

Bhopal dated 6th August, 2004

No.2118/MPERC/2004. In exercise of the powers conferred by section 181 (2) (ze, zg) read with section 62(2) and 64 (1) of the Electricity Act, 2003 enacted by the parliament, the Madhya Pradesh Electricity Regulatory Commission makes the following Regulations for determination of tariff for generating companies and licensees, namely.

**MPERC (Details to be furnished and fee payable by licensee or generating company for determination of tariff and manner of making application) Regulations, 2004.**

### **Short Title and Commencement**

- 1.1 These Regulations shall be called the Madhya Pradesh Electricity Regulatory Commission (Details to be furnished and fee payable by licensee or generating company for determination of tariff and manner of making application) Regulations, 2004.
- 1.2 These Regulations shall come into force from the date of their publication in the Official Gazette of the Government of Madhya Pradesh.
- 1.3 These Regulations extend to the entire State of Madhya Pradesh.

### **Definition**

- 1.4 Unless the context otherwise requires, the words and expressions in these Regulations, shall bear the same meaning as defined in the Electricity Act, 2003 (36 of 2003), the Madhya Pradesh Vidyut Sudhar Adhiniyam, 2000 (No. 4 of 2001), and the Madhya Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2004.
- 1.5 Licensee includes deemed licensees in the State of Madhya Pradesh.

### **Application for determination of Tariff**

- 1.6 Every year, by November 15<sup>th</sup>, every generating company and licensee shall file with the Commission, a tariff application with statements containing the Expected Revenues from the Tariff and Charges including Miscellaneous charges of the ensuing financial year, under its currently approved tariff and charges including Miscellaneous charges along with detailed explanations for assumptions made. The trading licensee shall file the application if required to do so, by a written order of the Commission. The information to be filed by the generating companies and licensees are as follows:
  - (a) Formats for Generating Company provided in Annexure 1
  - (b) Formats for Transmission licensee provided in Annexure 2
  - (c) Formats for Distribution licensee provided in Annexure 3
  - (d) Formats for Trading licensee provided in Annexure 4

Provided that non-compliance of this provision shall be treated as contravention of regulations and the Commission may initiate proceedings to direct action as provided under section 142 of the Act.

- 1.7 The Generating Companies and Licensees shall submit a statement on compliance of directives issued by the Commission in its last tariff order along with formats as stated in clause 1.6 above.
- 1.8 A petition for determination of tariff shall be accompanied by information in forms specified by the Commission for the previous year, current year and the ensuing year. The information for the previous year should be based on audited accounts and in case audited accounts for previous year are not available, audited accounts for the immediately preceding previous year should be filed along with un-audited accounts for the previous year.
- 1.9 Every new licensee shall file an application with the Commission, immediately on grant of license, a tariff application along with details as stated in clause 1.6. Every new generating company shall file an application with the Commission, at least two months ahead of commencement of commercial operations.
- 1.10 The filed application along with the duly filled up formats and explanations will be treated as a petition. The petition shall be filed as per the procedure provided in 'MPERC (Conduct of Business) Regulations' and complete in all respects.
- 1.11 Every application for determination of tariff or for continuation of previously determined tariff shall be accompanied with a tariff application fee based on the previous year's actuals in respect of Sr. No. 1 to 4 as specified below:

1.	Petition for determination of transmission tariff by Transmission licensee	Rs.100 for each MU of energy input into EHT transmission system
2.	Petition for determination of Distribution Tariff by Distribution Licensee	Rs.300 for each one million units of energy input into EHT Transmission system less EHT Transmission system losses.
3.	Petition for determination of Generation Tariff by Generating Company	Rs.600 for each one million units of energy generated by the Generating Company
4.	Petition for determination of Tariff by integrated utility	Rs.700 for each MU input in the Transmission and Distribution system of the licensee
5.	Petition for determination of Tariff by Rural Licensee	Rs.1000/-
6.	Variable cost adjustment (VCA) charges	0.03% of the difference of revenue from units generated

- 1.12 All filings should be in conformity with the stipulations in the licensing regulations and the conditions of the license. Separate copies of the filing shall be sent to all generating companies, licensees and State Government.
- 1.13 The transmission and distribution licensees shall include a detailed statement of voltage-wise technical and commercial losses. The voltage-wise losses shall be distributed according to the energy drawn at that voltage level. The licensees must provide plans for reducing the losses, together with the details of the investment required to achieve the planned reductions. All such plans are required to be submitted year wise, commencing with the ensuing financial year and covering at least the four subsequent years indicating the sources of fund required to execute these plans.
- 1.14 If there is a revenue gap between the Expected Revenues from the currently applicable Tariff and Charges including Miscellaneous charges and the revenue requirement for the ensuing financial year, the generating company and licensee shall include a proposal/plan as to how it proposes to bridge this revenue gap.
- 1.15 In addition to the hard copies, the information shall necessarily be submitted in such electronic form, as the Commission may require.
- 1.16 The generating companies and licensees are required to constitute and intimate the particulars to the Commission regarding the working group responsible for providing the desired information and communication with the Commission for necessary clarification etc., if any.
- 1.17 Commission may seek clarification and additional information on inadequacies in the application, if any, and the generating company and licensee shall provide the clarifications within the date stipulated by the Commission.
- 1.18 Any delay/ non-submission of the tariff application / information (as stated in clauses 1.6, 1.13, 1.14 and 1.16) may attract penalty / fines in accordance with the appropriate provisions of the Electricity Act, 2003 (36 of 2003).

### **Publication of Tariff Application**

- 1.19 After the Commission is provided with the clarifications, the generating company and licensee shall publish the summary of the proposals as approved by the Commission for publication, highlighting salient features of the application that are of interest to various stakeholders, in at least two local newspapers, one each in English and in Hindi, having wide circulation in its area of operation.
- 1.20 The generating company and the licensee shall also arrange to print the application and the statements in both Hindi and English prepared on the basis of 'Summary or S', 'Financial or F', 'Performance or P' and 'Tariff or T' series forms in the respective formats applicable to generating companies and licensees as provided in Annexure (as per Clause 1.6). The application, 'S' and 'T' series forms shall form volume 1 and the 'F' and 'P' series form should form the Volume 2 of the printed document. Both the volumes should be separately priced.

- 1.21 Both the volumes of the tariff application should be available for sale at MPERC's office and all the Circle offices and the offices higher to the Circle offices in case of the transmission and distribution licensees and for generating companies or trading licensee the volumes should be available in such offices as may be directed by the Commission. The consumers should also be provided the facility of procurement of the document(s) by post if the request is accompanied with a demand draft of the appropriate denomination. The document should be posted at the licensee's website in downloadable format for easy accessibility by all stakeholders.
- 1.22 Admission of petitions from the parties other than those directly affected by the tariff shall be at the discretion of the Commission.

### **Hearing**

- 1.23 Unless otherwise for special reasons directed by the Commission, the Commission shall hold a proceeding on the revenue calculations and tariff proposals given by the generating company and the licensee and may hear such persons as the Commission may consider appropriate before deciding upon such tariff proposals.
- 1.24 The procedure for hearing on the tariff application of the generating company and the licensee shall be in the manner as the Commission may specify while directing the applicant licensee to publish the summary of the proposals as mentioned in clause 1.19 above.

### **Order of the Commission**

- 1.25 Within one hundred twenty days of the date of receipt of the application (as stated in clause 1.6), and after considering all suggestions and objections received from the public, the Commission shall:
- (a) issue an order accepting the application with such modifications or such conditions as may be specified in that order; or
  - (b) reject the application for reasons to be recorded in writing if such application is not in accordance with the provisions of the Electricity Act 2003 (36 of 2003) and the rules and regulations made thereunder or the provisions of any other law for the time being in force.

Provided that an applicant shall be given a reasonable opportunity of being heard before rejecting his application.

- 1.26 The statement referred to in clause 1.6 above shall be given separately for each of the separate businesses of the licensee and for each of the separate businesses of the generating company. In case the Licensee carries on any business or services other than those licensed under the Electricity Act 2003 (36 of 2003), the Licensee shall give separate revenue statements, expense statements, balance sheet and cash-flow statement together with such details as the Commission may require in respect of such business or services.

- 1.27 Commission shall determine tariff in accordance with the provisions and objectives of the Electricity Act 2003 (36 of 2003), Madhya Pradesh Vidyut Sudhar Adhiniyam 2000, (No 4 of 2001), MPERC Conduct of Business Regulations and any other prevalent policies or regulations as the case may be.
- 1.28 The Commission shall, within seven days, of making the order, send a copy of the order to the State Government, the Central Electricity Authority and to the concerned generating companies and the licensees.

### **Publication of Tariff Order and its applicability**

- 1.29 All orders determining tariff shall indicate the period for which it shall be in force and in the absence of such mention shall be considered valid till the end of the financial year for which the determination is done. Provided that , on an application filed by the licensee or generating company for continuation of the tariff on a provisional basis beyond the period stipulated in the order / end of financial year, the Commission may agree on provisional basis, the continuation of the tariff if it concludes that the grounds to continuation are justified.
- 1.30 The generating company and the licensee shall publish in at least two daily newspapers, one each in Hindi and English, having wide circulation in the area of supply and make available to the public on request, the tariff schedule for the supply of electricity. Such tariff shall take effect only after seven days from the date of such publication and bills shall be issued accordingly.
- 1.31 If any generating company or a licensee recovers a price or charge exceeding the tariff determined by the Commission, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the generating company or licensee. The implementation of any tariff other than that approved by the Commission shall be treated as non-compliance of the Commission's Orders and Directions.

### **Review of Tariff Order**

- 1.32 All applications for the review of tariff shall be in the form of petition accompanied by the prescribed fee. A petition for review of tariff can be admitted by the Commission under the following conditions:
- (a) The review petition is filed within sixty days from the date of the tariff order and
  - (b) It is proved that an error apparent from the records is there.
- 1.33 The Commission on its own, being satisfied that there is a need to review the tariff of any generating company or the licensee, shall initiate the process of review the tariff of any generating company or the licensee in accordance with the procedures set out in MPERC (Conduct of Business) Regulations.

## **Amendment in Tariff**

- 1.34 The tariff determined and notified as above may not be amended more frequently than once in any financial year except that tariff rates shall be adjusted in accordance with any adjustment formulae including Variable Cost Adjustment formula incorporated in the tariff order or in any other order of the Commission
- 1.35 Provided that the consequential orders, which the Commission may issue to give effect to the subsidy the State Government may provide in terms of the appropriate sections of the Electricity Act 2003 (36 of 2003) shall not be construed as amendment of tariff notified. The licensee shall, however, give appropriate adjustments in the bills to be raised on the consumers for the subsidy amount in the manner the Commission may direct.

## **Use of the Information**

- 1.36 The Commission shall have the right to use the information submitted by the generators or the licensees, its successor entities and other electricity utilities as it deems fit including publishing it or placing it on the Commission's website and/ or directing the generator or the licensee to display the information on the generator or the licensee's website.

## **Multi Year Tariff Principles and Guidelines**

- 1.37 The Commission may adopt multi year tariff principles for all matters relating to tariff determination including expected revenue from tariff and charges including Miscellaneous charges, allowable cost for prescribed operational efficiency levels, the revision in tariff and charges, changes in tariff structure and such other matters as may be considered necessary..
- 1.38 The Commission may, from time to time, issue guidelines for filing statement of revenue calculations and tariff applications for multi-year and unless waived by the Commission, the licensee shall follow such guidelines issued by the Commission.

## **Power to Amend**

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

## **Repeal and Savings**

- 1.40 The items at Serial no. 3, 4, 6, 9(1), 9(2) 10 of M.P. Electricity Regulatory Commission (Fees and Charges) Regulation 2002 notified vide no. 592/MPERC/2002 dated 14<sup>th</sup> February 2002 are hereby repealed.
- 1.41 The items at Serial no. 1(a), 1(b), 5(a), 5(b) of II<sup>nd</sup> Amendment to M.P. Electricity Regulatory Commission (Fees and Charges) Regulation 2002 notified vide no. 2335/MPERC dated 10<sup>th</sup> April 2003 are hereby repealed.

- 1.42 Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary to meet the ends of justice or to prevent abuses of the process of the Commission.
- 1.43 Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Electricity Act 2003 (36 of 2003) a procedure, which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters.
- 1.44 Nothing in these Regulations shall, expressly or impliedly, bar the Commission dealing with any matter or exercising any power under the Electricity Act 2003 (36 of 2003) for which no Regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit.

By the order of the Commission

Ashok Sharma, Dy. Secy.