

JOINT ELECTRICITY REGULATORY COMMISSION
(FOR THE UT OF J&K AND THE UT OF LADAKH)
To be published in Extra-Ordinary Part III, Section 4
DRAFT NOTIFICATION

Jammu, the _____ 2023

No. JERC-JKL/Reg/2023/..... In exercise of the powers conferred under sections 41 and 51 read with sub section (2) of section 181 of the Electricity Act 2003 (36 of 2003) and all other powers enabling it in that behalf, the Joint Electricity Regulatory Commission for the UT of Jammu & Kashmir and the UT of Ladakh hereby makes the following Regulations.

1. Short Title, Commencement and Extent

- (1) These Regulations shall be called the Joint Electricity Regulatory Commission for the UT of Jammu & Kashmir and the UT of Ladakh (Treatment of Income from Other Business of Transmission Licensees and Distribution Licensees) Regulations, 2023.
- (2) These Regulations shall be applicable to all the licensees engaged in the Transmission of electricity and Distribution of electricity in the UT of Jammu & Kashmir and the UT of Ladakh.
- (3) These Regulations shall come into force from the date of their publication in the Official Gazette.

2. Definitions

- (1) In these Regulations, unless the context otherwise requires:
 1. “**Act**” means the Electricity Act, 2003 (36 of 2003), including amendments thereto;
 2. “**Assets**” means any assets forming part of the distribution system or intra-state/intra-UT transmission system under the regulatory jurisdiction of the Commission;
 3. “**Commission**” means the Joint Electricity Regulatory Commission for the UT of Jammu & Kashmir and the UT of Ladakh, constituted by the Central Government under sub-section (5) of section 83 of the Act;
 4. “**Licence**” means a licence granted under Section 14 of the Act by the Commission to undertake, Transmission or Distribution of Electricity.
 5. “**Licensed Business**” shall mean the function and activities the Licensee is required to undertake in terms of the Licence granted, or as a deemed Licensee, under the Act.
 6. “**Licensee**” means a person who has been granted a licence under Section 14 of the Act by the Commission to undertake, Transmission or Distribution of the electricity and includes a deemed licensee.
 7. “**Nodal officer**” means an officer of the licensee heading the cell established for the purpose of other business; and
 8. “**Other Business**” means any business other than the Licensed Business of Distribution and intra-State / intra – UT transmission carried out by the licensees for optimum utilization of their assets.
- (2) The words and expressions used in these Regulations and not defined herein, but defined in the Act / Rules or any other Regulations of the Commission, shall have the meaning assigned to them under the Act / Rules or any other Regulations of the Commission.

3. Intimation of other Business

- (1) The licensee/deemed licensee proposing to undertake Other Business for optimum utilization of its assets shall give prior intimation, in writing, to the Commission of its intention to undertake such other business. While giving intimation as aforesaid, the licensee shall furnish, duly supported by an affidavit, the following details: -
 - a. the nature of the Other Business;
 - b. the proposed capital investment in the other business and the proposed Capital Investment in the Licensed Business for supporting the other business.
 - c. the impact of the use of assets and facilities of the Licensed Business for the Other Business;
 - d. a proposal for sharing the revenue derived from the Other Business with the Licensed Business, in the manner envisaged in regulation 5(3); the proposal should include the methodology used for arriving at the proposed sharing, supported by business plan of the Other Business (including expected annual revenues for the next five years):

Provided that a Transmission licensee shall not engage in the business of trading in electricity.

- (2) The intimation under sub-regulation (1) shall be given to the Commission in the months of April and October every year.
- (3) The licensee shall intimate the impact of the use of assets and associated facilities for the other business on the Licensed Business and on the ability of the licensee to carry out the duties and obligations of the licensed business.

- (4) The licensee shall intimate the manner in which the assets and facilities of the Licensed Business shall be used and justification that it will be used in an optimum.
- (5) The Licensee shall have the absolute responsibility to ensure that the utilization of the assets and facilities of the Licensed Business for Other Business shall not in any manner affect the performance of the obligations under the Licensed Business or the quality of service required from the Licensee, and any such utilization shall be entirely at the cost and risk of the Licensee.
- (6) Failure to submit prior intimation in writing to the Commission will invite a penalty which may be decided by the Commission, in case to case basis.

4. Accounts to be maintained

- (1) The Licensee shall for each of the Other Business:
 - a) Maintain separate accounting records such as amount of revenue, costs, assets, liabilities, reserves, or provisions which have been charged from or to the Other Business and also maintain a description of the basis for the change or its determination by apportionment or allocation between the various business activities.
 - b) Prepare on a consistent basis from such records accounting statements for each financial year comprising a profit and loss account, a balance sheet and a statement of sources and application of funds on the format given in Annexure-A.
 - c) Provide in respect of the accounting statements so prepared, a report by the Auditors in respect of each financial year, stating whether in their opinion the statements have been properly prepared and give a true and fair view of the revenue, costs, assets, liabilities, reserves and provisions attributable to the business to which the statements relate;
 - d) Submit copies of the accounting statements and Auditor's report thereon not later than six months after the close of the financial year to which they relate; and
 - e) Submit to the Commission such additional information that the Commission may require from time to time.
- (2) The Licensee shall ensure and, if so required by the Commission, establish to the satisfaction of the Commission that the Other Business bears an appropriate share of overhead costs and other common costs.
- (3) Any person authorized by the Commission shall be entitled to inspect and verify the accounts of the Licensee and the licensee shall render all necessary assistance to such person.

5. Financial implications:

- (1) The Licensee shall not in any manner utilize the assets and facilities of the Licensed Business or otherwise directly or indirectly allow the Other Business to be undertaken in a manner that the Licensed Business results in subsidizing the Other Business.
- (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.
- (3) A reasonable proportion of the revenues of the Other Business, as may be specified by the concerned State Commission, shall be shared with the licensed business which may reflect the allocable costs or market value of the assets and facilities of the licensed business utilized / being utilized for other business on a case to case basis.
- (4) 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 costs being incurred commonly for both the Licensed Business and Other Business, apportion such costs and ensure due payment of apportioned costs to the Licensed Business from Other Business.
- (5) In addition to the sharing of costs under sub-regulation (4), the Licensee shall account for and ensure due payment to the Licensed Business a certain percentage of the gross turnover from the Other Business as decided by the Commission each year at the time of determination of the Aggregate Revenue Requirement (ARR).
- (6) The proportion of the revenues derived from other business to be shared with the licensed business shall be utilized for reducing its charges for transmission and wheeling/wheeling of electricity by the Intra-State/Intra-UT Transmission / Distribution Licensees as the case may be.

6. Powers of the Commission:

- (1) The Commission may at any time direct investigation of the assets and facilities of the Licensed Business used for Other Business of the Licensee with a view to ascertain adherence to these Regulations, covering inter alia:
 - a) whether the costs and expenses are being appropriately adjusted and paid as specified in regulation 5 above; and
 - b) whether the revenue of the Other Business are properly accounted for to determine the gross turnover and its proportion to be shared with the licensed business.

- (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-regulation (1) above and submit a report to the Commission.
- (3) The Commission, may after considering the report under clause (2) and after providing an opportunity of hearing to the Licensee and beneficiaries of the licensed businesses pass such orders as the Commission considers appropriate in regard to the costs and expenses to be shared by the Other Businesses and proportion of turnover of the Other Businesses to be accounted for as additional revenue for reducing charges for transmission and wheeling / wheeling of the electricity by the Intra-State/Intra-UT Transmission Licensee and the Distribution Licensee.

7. Issue of Orders and directions:

Subject to the provisions of the Electricity Act, 2003, the Rules and these Regulations, the Commission may, from time to time, issue orders and directions as it may consider necessary to give effect to the provisions of these regulations.

8. Power 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, do or undertake or direct the licensee to do or undertake things, which in the opinion of the Commission are necessary or expedient to do or undertake for removing the difficulties.

9. Power to amend

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

By Order of the Commission.

**V.K. Dhar, (JKAS)
Secretary, JERC
J&K and Ladakh**

**Annexure—A
(See Regulation 4 (1) b)**

Sr No.	Unique Code of Other Business	Nature of Other Business	Fixed Costs attributable to the Other Business (which otherwise were being incurred in Licensed Business i.e. the % redundant part of Licensed Business)		Variable costs (Cost of material, Head Office prorated expenses and all other costs which are otherwise not incurred in Licensed Business i.e. the % redundant part of Licensed Business)		Total Costs	Total Receipts from Other Business	Net Income from Other Business
			A/C Head	Amt.	A/C Head	Amt.			