra-State Open Access in MP) Regulation 2005 and its amendments thereof shall be in addition to the connection fee as levied under these regulations.

8.6. Revenue earned from connection charges as per Regulation 8 above shall be treated as income for computation of SLDC Fee and Charges for the following year. The SLDC shall maintain separate account for such earnings and shall have to disclose the details of such account to the Commission at the time of determination of its annual revenue requirement.

9. Levy of SLDC Charges :

9.1. The SLDC may levy such charges as specified in Regulation 9 on the Licensees and open access customers using Intra-State Transmission or Distribution System of the Transmission or Distribution Licensees in the State who are under the Long-Term agreements and that are connected to State Transmission / Distribution Systems and are monitored and serviced by SLDC in the State in the ratio of their capacity allocation in MW.

9.2. The SLDC charges to be recovered shall be determined after taking into account the following operating expenses :

- a. O&M Expenses comprising Employee Cost, Administration and general Charges and Repairs and Maintenance Expenses,
- b. Depreciation on Assets,
- c. Interest and finance charges, where loans are identified against capital expenditure on SLDC,
- d. Interest on working capital, if any,
- e. Return on equity for equity contributions identified for capital expenditure in SLDC,
- f. Taxes and duties, and
- g. Capital Cost

9.3. The SLDC shall be required to seek the approval of the Commission on the estimates of capital expenditure for expenditure exceeding Rs.5.00 Lakh.

Scrutiny of the cost estimates by the Commission shall be with regard to the reasonableness of the capital cost, financing plan, interest during construction, use of efficient technology, and such other matters which have an impact on the charges and the Commission may obtain expert advice as deemed necessary.

Note 1 :

Any expenditure on replacement of old assets shall be considered after writing off the gross value of the original assets from the original cost. Before allowing the loss due to sale of the retired assets a detailed examination regarding the justification for each and every asset item retired prior to the completion of useful life shall be carried out.

9.4. Return on Equity :

- i. Return on equity shall be computed on the equity contributions specifically made for SLDC and shall be 14% (post tax) unless the Commission allows a lower level for reasons to be recorded.
- ii. The premium raised while issuing share capital and investment of internal resources created out of free reserve, if any, shall also be reckoned as paid up capital for the purpose of computing return on equity, provided such premium amount and internal resources are actually utilised for meeting capital expenditure and forms part of the approved financial package. For the purposes of computation of return, the portion of free reserves utilized for meeting the capital expenditure shall be considered from the date the asset created is productively deployed in the SLDC operations.

9.5. Interest and finance charges on loan capital :

- i. Interest and finance charges on loan capital shall be computed on the outstanding loans, duly taking into account the schedule of repayment, as per the terms and conditions of relevant agreements of loan, bond or debenture, ordinarily restricted to prevailing rates of PFC / REC Term Lending Rate or the rates specified by the CERC from time to time. Exception can be made for the existing or past loans which may have different terms as per the agreements already executed if the Commission is satisfied that the loan has been contracted for and applied to identifiable assets.

Provided that all loans considered for this purpose shall be identified with the assets created for SLDC.

Provided that interest and finance charges of renegotiated loan agreements shall not be considered, should they result in higher charges.

Provided that interest and finance charges on works in progress shall be excluded and not considered as part of the capital cost.

- ii. In case any moratorium period is availed of, depreciation provided for in the charges during the years of moratorium shall be treated, as repayment during those years and interest on loan capital shall be calculated accordingly.
- iii. The SLDC shall make every effort to swap the loan as long as it results in net benefit to the long-term customers of grid. The Cost associated with such swapping shall be borne by the long-term customers of grid and any benefit on account of swapping of loan and interest on loan shall be passed on to the long-term customers of grid in such ratio as may be decided by the Commission. The cost to be borne by the Open Access Customer shall not be more than the benefit passed on to that Open Access Customer.

9.6. Depreciation :

For the purpose of determination of charges, depreciation shall be computed in the following manner:

- i. The value base for the purpose of depreciation shall be the historical cost of the assets, i.e. actual expenses limited to approved /accepted capital cost:
 - Provided that the Consumer contribution or capital subsidy/ grant etc for asset creation shall be treated as per the accounting rules notified and in force from time to time.
- ii. The approved/accepted cost shall include foreign currency funding converted to equivalent rupee at the exchange rate prevalent on the date of foreign currency actually availed.
- iii. Depreciation rates for determination of allowable depreciation shall be as per CERC notification. The existing rates are given in Annexure 3 of these regulations.

Provided that the total depreciation during the life of the asset shall not exceed 90% of the original cost.

9.7. Lease/ Hire Purchase charges :

Lease charges for assets taken on lease by SLDC shall be considered as per lease agreement provided they are considered reasonable by the Commission.

9.8. Operation & Maintenance expenses :

- i. 'Operation and Maintenance or O&M expenses' shall mean expenditure on manpower, repairs, spares, consumables, office administration and general.
- ii. Operation and maintenance expenses shall be determined as per actual expenditure incurred by SLDC.

9.9. Interest charges on working capital :

- i. The SLDC may generate the working capital on monthly basis equal to the amount $1/12^{\text{th}}$ of the SLDC charges.
- ii. Rate of interest on working capital to be computed as provided subsequently in these regulations shall be on normative basis and shall be equal to the short-term Prime Lending Rate of State Bank of India as on April 1 of the current year plus 1%. The interest on working capital shall be payable on normative basis notwithstanding that the licensee has not taken working capital loan from any outside agency or has exceeded the working capital loan based on the normative figures.

9.10. Foreign Exchange Rate Variation (FERV) :

Foreign exchange variation risk shall not be a pass through. Appropriate costs of hedging and swapping to take care of foreign exchange variation shall be admissible for debt obtained in foreign currencies.

9.11. Tax on income :

- i. Income Tax, if any, on the income stream of SLDC shall be treated as an expense and shall be allowed to be recovered through charges. However, the tax on any income stream, other than the SLDC operations shall not constitute a pass through component in the charges. Tax on such other income shall be payable by the SLDC.
- ii. Tax on income if actually liable to be paid, shall be limited to tax on return on equity allowed, excluding incentives.
- iii. The benefits of tax holiday and the credit for carrying forward losses applicable as per the provisions of the Income Tax Act, 1961 shall be passed on through charges.

9.12. Provisional assessment of income tax and FERV :

Income tax and FERV shall be provisionally estimated by the Commission for the purpose of determining the charges for SLDC and shall be subject to adjustment as per actuals as provided in regulations 9.10 and 9.11.

9.13. Pension and Gratuity Liability :

- i. The amount of unfunded liability of pension and gratuity based on actuarial valuation on the effective date of transfer scheme in respect of employees of MPSEB/ successor entities and the manner of discharging this liability shall be specified by the Commission after consultation with the State Government and the Transmission Licensee. The State Government has amended the transfer scheme notified on 31st May 2005 vide notification issued on 13th June 2005. The State Government has now provided for a creation of separate fund for discharging pension and terminal liabilities of the employees.

- ii. The Commission shall allow the actual expenditure incurred on payment of terminal benefits including pension payments of the employees on estimated basis for the ensuing year and shall be provided separately apart from O&M charges. The SLDC shall provide evidence of having discharged the liability every quarter. Any difference between the allowance and the actual shall be adjusted in the subsequent year. The SLDC shall disclose the accrued liability towards terminal benefits in the accounts as per the provisions of the Companies Act.

9.14. Income from Charges :

Income from all charges determined by the Commission for SLDC operations shall be considered as income. This income shall include all fee and charges as may be specified by the Commission under these regulations.

9.15. Late payment surcharge :

In case the payment of bills of SLDC fee and charges are delayed beyond a period of 60 days from the date of presentation of bills by SLDC, the SLDC may levy a late payment surcharge at the rate of 1.25% per month on daily basis from the date of presentation of bills by SLDC.

9.16. Rebate :

For payment of SLDC fees and charges a rebate of 2% shall be allowed if the payment is made within 7 days of presentation of bill by SLDC and a rebate of 1% shall be allowed if the payment is made within a period of one month of presentation of bills by the SLDC,.

10. Operation and Scheduling Charges :

- 10.1. The customers having the Long-Term agreements shall not be required to pay the System Operation and Scheduling Charges but they shall have to pay the charges for revising the schedule each time as determined by the Commission.
- 10.2. The system operation and scheduling charge as determined by the Commission on per transaction per day or part thereof basis shall be charged from all short-term open access customers using the State Transmission System and Distribution System, which shall be paid in advance every month. They shall also be required to pay the charges for revising the schedule each time as determined by the Commission.
- 10.3. Fifty percent (50%) of the revenue earned from Operation and Scheduling charges as per Regulation 10 from short-term customers above shall be retained by State Load Despatch Centre for Capital expenditure for the development of infrastructure at SLDC. The remaining 50% revenue shall be treated as income for computation of SLDC Fee and Charges for the following year. The SLDC shall maintain separate account for such earnings and shall have to disclose the details of investment made to the Commission at the time of determination of its annual revenue requirement.

11. Basis for collection of SLDC charges:

- 11.1. The annual SLDC charges shall be arrived at as detailed out in Regulation 9 and shall be recovered from the Licensees and open access customers having the long-term agreements and using Intra-State Transmission System or Distribution system.
- 11.2. The allocation of charges to the individual licensees and open access customers having the long-term agreements shall be in proportion of share allocation to the total transmission capacity determined by the Commission.

12. Application for determination of fee and charges :

- 12.1. Each year, by September 15th, the SLDC shall file with the Commission, an application / petition with statements containing the Expected Revenues from the Fee and Charges of the ensuing financial year, under its currently approved Fee and Charges alongwith the proposal, if any, for determination of fee and charges for the ensuing year. The information to be filed by the SLDC is provided in Annexure 2 along with detailed explanation for assumptions made and status of compliance of the directions issued in the previous order of the Commission.
- 12.2. The petition shall be filed as per the procedure provided in 'MPERC (Conduct of Business) Regulations' and complete in all respects.
- 12.3. The application for 'Fee and Charges' recoverable by the SLDC shall be accompanied with an application fee of Rs.1,00,000.00 (Rupees one lakh only).
- 12.4. The SLDC shall prepare an investment plan for a five-year period commencing with the ensuing financial year and must include the sources of funds for investment. The investment plan must be updated every year and filed with the Commission along with the application for fee and charges in accordance with the Capital Expenditure guidelines for licensees specified by the Commission.
- 12.5. If there is a revenue gap between the Expected Revenues from the currently applicable Fee and Charges and the revenue requirement for the ensuing financial year, the SLDC shall include a proposal as to how it proposes to bridge this revenue gap.
- 12.6. In addition to the hard copies, the information shall necessarily be submitted in such electronic form, as the Commission may require.
- 12.7. The SLDC is required to constitute a working group responsible for providing the desired information to the Commission and should intimate the particulars to the Commission.
- 12.8. Commission may seek clarification and additional information on inadequacies in the application, if any, and the SLDC shall provide the clarifications within the date stipulated by the Commission.
- 12.9. Any delay/ non-submission of the tariff application / information (as stated in clauses 12.1 and 12.8) may attract penalty / fines in accordance with the appropriate provisions of the Electricity Act, 2003 (36 of 2003).

13. Information to licensee, and Long--Term Open Access Customers using the Intra-State Transmission and /or Distribution System :

- 13.1. After the Commission is provided with the clarifications, the SLDC shall provide copies of the complete application and further clarifications, if any, to the Distribution Licensees, embedded Distribution Licensees using the Intra-State Transmission System and other long-term open access customers using Intra-State transmission system and / or distribution system.
- 13.2. The application for determination of 'fee and charges' should be posted at the SLDC's website in downloadable format for easy accessibility by all stakeholders.

14. Hearing :

- 14.1. Unless otherwise for special reasons directed by the Commission, the Commission shall hold a proceeding on the revenue calculations and fee and charges proposals given by the SLDC and may hear Distribution Licensees, embedded Distribution Licensees using the Intra-State Transmission System and other long-term open access customers using Intra-State transmission system and / or distribution system or such persons as the Commission may consider appropriate for making a decision on such revenue calculations and fee and charges proposals.

15. Order of the Commission :

- 15.1. Within 120 days of the date of receipt of the application (as stated in clause 12.1), and after considering all suggestions and objections received from the Distribution Licensees, embedded Distribution Licensees using the Intra-State Transmission System and other long-term open access customers using Intra-State transmission system and / or distribution system, the Commission shall:
- a. issue an order accepting the application with such modifications or such conditions as may be specified in that order; or
 - b. reject the application for reasons to be recorded in writing if such application is not in accordance with the provisions of the Electricity Act 2003 (36 of 2003) and the rules and regulations made thereunder or the provisions of any other law for the time being in force.

Provided that an applicant shall be given a reasonable opportunity of being heard before rejecting his application.

- 15.2. Commission shall determine fee and charges in accordance with the provisions and objectives of the Electricity Act 2003 (36 of 2003), Madhya Pradesh Vidyut Sudhar Adhiniyam 2000 (No 4 of 2001), MPERC (Conduct of Business) Regulations and any other prevalent policies or regulations as the case may be.
- 15.3. The Commission may determine provisional 'fee and charges' for SLDC in case the Commission finds it necessary to do so.

16. Applicability of the order :

- 16.1. The SLDC fee and charges determined by the Commission shall take effect only after seven days from the date of the Commission's order and bills shall be issued accordingly.
- 16.2. The SLDC fee and charges so determined by the Commission shall be valid for the period mentioned in the Commission's order.

17. Review of Order :

- 17.1. All applications for the review of fee and charges shall be in the form of petition accompanied by the prescribed fee. A petition for review of fee and charges can be admitted by the Commission under the following conditions:
- a. The review petition is filed within sixty days from the date of the order, and
 - b. It is proved that an error apparent from the records is there.
- 17.2. The Commission on its own, being satisfied that there is a need to review the fee and charges of the SLDC, shall initiate the Suo-Motu process of review of the fee and charges of the SLDC in accordance with the procedures set out in MPERC (Conduct of Business) Regulations.

18. Use of the Information :

- 18.1. The Commission shall have the right to use the information submitted by the SLDC as it deems fit including publishing it or placing it on the Commission's website and/ or directing the SLDC to display the information on the SLDC's website.

19. Collection of SLDC Charges :

- 19.1. The Licensees and long-term open access customers using Intra-State transmission system and / or distribution system shall pay to the SLDC the annual charges in two half yearly instalments in advance. The instalments shall be paid one month in advance of the commencement of half-year block.
- 19.2. Disputes arising out of delay/ non-payment of SLDC charges shall be, as far as possible, settled by mutual negotiations. If the disputes are not resolved through mutual negotiations within ninety days, the matter shall be referred to the Commission through a petition by either of the parties. The decision of the Commission shall be binding on both the parties.

20. Power to Amend :

- 20.1. The Commission may, at any time add, vary, alter, modify or amend any provisions of these regulations.

21. Repeal and Savings :

- 21.1. The Regulation namely "MPERC (Levy and Collection of Fee and Charges by State Load Despatch Centre) Regulation, 2004" published vide Notification No. 2556/MPERC/2004 in the Gazette dated 21/09/2004 and read with all amendments thereto, as applicable to the subject matter of this regulation is hereby superseded.
- 21.2. Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary to meet the ends of justice or to prevent abuses of the process of the Commission.
- 21.3. Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Electricity Act 2003 (36 of 2003) a procedure, which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters.
- 21.4. Nothing in these Regulations shall, expressly or impliedly, bar the Commission dealing with any matter or exercising any power under the Electricity Act 2003 (36 of 2003) for which no Regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit.

By the order of the Commission

Ashok Sharma, Dy. Secretary