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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

**WEST BENGAL ELECTRICITY REGULATORY COMMISSION**

**NOTIFICATION**

No. 52/WBERC

Kolkata, the 2nd April, 2013.

In exercise of the powers conferred by sub-section (1), clauses (g), (v) and (w) of sub-section (2) of section 181 read with sub-section (3) of section 32 and sub-sections (1) and (4) of section 47 of the Electricity Act, 2003 (36 of 2003) and also read with the Electricity (Removal of Difficulties) Sixth order, 2005 and all powers enabling on that behalf, and in supersession of the Notification No. 23/WBERC dated 18.10.2005 published in the Kolkata Gazette Extraordinary, Part I on October 19, 2005 with all amendments, the West Bengal Electricity Regulatory Commission (WBERC) hereby makes the following regulations.

**1. Short title, commencement and interpretation:**

These regulations may be called the West Bengal Electricity Regulatory Commission (Miscellaneous Provisions) Regulations, 2013.

- i) These shall come into force on the date of their publication in the Official Gazette unless otherwise stated in these Regulations and shall be concurrent within the area of jurisdiction of West Bengal Electricity Regulatory Commission.
- ii) The Bengal General Clauses Act, 1899 (Ben. Act I of 1899) shall apply to the interpretation of these regulations unless otherwise indicated in these Regulations or inconsistent with the Provisions of the Electricity Act, 2003.

**2. Definitions :**

In these Regulations, unless the context otherwise requires:

- a) The "Act" means the Electricity Act, 2003;
- b) "Regulations" mean the Regulations made under the Act;

- c) "Rules" means the Rules made under the Act;
- d) "Commission" means the "West Bengal Electricity Regulatory Commission" constituted under Section 82 of the Electricity Act, 2003 and in short called WBERC;
- e) Words and expressions used and not defined in these Regulations shall have the meanings as defined in the Act.

### **3. Fees and Charges of State Load Despatch Centre:**

Subject to the provisions of Section 32 of the Act:

- a) The State Load Despatch Centre may levy and collect fees and charges to be termed as "SLDC charge" from the licensees using the intra-state transmission system and the same will be recoverable in a mode and at a rate as may be stipulated in the concerned tariff order or in the separate order.
- b) A statement showing total amount of fees and charges to be levied and collected from the licensees using the intra-state transmission system will be submitted by the company or any authority or corporation etc. who is responsible for operation of SLDC under section 31(2) of the Act to the Commission and details of expenditure in different heads under "SLDC charge" for computation and approval of the Commission.
- c) The fee shall be payable by the licensees quarterly in advance based on estimated electricity to be transmitted by them through intra-state grid under long term access and medium term access mode of transmission, as assessed by SLDC and final adjustment will be done annually after the close of the year.
- d) The Commission may revise the rate of such fees from time to time depending on and keeping in view the financial requirements of the State Load Despatch Centre and the function to be performed by the State Load Despatch Centre.
- e) The Commission may also specify any other charge as it may think appropriate and the same shall be collected by the State Load Despatch Centre in the same manner as is applicable for collection of fees.
- f) For the purpose of operational expenditure the "SLDC charge" shall be deposited in a fund to be known as 'WBSLDC Fund'.
- g) SLDC FUND shall be with electronic clearing facility with the name and style of 'WBSLDC FUND' in a nationalized/scheduled commercial bank within sixty days from the date of publication of these regulations, for the purpose of handling SLDC charge. Such fund will be managed in the following manner:
  - i) Such account shall be operated by the DDO of SLDC with the cheque signing authority for payment upto Rs 5 lakh. For payment above Rs 5 lakh such cheque signing authority shall lie jointly with the DDO and the Officer in charge of SLDC.
  - ii) All deposits by licensees shall be through account payee cheque/draft in favour of the said account or through electronic clearance system where such facility is available. The cost of such draft and services shall be payable by the depositor.
  - iii) Any amount receivable by any entity shall be paid through account payee cheque/draft or through electronic clearance system where such facility is available.
  - iv) SLDC shall maintain the accounts of the said fund separately keeping it clearly demarcated from any other account of the body, if SLDC is a part of such body.

- v) Accounts of such fund shall be audited by Chartered Accountant/Cost Accountant in full time practice for every financial year within the 30th September of the succeeding year and such audited accounts shall be subsequently submitted to the Commission by the body of which SLDC is a part within the 30th November of that year for approval along with the audited accounts of the body.

h) All expenditures for operation of SLDC shall be incurred from WBSLDC Fund exclusively.

#### **4. Security Deposit:**

- 4.1 Subject to the provisions of the Act, the distribution licensee may require any person to give security deposit with such licensee, for an amount covering 3 months of estimated bills of consumption of electricity at the prevailing rates. The estimated consumption shall be based on 12 months consumption of the previous period as on 1st April of each year or estimated consumption based on his application in case of the new applicant.

Provided that in the case of a new applicant, the estimated consumption based on his declared load shall be treated as an advance, which shall be appropriately adjusted with the amount of security deposit that would eventually be determined on the basis of his first 12 months' consumption when the latter time period is over.

- 4.2 Different terms and conditions in relation to security deposit are as follows:

- 4.2.1 A consumer, on his/her licensee's demand through a notice may replenish the deposit as and when it becomes insufficient and the same shall be done within a period of one month from the date of service of the notice under section 47(2) of the Act unless otherwise stated in these regulations showing the detail of the calculations. If required, the licensee may collect such amount in not more than 10 (ten) instalments. In case the replenishing amount of security deposit is collected in instalments, then such information of instalment shall be a part of the notice. The notice shall also mention that on failure to deposit the replenishing amount of security deposit, the disconnection will be effected under section 56(1) of the Act on completion of 30 days from the date of service of the notice under section 47(2) of the Act and the same notice shall also be treated as notice under section 56(1) of the Act. The replenishing amount of security deposit or its instalment amount, as may be decided by the licensee, will be recovered through the energy bill of the consumer and no rebate, if any under tariff order, will be applicable on this amount. If licensee feels to collect it separately against the notice, it can also apply such method. On failure to replenish such amount, the supply of electricity may be disconnected under section 56(1) of the Act.

- 4.2.2 For LV&MV consumer, having contract demand below 50 KVA, the security deposit shall be deposited only in cash. For LV & MV consumer having contract demand at 50 KVA or above and/or HV/EHV consumer, the security deposit may be deposited either in cash or an irrevocable Bank Guarantee as will be decided by the licensee. The validity of the Bank Guarantee shall be for a period of 2 years with a further claim period of 3 months for lodging the claim. The Bank Guarantee shall be renewed from time to time well before expiry of the Bank Guarantee and at least 3 months before the last date of the validity of the Bank Guarantee excluding claim period. The Bank Guarantee shall be from a nationalized or a reputed private sector bank or the West Bengal State Cooperative Bank Limited or a District Central Cooperative Bank in West Bengal and be issued from a branch preferably which is within the distribution area of the licensee, but in no case outside the city in which the distribution licensee operates unless the licensee agrees due to specific reasons.

- 4.2.3 The security deposit either in cash or Bank Guarantee shall not be required in case the supply of electricity is made through a pre-paid meter or through unconditional, confirmed, revolving, irrevocable and non-recourse Letter of Credit (LC) for a period of not less than 12 months from a nationalized or a reputed private sector bank or the West Bengal State Cooperative Bank Limited situated in an area of the distribution licensee, within the city in which the distribution licensee is operating. The amount

of the Letter of Credit shall not be less than the estimated amount of bill to be calculated as stated above, but subject to an amount equivalent to one month's estimated bill. In case the amount of the Letter of Credit is insufficient, the same shall be increased within 10 days of such demand by the Licensee. The validity of the Letter of Credit shall be extended at least 3 months before its expiry by the consumer failing which the distribution licensee may refuse to supply electricity as long as the failure continues in accordance with the provisions of Section 56(1) of the Act. Just before 3 months of expiry of the LC, the licensee shall intimate the consumer about the said expiry date along with issuance of disconnection notice under sub-section (2) of section 47 of the Act so that if the LC is not renewed before said expiry date, the line may be disconnected by the licensee under section 56(1) of the Act on expiry of the LC.

- 4.2.4 All bank charges in connection with the Bank Guarantee or Letter of Credit shall be borne by the concerned consumer.
- 4.2.5 The security deposit shall be appropriately returned / refunded within 15 days on the request of the person who gave such security deposit after adjusting amount of any outstanding bill.
- 4.2.6 The distribution licensee shall pay interest on cash security deposit equivalent to 6% per annum. Such interest shall be computed annually and added to the security deposit held against the consumer account as long as the security deposit thus held is less than or equal to the amount of required security deposit provided that excess interest amount shall be annually refunded / adjusted to the consumer in the event, the security deposit amount is already sufficient or becomes sufficient, in the billing month of May of each year. The non- refund or non-adjustment of the interest on security deposit to eligible consumer accordingly shall attract interest @ 10% per annum in addition to other penalties etc. as per the provisions of the Act and Regulations.
- The updation of security deposit for the consumer may be done in a phased manner to bring all the consumer security deposit up-to-date within 31.03.2015.
- 4.2.7 The distribution licensee may, at any time, appropriate such deposit in whole or in part in satisfaction of any sum legally due or owing by the consumer to the licensee whether the supply of electric energy to the consumer continues or has ceased without prejudice to any other remedy to which the licensee may be entitled for recovery of such sum due or owed by the consumer under any other provisions of the Act or any other law.
- 4.2.8 In case, any electric line or electric plant or electric meter is provided to any consumer exclusively, by the licensee at the licensee's cost, then an additional amount of 25% of such cost fully or partly, as decided by the licensee, may also be added to the security deposit to be furnished by such a consumer.
- 4.2.9 As Electricity Act, 2003 is promulgated on 10th June, 2013 and the concerned regulation on security deposit under such Act was published by notification dated 12th November, 2003, thus security deposit realized and maintained by the licensees and interest payable on that security deposit as per their "General Conditions of Supply" or any other notification prior to publication of regulations vide notification no. 11/WBERC dated 12th November, 2003 of the Commission shall remain valid till the date of such publication.
- 4.3 Notwithstanding anything contained contrary elsewhere in other regulations of the Commission, for new connection under the category of temporary supply, short term supply, short term irrigation supply, short term supply for commercial plantation the intending consumer/consumers is/are required to submit security deposit in cash only with such licensee an amount covering the period for which such connection has been applied for.

## **5. Powers of the Commission to amend etc.:**

The Commission may, at any time at its sole discretion vary, alter, modify, add or amend any provision of these regulations.

**6. General Powers:**

- (a) If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may for reasons to be recorded in writing direct the distribution licensee or any other person concerned by general or special order, for taking suitable action not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty.
- (b) 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 for meeting the ends of justice, or to prevent the abuse of the process of the Commission.

**7. Repeal:**

The West Bengal Electricity Regulatory Commission (Miscellaneous Provisions) Regulation, 2005 issued under Notification No. 23/WBERC dated 18.10.2005, published in the Kolkata Gazette, Extraordinary on October 19, 2005 with all amendments is hereby repealed. Notwithstanding such repeal, anything done or any action already taken under the repealed regulation, shall in so far as it is not inconsistent with these regulations, be deemed to have been done or taken under the corresponding provisions of these regulations.

By Order of the Commission

Place: Kolkata  
Date: 02.04.2013

K. P. BHAR,  
*Secretary of the Commission.*