

Karnataka Electricity Regulatory Commission
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Notification

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KARNATAKA ELECTRICITY REGULATORY COMMISSION “(SHARING OF REVENUE FROM OTHER BUSINESS OF TRANSMISSION AND/OR DISTRIBUTION LICENSEE(S)) (FIRST AMENDMENT) REGULATIONS, 2023”

The Commission in exercise of its powers under Section 41 and Section 51 read with Section 181 (o) and (y) of the Electricity Act, 2003 (36 of 2003), and all powers enabling it in that behalf, had issued the KERC (Sharing of Revenue from Other Business of Transmission and/or Distribution Licensee(s)) Regulations, 2020, providing for sharing of revenue from other business of the licensee(s) and matters incidental and ancillary thereto.

KPTCL, after notification of the above Regulations by the Commission, has requested the Commission to remove 3rd proviso to Regulations 5(6) of the above mentioned Regulations which was issued in accordance with Section 17(3) of the Electricity Act, 2003. KPTCL has submitted that, Section 17(3) of EA, 2003 specifies that transferring a part of licensing activity/utility will require prior approval of the Commission, but KPTCL has proposed to spare its assets which are not required/used by them. Section 17(3) and (4) specifies the following:

“(3) No licensee shall at any time assign his licence or transfer his utility, or any part thereof, by sale, lease, exchange or otherwise without the prior approval of the Appropriate Commission.

(4) Any agreement, relating to any transaction specified in sub-section (1) or sub-section (3), unless made with the prior approval of the Appropriate Commission, shall be void.”

Hence, taking cognisance of the submissions of the KPTCL and the provisions of the Electricity Act, 2003, the Commission in exercise of its powers conferred under Regulation 10 of the KERC (Sharing of Revenue from Other Business of Transmission and/or Distribution Licensee(s)) Regulations, 2020, had issued draft KERC (Sharing of Revenue from Other Business of Transmission and/or Distribution Licensee(s)) (First Amendment) Regulations, 2022, in the State Gazette on 28th October, 2022. The Commission invited comments from the stakeholders in the matter, duly notifying in Deccan Herald, The Hindu, Udayavani (Kannada) and Vijay Karnataka (Kannada) on 04.11.2022. Subsequently, the Commission also conducted the Public Hearing on 07.09.2023, duly notifying the same in Times of India, The Hindu, Prajavani (Kannada) and Vijay Karnataka (Kannada) on 24th August, 2023 for information of the stakeholders. The Commission, after considering the comments/suggestions/objections/views of the stakeholders, hereby makes the **Karnataka Electricity Regulatory Commission (Sharing of Revenue from Other Business of Transmission and/or Distribution Licensee(s)) (First Amendment) Regulations, 2023.**

1. **Short Title and commencement.** –

- i. This may be called the **Karnataka Electricity Regulatory Commission (Sharing of Revenue from Other Business of Transmission and/or Distribution Licensee(s)) (First Amendment) Regulations, 2023.**
- ii. These Regulations shall be applicable to all intra-state Transmission Licensee(s)/Distribution Licensee(s) in the State of Karnataka.
- iii. It shall come into force from the date of its publication in the Official Gazette of the Karnataka State.

<u>Regulations as existing</u>	<u>Regulations as amended/inserted</u>
2. Definitions and Interpretation:-	2. Definitions and Interpretation: - New insertion: (c) "Electric line" means any line which is used for carrying electricity for any purpose and includes

	<p>(a) any support for any such line, that is to say, any structure, tower, pole or other thing in, on, by or from which any such line is, or may be, supported, carried or suspended; and</p> <p>(b) any apparatus connected to any such line for the purpose of carrying electricity;</p> <p>(d) "Electrical plant" means any plant, equipment, apparatus or appliance or any part thereof used for, or connected with, the generation, transmission, distribution or supply of electricity but does not include-</p> <p>(a) an electric line; or</p> <p>(b) a meter used for ascertaining the quantity of electricity supplied to any premises; or</p> <p>(c) an electrical equipment, apparatus or appliance under the control of a consumer;</p> <p>(k) "Utility" means the electric lines or electrical plant, and includes all lands, buildings, works and materials attached thereto belonging to any person acting as a generating company or licensee under the provisions of this Act;</p>
<p>3. Intimation of other business:</p> <p>A licensee shall give prior intimation to the Commission for undertaking any business other than the licensed activity. While giving intimation in terms of Clause (1) of this regulation, the licensee shall furnish the following details:</p> <p>(a) Nature of other business;</p> <p>(b) Assets utilized or proposed to be utilized for other business;</p> <p>(c) Cost of such assets utilized or proposed to be utilized;</p> <p>(d) Revenue derived or estimated to be derived from other business;</p> <p>(e) Underlying assumptions and justifications for estimated revenue;</p> <p>(f) Impact, if any, of use of assets for other business on the intra-State transmission/distribution and retail supply of electricity; and</p> <p>(g) Any other details required by the Commission.</p>	<p>No change</p>

<p>4. Functions of Licensee and Maintenance of Accounts: -</p> <p>1) The Licensee may spare the idle assets for a maximum period of three years by entering into an agreement. Renewal of such agreement shall be reviewed every three years keeping in view the expected load growth during the next control period of three years and the need for extending the period of agreement for sparing such assets (except land). No agreement shall be renewed in case the assets are required for meeting the likely load growth or for meeting any other contingency to carry out the licensed activity.</p> <p>2) The 'Other Business' activity undertaken by any Licensee shall not encumber the assets or licensed business activity of any other Licensee.</p> <p>3) The Licensee in respect of each of the other business shall:</p> <p>(a) Maintain proper accounts/ records for each of the Other Business activities undertaken, including the records of assets, liabilities, costs, revenues, reserves, or provisions attributable to each of the 'Other Businesses' activity, separately identifiable in the books of the Licensee;</p> <p>(b) Prepare the following statements on a consistent basis from such accounting records and submit to the Commission the copy of such reports certified by Statutory auditors, along with annual filing of the Petition for determination of Transmission Tariff and or Distribution and sRetail Supply Tariff (RST), as the case may be. Such accounting records shall consist of:</p>	<p>1) The Licensee may spare the idle assets for a maximum period of ten years by entering into an agreement. Renewal of such agreement shall be reviewed every ten years keeping in view the expected load growth and the need for extending the period of agreement for sparing such assets. No agreement shall be renewed in case the assets are required for meeting the likely load growth or for meeting any other contingency to carry out the licensed activity.</p> <p>Provided that while the land is spared on payment of one-time charges for development of infrastructure and the ownership of such land remains with respective Transmission or Distribution licensee, for which approval of the Commission shall not be required.</p> <p>Point 2 and 3- No change</p>
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<p>i. balance sheet, profit and loss account and cash flow statement together with such supporting documents and information as may be necessary, at the time filing Petition for Annual Revenue Requirement(ARR);</p> <p>ii. in respect of the Accounting Statements prepared in accordance with this condition, an Auditor's report in respect of each financial year, stating as to whether in their opinion, these Statements have been properly prepared and give a true and fair view of the state of affairs relating to the revenues, costs, assets, liabilities, reserves and provisions which are reasonably attributable to the Other business to which the Statements relate; and</p> <p>iii. copies of the Accounting Statements and Auditors report shall be submitted not later than six months after the end of the financial year to which they relate.</p> <p>Provided that the proportion of revenue derived from other business to be utilised for reducing charges for transmission and Distribution shall be shown under distinct account code under the head 'Other Income' in the Tariff Petition.</p>	
<p>5. Prohibitions and Financial Implications: -</p> <p>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.</p>	<p>4. Prohibitions and Financial Implications: -</p> <p>Point 1 to 4 - No change</p>

<p>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.</p> <p>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 cost being incurred commonly for both the Licensed Business and Other Business, shall apportion such cost and ensure due payment of apportioned costs to the Licensed Business from the Other Business.</p> <p>4) The revenue derived from the Other Business shall commensurate with prevailing market condition for such similar business activities.</p> <p>5) The licensee shall account for and ensure due payment to the Licensed Business a certain proportion of revenues generated from the other Business. The Licensee shall retain 66.66% of the net revenue from such business and pass on the remaining 33.34% of the net revenue to the regulated business. The Licensee shall utilise the proportion of revenues derived from such business for reducing charges for transmission/distribution of electricity, as the case may be;</p> <p>6) Licensees shall ensure that at no point of time:</p> <p>i. Renting/Leasing of its assets result in lack of available capacity for its consumers/generators, to carry out its own licensed activity.</p> <p>ii. the safety of the assets of a licensee is compromised.</p> <p>iii. can lease/sell its assets including land without prior approval of the Commission in accordance with Section 17(3) of the Electricity Act, 2003.</p>	<p>5) The licensee shall account for and ensure due payment to the Licensed Business, of 33.34% of revenues generated from the other Business. The Licensee shall retain 66.66% of the net revenue from such business and pass on the remaining 33.34% of the net revenue to the consumers through tariff by reducing charges for transmission/distribution of electricity, as the case may be;</p> <p>6) Licensees shall ensure that at no point of time:</p> <p>i) Renting/Leasing of its assets result in lack of available capacity for its consumers/generators, to carry out its own licensed activity.</p> <p>ii) the safety of the assets of a licensee is compromised.</p> <p>iii) Deleted.</p>
<p>6. Payments towards Damages: -</p> <p>Either of the parties shall not be liable for payment towards any damages to the assets caused under "Force Majeure Conditions".</p>	<p>No change.</p>

<p>For any reasons other than 'Force Majeure Conditions', the parties shall be liable for payment of damages, if any, to the assets caused by the party, as assessed by the affected party.</p> <p>For the purpose of these regulations "Force Majeure Conditions" shall mean the events or circumstances or combination of events and circumstances including those stated below and only if such events or circumstances are not within the control of the transmission licensee or distribution licensee and could not have been avoided, had they taken reasonable care or complied with the prudent practices:</p> <p>a) Act of God including pandemic, lightening, drought, fire and explosion, earthquake, volcanic eruption, landslide, flood, cyclone, typhoon, tornado, geological surprises, or exceptionally adverse weather conditions which exceeds the statistical measures for the last hundred years; or</p> <p>b) Any act of war, invasion, armed conflict or act of foreign enemy, blockade, embargo, revolts, riot, insurgency, terrorist or military action; or</p> <p>c) Industrial Strikes and labour disturbances having nationwide impact in India; or</p> <p>d) Delay, not attributable to the Licensee;</p>	
<p>7. Powers of the Commission:</p> <p>(1) The Commission may at any time direct investigation of the assets and facilities of the Licensed Business being used for the Other Business of the Licensee to determine:</p> <p>(a) whether the costs and expenses are being appropriately adjusted and paid as per Clauses mentioned above;</p> <p>(b) whether the revenues of the Other Business are in accordance with provisions of sub-clause 4 of Regulation 5 and are reasonably and properly accounted for to determine the gross revenues and the amounts payable to the Licensed Business.</p> <p>(c) Any other matter as may be decided by the Commission.</p>	<p>No change.</p>

<p>(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.</p> <p>(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 revenue of the Other Business to be accounted as the income of the Licensed Business.</p>	
<p>8. Issue of orders and practice directions: -</p> <p>Subject to the provisions of the Electricity Act, 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.</p>	<p>No change.</p>
<p>9. Power to remove difficulties:</p> <p>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.</p>	<p>No change.</p>
<p>10. Power to amend:</p> <p>The Commission may, at any time add, vary, alter or modify any provisions of these Regulations by amendment.</p>	<p>10. Power to amend:</p> <p>The Commission may, at any time add, vary, alter or modify any provisions of these Regulations by amendment either suo-motu or on an application by the affected party.</p>
<p>11. Procedure for investigation, inquiries etc.:</p> <p>All inquiries, investigations and collection of information shall be done by the Commission as per the provisions of its Karnataka Electricity Regulatory Commission (General and Conduct of Proceedings) Regulations, as amended from time to time.</p>	<p>No change.</p>

New insertion:	12. Interpretation of Regulations: If any question arises relating to the interpretation of these Regulations, the decision of the Commission shall be treated as final.
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SECRETARY
for **Karnataka Electricity Regulatory Commission**

PD-110

ಕರ್ನಾಟಕ ಸರ್ಕಾರ

ಸಂಖ್ಯೆ:ಆಇ 753 ವೆಚ್ಚ-12/2023
(ಇ-ಆಫೀಸ್ ಕಡತ)

ಕರ್ನಾಟಕ ಸರ್ಕಾರದ ಸಚಿವಾಲಯ
ವಿಧಾನ ಸೌಧ
ಬೆಂಗಳೂರು, ದಿನಾಂಕ:04.12.2023

ಅಧಿಸೂಚನೆ

SeMT ನಲ್ಲಿ ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿರುವ 3 ಸಮಾಲೋಚಕರ ಸೇವೆಯನ್ನು National Institute for Smart Governance (NISG) ಸಂಸ್ಥೆಯಿಂದ ವಾರ್ಷಿಕ ರೂ.92.43 ಲಕ್ಷಗಳ (ತೆರಿಗೆಗಳು ಒಳಗೊಂಡು) ವೆಚ್ಚದಂತೆ ಮೂರು ವರ್ಷಗಳ ಅವಧಿಗೆ ಪಡೆಯಲು ಕರ್ನಾಟಕ ಸಾರ್ವಜನಿಕ ಸಂಗ್ರಹಣೆಗಳಲ್ಲಿ ಪಾರದರ್ಶಕತೆ ಅಧಿನಿಯಮ-1999 ರ ಕಲಂ 4(ಜಿ) ರಡಿ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರ ಚಲಾಯಿಸಿ ಸಿಬ್ಬಂದಿ ಮತ್ತು ಆಡಳಿತ ಸುಧಾರಣೆ ಇಲಾಖೆ (ಇ-ಆಡಳಿತ)ಗೆ ಪಾರದರ್ಶಕತೆ ಕಾಯ್ದೆಯಿಂದ ವಿನಾಯಿತಿ ನೀಡಿದೆ.

ಉತ್ತಮ ಗುಣಮಟ್ಟದ ಸೇವೆಯನ್ನು ಸಮಂಜಸ ದರದಲ್ಲಿ ಸಂಗ್ರಹಿಸುವುದನ್ನು ಸಿಬ್ಬಂದಿ ಮತ್ತು ಆಡಳಿತ ಸುಧಾರಣೆ ಇಲಾಖೆ (ಇ-ಆಡಳಿತ)ಯು ದೃಢಪಡಿಸಿಕೊಳ್ಳುವುದು.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆಜ್ಞಾನುಸಾರ
ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
(ಕಾಂತಮ್ಮ ಎನ್.ಎಂ.)
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ
ಆರ್ಥಿಕ ಇಲಾಖೆ (ಸಂಗ್ರಹಣಾ ಕೋಶ)

PR-1552