

## **Bhopal: Dated: 20th December, 2004**

No. 3328/MPERC/2004. In exercise of the powers conferred by Section 181 (2) (zn) read with section 130 of the Electricity Act, 2003 enacted by the Parliament and Sections 28 and 29 of the Madhya Pradesh Vidyut Sudhar Adhinyam, 2000 (Act No.4 of 2001) enacted by the legislature of the State of Madhya Pradesh, the Madhya Pradesh Electricity Regulatory Commission makes the following Regulations.

### **MPERC (MANNER OF SERVICE AND PUBLICATION OF NOTICE) REGULATIONS, 2004**

#### **Short Title and Commencement**

- 1.1 These Regulations shall be called the Madhya Pradesh Electricity Regulatory Commission (Manner of Service and Publication of Notice) Regulations, 2004.
- 1.2 These Regulations extend to the whole of the State of Madhya Pradesh concurrent with the jurisdiction for the distribution of electricity by the licensee(s) (including deemed licensee) and Generating company.
- 1.3 These Regulations shall come into force from the date of their publication in the Official Gazette.

#### **Definition**

- 1.4 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 Adhinyam, 2000 (No. 4 of 2001), and the Madhya Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations 2004.
- 1.5 Licensee means a person who has been granted a licence under Section 14 of the Electricity Act, 2003.
- 1.6 Generating Company means any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person, which owns or operates or maintains a generating station.

#### **Service of Notices and Processes issued by the Commission**

- 1.7 Where the Commission on the basis of material in its possession, is satisfied that a licensee (including deemed licensee) is contravening, or is likely to contravene any of the conditions mentioned in his licence or conditions for grant of exemption or the licensee (including deemed licensee) or generating company has contravened or is likely to contravene any of the provisions of the Central Act or the State Act, it shall, by a notice to the licensee (including deemed licensee) or to the generating company or to the persons likely to be affected, or affected, seek suggestions or objections on the matter.

1.8 In determining whether it is appropriate that a notice is to be issued, the Commission shall have regard, in particular to

- (a) the extent to which the contravention or likely contravention by the licensee (including deemed licensee) will affect the achievement of the objects and purposes of this Act;
- (b) the extent to which any person is likely to sustain loss or damage in consequence of anything which, is likely to be done, or omitted to be done, in contravention of the relevant condition or requirement , before a final directive can be made; and
- (c) the extent to which there is any other remedy available in respect of the alleged contravention of a relevant condition or requirement.

1.9 If the Commission proposes to issue a direction, the Commission will give a notice to the licensee (including deemed licensee):

- (a) stating that it proposes to issue a direction;
- (b) setting out:
  - (i) the relevant conditions or requirement that the proposed direction is intended to secure compliance;
  - (ii) the acts or omissions which, in its opinion constitute contravention of that condition or requirement ;
  - (iii) the other facts which in its opinion, justify the making of the proposed direction ; and
  - (iv) the effects of the proposed direction,

and specifying the period, being not less than 5 days from the date of notice, within which the licensee (including deemed licensee) or the generating company or the persons likely to be affected, or affected, may make representations or objections to the proposed order.

1.10 Any notice or process to be issued by the Commission may be served by any one or more of the following modes as may be directed by the Commission: -

- 1. service by the petitioner or any other party in the proceedings or;
- 2. by hand delivery through a messenger; or

3. by registered post with acknowledgment due; or
4. by publication in newspaper in cases where the Commission is satisfied that it is not reasonably practicable to serve the notices, processes, etc. on any person in the manner mentioned in (1) to (3) above.

1.11 Every notice or process required to be served on or delivered to any person may be sent to the person or his agent empowered to accept service at the address furnished by him for service or at the place where the person or his agent ordinarily resides or carries on business or personally works for gain.

1.12 In the event any matter is pending before the Commission and the person to be served has authorised a representative to appear for or represent him in the matter, such representative shall be deemed to be duly empowered to take service of the notices and processes on behalf of the person concerned in all matters and the service on such representative shall be taken as due service on the person to be served. It shall be the duty of such representative to duly inform the person whom he represents of the service of the notices.

1.13 Where any petition is required to be advertised it shall be advertised within such time and in such manner as the Commission considers appropriate for the purpose of bringing it to the knowledge of persons likely to be affected by it in one issue each of a daily newspaper in English Language and in Hindi language having circulation in the area specified by the Commission.

1.14 The Commission may also effect service or give directions for effecting service in any other manner it considers appropriate. The Commission shall be entitled to decide in each case the person(s) who shall bear the cost of such service or publication. The Commission may place notice of any proceedings in its website.

1.15 No service or publication required to be done shall be deemed invalid by reason of any defect in the name or description of a person provided that the Commission is satisfied that such service is in other respects sufficient, and no proceeding shall be invalidated by reason of any defect or irregularity in the service or publication unless the Commission, on an objection taken, is of the opinion that injustice has been caused by such defect or irregularity or there are otherwise sufficient reasons for doing so.

### **Power to Amend**

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

## **Savings**

- 1.17 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.
- 1.18 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.
- 1.19 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. Secy.,**