

Uttarakhand Green Energy Cess Act, 2014

UTTARAKHAND

India

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Act 03 of 2015

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Uttarakhand Green Energy Cess Act, 2014(Uttarakhand Act No. 03 of 2015)Last Updated 4th March, 2020An Act to promote the Electric Production from renewal power sources on the basis of private developer and community co-operation and for incidental matters connected therewith,(Enacted by the Uttarakhand State Assembly in the Sixty-fifth Year of the Republic of India)

1. Short title, extent and commencement.

(1)This Act may be called the Uttarakhand Green Energy Cess Act, 2014.(2)It extends to the whole of the State of Uttarakhand.(3)This section shall come into force at once and the remaining provisions shall come into force on such date as the State Government may, by notification in Official Gazette, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires,-(a)"Appellate authority" means an officer appointed as such by the State Government under sub-section (1) of section 19 of this Act;(b)"Collector", " Sub-Inspectors", "Sub-authority" means any person or authority, authorized as such by the State Government to make an assessment and to collect tax under sub-section(1) of section 9 of this Act;(c)"State Government" means the Government of the State of Uttarakhand;(d)"Green Energy Fund" means the fund established by the State Government for the purpose under sub-section(1)of section 7 of this Act;(e)"Unit" means 1 Kilowatt power consumed or generated during 1 hour;(f)"UPCL" means the utility of Uttarakhand responsible for distribution of electricity to the consumers in the State of Uttarakhand.

3. Levy and Collection of green energy cess.

(1) There shall be levied and collected a Green Energy Cess for the purposes of this Act, on such electricity which is generated within the State and is being transmitted outside the State. (2) Such Cess under sub-section (1) shall be levied and payable on the electricity generated in the State by those generators which are transmitting the generated power outside the State. However the cess shall not be levied on that percentage of generated electricity which is given to the Government as free power. (3) Such Cess under sub-section (1) shall be levied up to ten paise per unit of the electricity generated as prescribed in sub-section (2). (4) The Cess levied under sub-section (1) shall be payable by the generating company.

4. Levy of Green Energy Cess on supply to the commercial and industrial consumers.

- In addition, Green Energy Cess up to ten paise per unit shall be levied on the electricity supplied to commercial and industrial consumers of the State and the amount of Cess should be collected by UPCL and remitted to the Fund, only after it is collected by UPCL.

5. Payment of Cess.

- The Cess, as decided by State Govt. levied under section 3 and 4, will remain enforce for at least the current year and shall be paid on or before the 30th Day of June of the financial year by the generator or UPCL (for commercial and industrial consumers) as the case may be.

6. Crediting of proceeds to Consolidated Fund of State.

- The proceeds of the cess, interest and penalty recovered under this Act shall first be credited to the Consolidated Fund of the State, and after deduction of the expenses of collection and recovery there from shall, under appropriation duly made by law in this behalf, be entered in and transferred to a separate fund called the Green Energy Fund, for being utilized exclusively for the purposes of this Act.

7. Establishment of Green Energy Fund.

(1) There shall be established a fund called "Green Energy Fund" for the purpose of this Act. (2) The Fund shall be under the control of the State Government and there shall be credited therein - (a) any sums of money paid under section 4; (b) the sums by way of any grant by the State Government.

8. Management of Fund.

(1) The Fund shall be utilized for - (a) promoting the generation of electricity through renewable energy, (b) purchase of non-conventional energy and purchase of RECs (Renewable Energy Certificates), and (c) taking initiatives for protecting environment in the State. (2) The Fund may be

expended for executing schemes for development and improvement of generation of renewable and non-conventional sources of energy in the State.(3)The State Government shall have the power to administer the Fund and shall take such decisions as may be required for the proper utilization of the Fund.(4)The State Government shall also have the power to allocate and disburse such sums from the Fund as it considers necessary to the concerned Departments/Agency responsible for achieving the objects of this Act.

9. Cess authorities.

(1)For carrying out the purpose of this Act, the State Government shall appoint a person /organization to be the Collector, Sub-Inspectors or Sub-authority of Green Energy Cess for the whole of the State of Uttarakhand and such other officers and employees to assist the Collector as the State Government may think fit who shall exercise such powers and perform such duties as may be conferred or imposed on them by the Collector.(2)The State Government may by notification in the Official Gazette, appoint any persons as it thinks fit to be Collector, Sub-Inspectors or Sub-Authority for the purposes of this Act who shall exercise such powers and perform such duties as may be conferred or imposed on them by or under this Act within the limits of such area as the State Government may specify therein.

10. Powers and duties of Cess Authorities.

(1)(a)The Collector or the Inspector may for the purposes of this Act:-require production for inspection of such books and records as may be necessary for ascertaining or verifying the amount of Cess leviable under this Act;(b)enter and search any premises where electricity is or is believed to be generated for the purpose of-(i)verifying the statements made in the books of account kept, and returns submitted,(ii)reading and getting tested the various meters and generator panels in the prescribed manner,(ii)verifying the particulars required in connection with the levy of cess,(c)Levied a cess on the electricity supplied to the commercial and industrial consumers as provided by Uttarakhand Power Corporation Ltd. (UPCL)(d)Levied a cess on such electricity which is generated within the State and is being transmitted outside the State.(e)Exercise such other powers and perform such other duties as may be necessary for carrying out the purposes of this Act or the rules made there under.(f)Every such generator or UPCL (for commercial and industrial consumers) to whom such requisition is made shall be bound to comply with the same and to give true information.(g)if any generator or UPCL (for commercial and industrial consumers), as the case may be, does not comply with such requisition or fails to give true information, he shall be precluded from objecting to any assessment made by the assessing authority in respect of such project or building/commercial establishment.(2)All searches made under sub-section (1) shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973.

11. Account books, returns and assessment.

(1)Each generating company that are liable to pay cess as per sub section (1) of section 3 shall install a meter for recording gross generation of electricity as provided in Central Electricity Authority (Installation and Operation of meters) Regulations, 2006 and same shall be maintained and

operated in a manner as may be prescribed.(2)Each generating company liable to pay cess as per the provisions of this Act, shall keep and maintain books of account in the prescribed form and shall submit to the Collector, returns in such form and at such times as may be prescribed, showing the units of energy generated, the amount of cess payable and that paid, fuel used and such other details as may be prescribed.(3)UPCL shall keep and maintain books of account of all commercial and industrial consumers of Uttarakhand in the prescribed form and shall submit to the Collector, returns in such form and at such times as may be prescribed, showing the units consumed by the commercial and industrial consumers of the state, the amount of cess payable and that paid and such other details as may be prescribed.

12. Self assessment.

(1)On and after the commencement of this Act, every generating company or UPCL (for commercial and industrial consumers) that are liable to pay cess as per Section 3 and 4 under this Act, shall make self assessment of cess in such manner and shall file a return for the period, for which cess is to be paid, in such form, as may be specified by the State Government by notification.(2)Every generating company or UPCL (for commercial and industrial consumers), as the case may be, liable to pay cess under this Act, shall pay to the collector, the full amount of cess, as assessed by him according to the provision of this Act.(3)If any generating company or UPCL (for commercial and industrial consumers), as the case may be, who has made self assessment under Sub Section (1), later on discovers any bona fide error or omission in the self assessment, he may rectify such error or omission is such rectification results in a higher amount of cess due than the original cess, he shall make payment to the additional amount of cess with in a period of 30 days from the date of rectification. In case the cess paid is more than the cess due, the excess payment of cess shall be refundable on filing an application to the Collector by the generating company or UPCL (for commercial and industrial consumers), as the case may be.(4)With a view to ascertain the correctness of returns the collector may check the returns, documents or information submitted by the generating company or UPCL (for commercial and industrial consumers), as the case may be, liable to pay cess under this Act.(5)(a)Where, after filing a return under sub-section (1) of section 10, it is found that even after adjustment of any cess paid on the basis of such returns, an additional cess is still due, an intimation in this regard shall be sent to the generating company or UPCL (for commercial and industrial consumers), as the case may be, by the collector, specifying therein, the amount of cess so payable and such intimation shall be deemed to be a demand notice.(b)Notwithstanding anything contain in clause (a) of sub-section 5, the collector on his own motion or on the basis of information received by him, may, make an assessment to the best of his judgment, of the cess, payable by the generating company or UPCL (for commercial and industrial consumers), as the case may be, where -(i)generating company or UPCL (for commercial and industrial consumers), as the case may be, fails to file a return under sub-section (1) of section 10; or(ii)there is definite reason to believe that a return filed under sub-section (1) of section 10 by the generating company or UPCL (for commercial and industrial consumers), as the case may be, is not correct or complete.(c)if, after making assessment under clause (b) sub-section 5, the collector comes to the conclusion that a cess become due from the generating company or UPCL (for commercial and industrial consumers), as the case may be, it shall sent an intimation to the generating company or UPCL (for commercial and industrial consumers), as the case may be, by

specifying therein the amount of due cess, which shall be deemed to be a demand notice. (d) the amount of cess under clause (a) of sub-section 5 or clause (c) sub-section 5, shall be paid by the generating company or UPCL (for commercial and industrial consumers), as the case may be, within a period of 30 days from the date of issue of demand notice. Provided that before directing the generating company or UPCL (for commercial and industrial consumers), as the case may be, to pay the amount of cess under clause (a) of sub-section 5 or clause (c) of sub-section 5, he shall be given an opportunity of being heard by the collector. (6) The notice, demand notice or any order, passed under this Act shall be deemed to be duly served, if the same is sent on the address of the generator or UPCL (for commercial and industrial consumers), as the case may be - (a) by registered post; or (b) delivered by any person deputed by the collector; or (c) delivered at the concern generator or consumer through courier; or (d) by e-mail.

13. Penalty for failure to pay cess when due.

- If the generating company or UPCL (for commercial and industrial consumers), as the case may be, fails to pay the cess in accordance with the provisions of this Act, he shall be liable to pay in addition to the cess so payable, a penalty thereon at the rate two percent per month.

14. Penalty for failure to keep books of accounts, etc.

- If any generating company or UPCL (for commercial and industrial consumers) :- (a) fails to keep books of account or to submit returns in accordance with the provisions of this Act and rules made there under, or (b) produces false accounts, registers or documents, or knowingly furnishes false information, or (c) willfully obstructs the Collector or any inspector in the exercise of the powers conferred upon him by or under this Act, or (d) aids or abets any person in the commission of any act specified in clause (a), (b) or (c) of this section, shall on conviction, be punished with fine which may extend to ten thousand rupees.

15. Penalty for tampering with meters, etc.

(1) Whoever (in case of Generating company), dishonestly, - (a) tampers with a meter, installs or uses a tampered meter, installs or uses current reversing transformer, loop connection or resorts to any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity generated is not correctly recorded; or (b) damages or destroys an electric meter, apparatus, equipments or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering and recording of electricity for the purpose of this Act, or (c) uses such means which can lead to the obstruction of the correct reading of the electricity generated, shall be punishable with fine which shall not be less than on the first detection, the financial gain on account of such transgression and in the event of second or subsequent detection the fine imposed shall not be less than two times the financial gain on account of such transgression. (2) For calculation of such financial gain, it shall be presumed that such generating company has been generating electricity continuously for a period of - (a) 1 year in case where aggregate installed capacity is less than 10 MW, and (b) 2 years in other cases, immediately preceding the date of inspection or detection, whichever

is earlier, unless contrary is proved. It shall also be presumed that such generating company was generating electricity at full installed capacity throughout such period.

16. Power to seal.

- If the cess and penalty payable under this Act, are not paid by the generating company or UPCL (for commercial and industrial consumers), as the case may be, within a period of 60 days from the date of issue of demand notice, the collector, sub-Inspector or sub-Authority shall seal the project/building or institution, as the case may be, the sealing shall remain effective till the cess and penalty are recovered.

17. Authority competent to impose penalty.

- The collector, sub-inspectors or sub-Authority cess authorities shall be competent to impose penalty under this Act. No penalty shall, however, be imposed, unless the person/institution concerned is afforded an opportunity of being heard.

18. Recovery.

(1) All sums payable as cess or interest or penalty under this Act, if not paid within the prescribed period shall be deemed to be in arrears, and thereupon the amount of cess along with amount of interest and penalty to be levied under this Act, shall be recoverable as an arrear of land revenue. (2) Where any generating company or UPCL (for commercial and industrial consumers) are liable to pay any amount on account of this cess, penalty or interest, and it pays amount less than amount due, the amount so paid shall be first applied towards the amount of interest, thereafter the balance, if any, towards penalty and thereafter the balance, if any, towards the amount of cess.

19. Appeal.

(1) Any generating company or UPCL (for commercial and industrial consumers) aggrieved by the decision of the Collector or Inspectors under sections 10, 11, 12, 13, 14, 15 and 16 may prefer an appeal to the appellate authority nominated by State Government within sixty days from the date of such decision. Provided that no appeal against an order of assessment under section 16 shall be entertained by the State Government unless such appeal is accompanied by satisfactory proof of payment of fifty percent of cess directed to be paid by the Collector or Inspectors in respect of which an appeal has been preferred. The appellate authority may, after giving an opportunity of being heard to the appellant and to the cess authorities pass such order, as it may deem appropriate by recording reasons in writing, and the order of the appellate authority so passed, shall be final, unless revised by the State Government. (2) Where no appeal is preferred against a decision of the Collector or Inspector or cess authorities, the State Government may of its own motion or otherwise within one year from the date of any order passed by the Collector or Inspector or cess authorities, call for and examine the record of any proceedings of the Collector or Inspector or cess authorities, for the purpose of satisfying itself as to the legality or propriety of any decision or order passed and as to

the regularity of the proceedings of the Collector or Inspector or cess authorities, and pass such order thereon as it thinks fit. In discharging its functions, the appellate authority shall have all the powers of a Civil Court conferred under the Code of Civil Procedure, 1908. (3) The order passed by the State Government in appeal or revision shall be final and shall not be called in question in any court of law.

20. Penalties not to affect other liabilities.

- The penalties imposed under this Act shall be in addition to, and not in derogation of, any offence or liability in respect of any contravention of the provisions of any other Act.

21. Officers and employees to be public servants.

- The Collector, Sub-Inspector or Sub-Authority and other officers and employees appointed under this Act shall be deemed to be the public servants within the meaning of section 21 of the Indian Penal Code.

22. Prevention of suits.

- No suit, prosecution or other legal proceedings shall lie against Collector, Sub-Inspector or Sub-Authority under this Act for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rules made there under.

23. Bar on Jurisdiction.

- No civil court shall have any jurisdiction in any manner, in respect of which, the State Government or any other person or authority is empowered by this Act to take cognizance, and dispose it of, and the manner in which the State Government or such person or authority, may exercise any power, vested in it or him by or under this Act.

24. Rules.

(1) The State Government may make by notification in the Official Gazette, rules generally for carrying out the purposes of this Act. (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters:-(a) manner and rate for levy and collection of cess under sub-section (3) of section 3 and under section 4; (b) other powers and duties of cess authorities under section 8; (c) manner and form for maintaining books of accounts and returns and submission of returns under section 9; (d) manner in which the assessment shall be made by the Collector; (e) rate of simple interest payable under section 11; or (f) such other matters which is to be or may be, prescribed under this Act. (3) The rules made under this section shall, subject to the condition of previous publication, be published in the Official Gazette: Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this

section.(4)All rules made under this section shall be laid before the State Legislature as soon as may be after it is made.(5)Any rescission or modification made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

25. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by general or special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removal of difficulty:Provided that no such order shall be made under this section after the expiry of two years from the date of the commencement of this Act.