

Bihar Electricity Regulatory Commission (Levy and Collection of Fees and Charges by SLDC) Regulations, 2006

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Rule

BIHAR-ELECTRICITY-REGULATORY-COMMISSION-LEVY-AND-COLLECTION-REGULATIONS-2006

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Bihar Electricity Regulatory Commission (Levy and Collection of Fees and Charges by SLDC) Regulations, 2006 Notification No. BERC/Regulation/ 6/2006, Bihar Gazette (Extraordinary) No. 144, dated 9th January, 2007 Notification No. BERC/Regulation/ 6/2006.-Introduction-Sub-section (1) of Section 31 of the Electricity Act, 2003, provides that the State Government shall establish a State Load Despatch Center (SLDC). sub-section (2) of the Section 31 provides that the said SLDC shall be operated by a Government Company/Authority/Corporation constituted by or under any State Act and that until such company/Authority/Corporation is notified by the State Government, the State Transmission Utility (STU) shall operate the SLDC. Sub section (3) of Section 32 of the Act provides that the SLDC may levy and collect such fees and charges from the generating companies and licensees engaged in intra-state transmission of electricity as may be specified by the State Commission. In exercise of powers conferred under Section 181 (2) (g) read with Section 32(3) of the Electricity Act 2003 and all other powers enabling it in that behalf, the Bihar Electricity Regulatory Commission hereby makes the following Regulation, namely:

Chapter I

General

1. Short Title, Extent and Commencement.

(1) These Regulations shall be called the Bihar Electricity Regulatory Commission (Levy And Collection of Fees and Charges by SLDC) Regulations, 2006. (2) These Regulations extend to the whole of the State of Bihar. (3) These Regulations shall come into force on the date of their publication in the Official Gazette of the State.

2. Definitions and Interpretation.

(1) In these Regulations, unless the context otherwise requires: (a) "Act" refers to the Electricity Act 2003. (b) "Charges" refers to charges payable to the SLDC on a periodic basis in accordance with these Regulations. (c) "Commission" means the Bihar Electricity Regulatory Commission. (d) "Control Period" means the duration specified by the Commission during which the Annual fee and monthly operating charges determined by the Commission will be in force. (e) "Fees" means fees payable to the SLDC for connection with the State Grid. (f) "Fund" shall mean the Bihar Electricity Regulatory Commission Fund constituted under Section 103 of the Electricity Act. (g) "Generating Company" shall have the meaning ascribed to it under the Electricity Act. (h) "Grid" means the high voltage backbone system of inter-connected transmission lines, sub-stations and generating plants; (i) "Licensees" means a licensee under the Act who has been granted licence under Section 14 of the Act. (j) "Long-term Open Access Customer" means the persons availing or intending to avail of the open access for period of five years or more. (k) "Proceedings" means and includes proceedings of all nature that the Commission may hold in the discharge of its functions under the Act. (l) "Regulations" means the Bihar Electricity Regulatory Commission (Levy and Collection of Fees and Charges by SLDC) Regulations, 2006. (m) "Schedule" refers to the schedule appended to these Regulations. (n) "Secretary" means the Secretary to the Bihar Electricity Regulatory Commission. (o) "Short-term Open Access Customer" means the persons availing or intending to avail of the Open Access for a period of one year or less. Short-term open access customer shall be eligible to obtain fresh open access after the expiry of the term and shall be treated as new application for capacity allocation. (p) "SLDC" means the State Load Despatch Centre established by the State Government under Section 31 (1) of the Act for the purpose of exercising the powers and discharging the functions as specified under the Section 32 of Act. (q) "User" means the generating companies, Distribution Licensees, Trading licensees and Open Access customers who use the intrastate transmission network for the purpose of selling / procuring electricity. (r) "Transmission Licensee" means a licensee authorised to establish or operate transmission lines under Section 14 of the Electricity Act. Words and expressions used and not defined in these Regulations but defined in the Act shall have the meanings assigned to them in the Act. Expressions used herein but not specifically defined in these Regulations or in the Act but defined under any law passed by a competent legislature and applicable to the electricity industry in the State shall have the meaning assigned to them in such law. Subject to the above, expressions used herein but not specifically defined in these Regulations or in the Act or any law passed by a competent legislature shall have the meaning as is generally assigned in the electrical engineering practice and electricity industry. (2) Interpretation. - In the interpretation of these Regulations, unless the context otherwise requires: (a) 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; (b) the terms "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;(c)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.(d)the headings are inserted for convenience and may not be taken into account for the purpose of interpretation of these Regulations.(e)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.

Chapter II

Fees and Charges to be Paid to SLDC

3. Application for Connection to State Grid.

(1)Generating Companies, Licensee and Long-term Open Access customers requiring long-term access and short term Open Access customers requiring short-term access to the State Grid shall submit an application to the SLDC in the specified format as per Annexure A & B of these Regulations at least one month before the proposed date of connection to the State Grid, along with Fee of a Rs. 10,000 (Rupees Ten Thousand only) for long-term access and Rs. 5000 (Rupees five thousand only) for short-term access. The existing Licensees and Generating Companies shall also register themselves with SLDC by filing an application along with the above mentioned Fee.(2)The SLDC, after scrutinizing the application and after being satisfied of the completeness and correctness of the information furnished in the application, shall register the application in SLDC records duly intimating the applicant regarding the acceptance of the same.

4. Annual SLDC fee and operating charges.

(1)Expenses incurred by the SLDC in the discharge of its functions as specified in Section 32 of the Act shall be recovered from all users viz., the Generating Companies and Licensees engaged in intra-state transmission, distribution and trading of electricity through annual fee and monthly operation charges leviable on the electricity transmitted, in MWs (megawatts), subject to the charges for a minimum of one MW.(2)The annual SLDC fee shall be determined by the Commission after taking into account the required capital investment for setting up the SLDC. The fee will be revised only on the basis of a filing made to the Commission by SLDC to cover any investments for upgradation and/or modernization of SLDC that may be required.(3)The basis for determination of the SLDC annual fee shall be the Capital Cost to cover the repayment of principal and payment of interest on investments in a year, plus any residual capital cost of past investments.(4)The annual SLDC fee shall be computed as follows:

Annual SLDC Fee (Rs/MW/p.a) = | Capital Cost (CC) (in Rs.)Total Transmission capacity contracted (MW)

whereCapital Cost (CC) for a given year shall be computed as follows:

CC (in Rs.) = | Investment x r{|

$$1 - \frac{I}{(1+r)^t}$$

}]

$$= \text{Investment} \times r \times \frac{(1+r)^t - 1}{r}$$

Where, Investment = Actual investment made in a year plus any residual value of previous investment(s). r = Actual rate of interest on borrowed capital or 150% of the Bank Rate, whichever is the lower. t = Number of years in which the investment is proposed to be recovered; for software, it would be 5 years and 10 years for other investments. (5) The Operating Charges shall be fixed for a year on the basis of the filing of the SLDC and will cover: (a) Employee cost; (b) Administration and general charges; (c) Repairs and Maintenance expenses; and (d) Any other relevant costs and expenses deemed appropriate by the Commission. (a) Employee Cost The employee cost to be considered for the year shall be as per the approved staffing plan or the actual employee cost, whichever is lower. As a first step, SLDC shall file the staffing plan within three months from the date of notification of this Regulation. The Commission will approve the staffing plan after examining the details thereof. The approval shall be for the purpose of cost recovery through operating charges alone and for no other purpose whatsoever. (b) Administration and General Expenses & Repairs & Maintenance Expenses. These expenses for the first Control Period will be fixed on the basis of the information filed by SLDC and accepted by the Commission. Thereafter, these will be fixed as per the norms to be determined by the Commission. (c) Other expenses All other expenses, not covered by Capital cost, Employee cost, Administration and General Expenses or Repairs & Maintenance expenses shall fall under this category of expenses. The SLDC shall file the details of such expenses, if any, at the time of its filings for the purpose of fixation of charges. (6) The monthly operating charges per MW shall be computed as per the following formula:

$$\text{Operating Charges (Rs/MW/pm)} = \frac{\text{Annual operating charges}}{\text{Total Transmission Capacity Contracted (MW)} \times 12}$$

(7) Variations in recovery of capital cost and operating charges over the fee and charges fixed for a year on account of variations in SLDC usage shall be adjusted in the subsequent control period, or earlier in case the variations are considered to be significant by the Commission warranting adjustment thereof before the commencement of the subsequent year or month, with financing cost at the average rate(s) of borrowing during the year(s) to which the variations relate. (8) The SLDC shall submit periodic returns containing operational and cost data, as may be prescribed by the Commission. (9) Short-term open access users of the State Grid shall pay such Annual fee and monthly operating charges at 25% of the long term SLDC charges per MW per hour. (10) Annual fee and monthly operating charges recovered from short-term open access users of the State Grid shall not be considered in the determination of the Charges of the SLDC. Hence the SLDC shall maintain separate accounts for such short-term open access users. (11) Considering the predominant fixed cost structure of SLDC, no variable charges are envisaged.

5. Billing and Collection of SLDC Charges.

(1) The SLDC charges (Annual fee and operating charges) shall be payable by Generating Companies (including captive generating plants), Distribution Licensee, Trading Licensees and Open Access customers under the intra-state transmission network under any agreement or arrangement with the Transmission Licensee in proportion to the capacity contracted. Annual SLDC Fee: Annual SLDC

fee shall be paid by all users other than short-term open access customers in advance in two equal instalments as specified by the Commission. Short - term Open Access customers shall pay in advance in one installment. Operating charges: The operating charges as determined by the Commission shall be paid monthly.(2)For the purpose of billing and collection of the above mentioned fee and charges, a fraction of a MW shall be treated as one MW, further the operating charges shall be leviable for a minimum period of one month, a fraction of a month being rounded off to a full month.(3)The SLDC shall prepare and furnish necessary bills for monthly operating charges as approved by the Commission, to the Generating Companies and the Licensees for each billing month with in seven days after the last day of the preceding month.(4)The Generating Companies and the Licensees shall make payment to the SLDC of the amounts due within fifteen (15) days of the date of receipt of the bill.(5)Generating Companies and Licensees shall arrange payment of the Charges on a priority basis over all other payments except statutory payments.(6)Disputes arising out of billing of SLDC Charges shall be, as far as possible, settled by mutual negotiations. If the disputes are not resolved through mutual negotiations within ninety (90) days, the matter shall be referred to the Commission through a petition by either of the parties. The decision of the Commission shall be binding on both the parties.(7)For payment of bills of SLDC charges through a letter of credit on presentation, a rebate of 2% shall be allowed. If the payments are made by a mode other than through a letter of credit but within a period of a week of presentation of bills to the SLDC, a rebate of 1% shall be allowed.(8)In case the payment of bills of SLDC charges is delayed beyond a period of 15 days, from the date of billing a late payment surcharge at the rate of 1.25% per month shall be levied.(9)An amount equivalent to two months' operating charges shall have to be deposited in advance by every user as security against default in payment of operating charges.

6. Prohibited Activities.

- State Load Despatch Centre shall not be engaged in the business of trading in electricity.

7. Accounts of the State Load Despatch Centre.

(1)From the date the SLDC is established by the Government of Bihar under Section 31 of the Electricity Act, all collections made and expenses incurred by the SLDC shall be accounted for. The SLDC shall maintain its accounts of expenditure under different heads showing separately charges payable to the RLDC and charges for the unified load Despatch and communication centre or other agencies.(2)The SLDC shall submit to the Commission its audited annual accounts for the year ending 31st March by the 30th November of the following financial year, (e.g. for FY 2006-07 by November 30, 2007)

8. Procedure for filing Annual Revenue Requirement.

(1)The SLDC shall file with the Commission, an application/petition for the control period with statements containing details of the Fee and Charges under its currently approved levels of fee and charges along with the proposals, if any, for determination of fee and charges for the ensuing control period by 30th November immediately preceding the first year of the control period.(2)A control

period shall normally be of a duration of five years. The first control period shall, however, be of a 2-year duration, from 2007-08 to 2008-09. The subsequent control periods shall be of five-year duration each, starting from 2009-10 onwards.(3)The SLDC shall submit an investment plan for each control period, by not less than 120 days before commencement of the control period. The investment plan must include, inter alia, the sources of funds for investment.(4)The application for determination of fee and charges shall be posted at the SLDC's website for easy accessibility by all stakeholders.

Chapter III

Miscellaneous

9. Non compliance of directions.

(1)State Load Despatch Centre may give such directions and exercise such supervision and control as may be required for ensuing integrated operation of the power system for achieving maximum economy and efficiency and every licensee, generating company, sub station and any other person connected with the operation of the power system shall comply with such directions.(2)If any licensee, generating company or any other person fails to comply with the directions issued, shall be liable to a penalty not exceeding Rs. 5 lakhs.

10. Savings.

(1)Nothing in the Regulations shall limit, abridge or reduce the power of the Commission to issue such directives or orders as may be necessary to meet the end of the justice or to prevent abuse of the procedures laid down by the Commission.(2)Nothing in these Regulations shall prevent the Commission from following a procedure different from the provisions of the Regulations in extraordinary cases if the Commission feels it necessary for reasons to be recorded in writing or in public interest.(3)Nothing in the Regulations shall, explicitly or implicitly, prevent the Commission from dealing with any issue or exercising any power under the Act or the Rules and Regulations issued under the Act and to deal with such matters, and exercise such powers and functions in such manner as it thinks proper.

11. Powers 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, direct the licensee to take suitable action, not being inconsistent with the Electricity Act, 2003, which appears to it to be necessary or expedient for the purpose of removing difficulties.

12. Power to Amend.

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

RegulationsAnnexure-A(For Generating Companies)Format of Application for Registration with SLDC as user of Intra-State Transmission System

Name of the Generating Company :

Address of the Generating Company :

Location of the Generation Station :

Location of Interface with Grid (Enclose a layout of switchyard) :

Total Installed Capacity :

COD of the Generating Station :

Nature of use of Energy : Supply to Licensees / Wheeling to 3rd parties / Wheeling for captive use

Transmission capacity contracted as on (Please enclose details of Licensees) :

For Supply to Licensees :

For wheeling to 3rd parties :

For wheeling for captive use :

Agreement period for supply to licensees :

Details of communication system installed :

For communication of data to SLDC :

Establishment in-charge of control room :

For communication with SLDC :

Details of Registration fee paid :

Any other information useful for assisting Efficient Grid Operation :

Signature of the Authorized OfficerAnnexure-B(For Distribution Licensees/Electricity Traders)Format of Application for Registration with SLDC as user of Intra-State Transmission System

Name of the Distribution Licensee/Electricity Trader :

Address of the Distribution Licensees/Electricity Trader :

Location of Interface with Grid(Attach a list of voltage-wise Grid substations/lines along with details of location, capacity, No. of bays, line length, type of line, date of commissioning etc.) :

Total capacity (max. Demand that can be served) :

Transmission capacity contracted from Transmission Licensees(enclose list of Transmission Licensees with details) :

Capacity contracted to Open Access consumers(Enclose list of consumers with details) :

Details of communication system available for communication of data to SLDC(Enclose substation-wise details) :

Designation of the personnel responsible for operation of Grid substations(Enclose :

substation-wise details)

Details of the registration fee paid :

Any other information useful for assisting efficient GridOperation :

Signature of the Authorized Officer