

The U.P. Electricity Regulatory Commission (Fees and Fines) Regulations, 2010

UTTAR PRADESH

India

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Rule

THE-U-P-ELECTRICITY-REGULATORY-COMMISSION-FEES-AND-FINES-REGULATIONS, 2010

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The U.P. Electricity Regulatory Commission (Fees and Fines) Regulations, 2010 Published Vide Notification No. 429/24-U.P.F.R.C-10-33 (Prakoshth), dated 27.04.2010, published in the U.P. Gazette, Part 1-Ka, dated 22.05.2010. In exercise of the powers conferred under Section 181 of the Electricity Act, 2003 (Act No. 36 of 2003) read with Section 52 of the Uttar Pradesh Electricity Reforms Act, 1999 and all powers enabling it in that behalf, the Uttar Pradesh Electricity Regulatory Commission hereby makes the following regulations. These regulations shall supersede the UPERC (Fees and Fines) Regulation, 2000 and its amendments.

Chapter I

General

1. Short title, extent and commencement.

(1) These regulations may be called the Uttar Pradesh Electricity Regulatory' Commission (Fees and Fines) Regulations, 2010. (2) These regulations extend to the whole of the State of Uttar Pradesh. (3) These regulations shall come into force from the date of their publication in the Official Gazette of Government of Uttar Pradesh.

Chapter II

Definitions And Interpretations

2. Definitions and Interpretation.

(1) In these regulations, the word and expressions used shall have the same meaning as defined in the Electricity Act, 2003 and U.P. Electricity Reforms Act, 1999 to the extent not inconsistent with the Electricity Act, 2003. Jointly referred to as Acts under these regulations. (2) In the interpretation of these regulations, unless the context otherwise requires - (i) Words in the singular or plural term, as the case may be, shall also be deemed to include the plural or the singular term, respectively; (ii) The term "include" or "including" shall be deemed to be followed by "without limitation" or "but not limited to" regardless of whether such terms are followed by such phrases or words of like import; (iii) References herein to the "Regulation" shall be construed as a reference to these regulations as amended or modified by the Commission from time to time in accordance with the applicable laws in force; (iv) The headings are inserted for convenience and may not be taken into account for the purpose of interpretation of these regulations; (v) References to the statutes, regulations or guidelines shall be construed as including all provisions consolidating, amending or replacing such statutes, regulations or guidelines, as the case may be referred to; (vi) Reference herein to the "Schedule" shall be constituted as a reference to the "Schedule of Fees" annexed to these regulations as amended or modified by the Commission from time to time in accordance with the applicable laws in force.

Chapter III

Fees

3. Fees on Application and Petitions.

(1) Every application, petition and appeal made to the Commission shall be accompanied by such fees as specified in the Schedule. (2) The fees payable under these regulations shall be paid by means of Bank Draft or Pay Order, drawn in favour of 'Secretary', Uttar Pradesh Electricity Regulatory Commission', payable at Lucknow. (3) The fees received by the Secretary of the Commission under these regulations shall be deposited in a bank account to be maintained by the Commission.

4. Annual Licence Fee Payable by Licensees.

(1) All existing licensees as well as deemed licensees shall pay an annual licence fee as specified in the Schedule. (2) In addition to the annual fee new entrants seeking licence from the Commission shall be required to pay initial fee as specified in the Schedule for processing their application for grant of licence or exemption. (3) Annual licence fee as specified under these regulations for each year shall be paid by 15th April of that year. The date of submission of annual licence fee as mentioned in this regulation shall supersede the date as may be mentioned in any other regulation of the Commission. (4) In case of late payment of annual fee, interest will be payable on the delayed amount

at the rate of 1.25% per month.(5)The Commission shall have the right to recover any amount of fee outstanding or under realised, as and when it comes to its notice.

Chapter IV

Fines

5. Imposition of Fines.

(1)Subject to the provisions of the Acts, the Commission may initiate a proceeding for imposition of fines against any person(s) including generating companies and licensees for non-compliance or violation on their part of the provisions or requirements of the Acts or rules, regulations and codes framed under the Acts or the directions or the orders of the Commission made from time to time.(2)The provisions of UPERC (Conduct of Business) Regulations, 2004, shall apply mutatis mutandis to such proceeding for imposition of fines.(3)While determining the quantum or extent of the fines to be imposed, the Commission shall consider, amongst other relevant things, the following:(a)The nature and extent of non-compliance or violation;(b)The wrongful gain or unfair advantage derived as a result of the non-compliance or violation;(c)The loss or degree of harassment caused to any person(s) as a result of the non-compliance or violation;(d)The repetitive nature of the non-compliance or violation.(4)Before imposing any fines, the Commission shall give an opportunity to the person(s) upon whom such fines are proposed to be imposed to represent against the proposal to impose such fines.(5)The Commission shall issue a notice to the person(s) specifying the nature of non-compliance or violation on the person's part and show cause (sic to) him within the time specified in the notice as to why fines may not be imposed on him for such non-compliance or violation.(6)Based on the proceedings, if the Commission reaches to the conclusion that a deliberate non-compliance or violation has been committed by the person(s), the Commission shall record it and may impose such fines as it may consider fit in the circumstances of the case, subject to the provisions of the Acts.(7)The Commission may on being satisfied that no non-compliance or violation of any provisions of Acts, rules or regulations or an order of the Commission has been committed, discharge the notice.

6. Payment of Fines.

(1)The fines as ordered by the Commission shall be paid within 30 days of the order of the Commission imposing the fines or within such extended date as may be allowed by the Commission in such order.(2)The fines shall be payable in the same manner as provided under sub-clause (ii) of Clause 3 of these regulations.(3)If the fines ordered by the Commission are not paid within the prescribed time, they shall be recovered as if it were an arrear of land revenue.

7. Amendment of Schedule.

- The Commission shall be entitled from time to time to add, amend, alter or vary the amounts of fees payable as provided in Schedule to these regulations by an order to be made by the Commission subject to the condition specified under Section 181(3) of the Electricity Act, 2003, as it deems fit.

8. Power to Remove Difficulty.

(1) If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may pass general or special order, not being inconsistent with the provisions of the Acts, as may be necessary or expedient for the purpose of removing the difficulties.

9. Miscellaneous.

(1) Nothing in these regulations shall be deemed to limit or otherwise affect the power of the Commission to make such orders as may be necessary to meet the ends of justice. (2) Nothing in these regulations shall bar the Commission from adopting in conformity with provisions of the Act, a procedure which is at variance with any of the provisions of these regulations, if the Commission, in view of the special circumstances of matter or a class of matters and for reasons to be recorded in writing, deems it just or expedient for deciding such matter or class of matters. (3) Nothing in these regulations shall, expressly or impliedly, bar the Commission dealing with any matter or exercising any power under the Acts for which no regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner, as it considers just and appropriate.