

Bhopal, Dated: 1st June, 2004

No:- 1454/MPERC/2004. In exercise of powers under Section 41 and 51 read with Section 181 (2) (o, y) of the Electricity Act 2003 (36 of 2003) and all powers enabling it in that behalf, the Madhya Pradesh Electricity Regulatory Commission hereby makes the following regulations providing for the treatment of Other Businesses of Transmission Licensees and Distribution Licensees and the proportion of revenues from other business to be utilised for Licensed Business and for matters incidental and ancillary thereto:

**MPERC (TREATMENT OF INCOME OF OTHER BUSINESSES OF
TRANSMISSION LICENSEES AND DISTRIBUTION LICENSEE)
REGULATION 2004**

1. Short title, extent and commencement:-

- i. These Regulations may be called the Madhya Pradesh Electricity Regulatory Commission (Treatment of income of Other Businesses of Transmission Licensees and Distribution Licensee) Regulation 2004.
- ii. These Regulations shall be applicable to all intra-state Transmission Licensees and the Distribution Licensees in the State.
- iii. These Regulations shall come into force from the date the Commission may, by notification appoint.

2. Definitions and interpretation:-

- i. In these Regulations, unless the context otherwise requires:
 - (a) "Act" means the Electricity Act, 2003 (36 of 2003);
 - (b) "Commission" means the Madhya Pradesh Electricity Regulatory Commission;
 - (c) "Licence" means a licence granted under Section 14 of the Act to undertake intra-state Transmission or Distribution of Electricity;
 - (d) "Licensed Business" shall mean the function and activities, which the Licensee is required to undertake in terms of the Licence granted or being a deemed Licensee under the Act.
 - (e) "Licensee" means a person who has been granted a licence;
 - (f) "Other Business" means any business of the Licensee other than the licensed business;

3. Intimation of other business:-

(1) In the event a Licensee engages in any Other Business for optimum utilization of the assets, he shall give prior intimations in writing to the Commission of such Other Business including the following details:

- (a) The nature of the Other Business;
- (b) The proposed capital investment in the Other Business;
- (c) The nature and extent of the use of assets and facilities of the Licensed Business for the Other Business;
- (d) The impact of the use of assets and facilities for the Other Business on the Licensed Business and on the ability of the Licensee to carry out the duties and obligations of the Licensed Business; and
- (e) The manner in which the assets and facilities of the Licensed Business shall be used and justification that it will be used in an optimum manner without affecting the maintenance of the activities of the Licensed Business.

(2) The Licensee shall have the absolute responsibility to ensure that the utilization of the assets including human resources and facilities of the Licensed Business for Other Business shall not in any manner affect the performance or the obligations or the quality of service required from the Licensee under the Licensed Business and that any such utilization shall be entirely at the cost and risk of the Licensee.

4. Account:-

- (1) The Licensee shall
- (a) Maintain for Other Business activities separate accounting records, such as amounts of any revenue, cost, asset, liability, reserve, or provision which has been charged from or to any Other Business together with a description of the basis of that charge or determined by apportionment or allocation between the various business activities together with a description;
 - (b) Prepare on a consistent basis from such records accounting statements for each financial year comprising a profit and loss account, a balance sheet and a statement of source and application of funds;
 - (c) Provide in respect of the accounting statements prepared, a report by the Auditors in respect of each Financial Year, stating whether in their opinion the statements have been properly prepared and give a true and fair view of the revenue, costs, assets, liabilities, reserves reasonably attributable to the business to which the statements relate;
 - (d) Submit to the Commission such information that is required to review the additional cost incurred by the licensee for Other Business; and

(e) Submit copies of the accounting statements and Auditor's report not later than six months after the close of the financial year to which they relate.

(2) The Licensee shall establish to the satisfaction of the Commission that the Other Business duly bear an appropriate share of overhead costs and other common costs.

5. Financial Implications:-

(1) The Licensee shall not in any manner utilize the assets and facilities of the Licensed Business or otherwise directly or indirectly allow the activities to be undertaken in a manner that it results in the Licensed Business subsidising the Other Business in any manner.

(2) The Licensee shall not in any manner, directly or indirectly encumber the assets and facilities of the Licensed Business for the other Business or for any activities other than the Licensed Business.

(3) The Licensee shall duly pay for all costs accounted for in the Licensed Business which have been incurred for Other Business and in the event of such costs being incurred commonly for both the Licensed Business and Other Business, apportion such costs and ensure due payment of apportioned costs to the Licensed Business from Other Business.

(4) In addition to the sharing of costs under sub-clause (3) above, the Licensee shall account for and ensure due payment to the Licensed Business a certain percentage of the gross turnover from the Other Business as decided by the Commission each year at the time of determination of the Aggregate Revenue Requirement (ARR).

(5) The payment as specified at 5 (4) received in the Licensed Business, from Other Business shall be utilised for reducing the transmission and/or wheeling charges, as the case may be, of the Licensed Business.

6. Powers of the Commission:-

(1) The Commission may at any time direct investigation of the assets and facilities of the Licensed Business for the Other Business of the Licensee and call upon the licensee to furnish any information relating to Other Business to determine.

(a) Whether the costs and expenses are being appropriately adjusted and paid as mentioned in clause 5 above.

(b) Whether the revenues of the Other Business are properly accounted for to determine the gross turnover and the amounts payable to the Licensed Business.

(2) The Commission may authorize any officer of the Commission or any professional person or expert or consultant to carry out the investigation under sub-clause (1) above and submit a report to the Commission.

(3) The Commission may, after considering the report under sub-clause (2) above and after giving an opportunity of hearing to the Licensee, pass such orders as the Commission considers appropriate in regard to the costs and expenses to be shared by the Other Business and proportion of the turnover of the Other Business to be accounted as the income of the Licensed Business.

7. Issue of orders and practice directions:-

Subject to the provisions of the Electricity Act, 2003 (36 of 2003) and these regulations, the Commission may, from time to time, issue Orders and Practice Directions in regard to the implementation of these Regulations and procedure to be followed on various matters, which the Commission has been empowered by these Regulations to direct, and matters incidental or ancillary thereto.

8. Power to remove difficulties

If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, do or undertake or direct the Licensee to do or undertake things, which in the opinion of the Commission is necessary or expedient for removing the difficulties.

9. Power to amend

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

By the order of the Commission

Ashok Sharma
Dy. Secretary