

3.1 In these regulations, unless the context otherwise requires;-

- 1) **"Act"** means the Electricity Act, 2003 (36 of 2003);
- 2) **"Accounting Statement"** means for each Year, the following statements, namely :—
 - (i) balance sheet, prepared in accordance with BERC (Power Regulatory Accounting) Regulations, 2018, with reference to each licensed or regulated business separately, duly certified by the statutory auditors;
 - (ii) profit and loss account, prepared in accordance with BERC (Power Regulatory Accounting) Regulations, 2018, with reference to each licensed or regulated business separately, duly certified by the statutory auditors;
 - (iii) cash flow statement, prepared in accordance with BERC (Power Regulatory Accounting) Regulations, 2018, with reference to each licensed or regulated business separately, duly certified by the statutory auditors;
 - (iv) balance sheet, prepared in accordance with the form contained in the Companies Act, 1956 or Companies Act, 2013, as applicable;
 - (v) profit and loss account, complying with the requirements contained in the Companies Act, 1956 or Companies Act, 2013, as applicable;
 - (vi) cash flow statement, prepared in accordance with the applicable Accounting Standards of the Institute of Chartered Accountants of India;
 - (vii) report of the statutory auditors ;
 - (viii) reconciliation statement, duly certified by the statutory auditors, showing the reconciliation between the total expenses, revenue, assets and liabilities, of the entity as a Company and the expenses, revenue, assets and liabilities, separately for each business regulated by the Commission and unregulated business operations ;
 - (ix) cost records prescribed by the Central Government under the Companies Act, 1956 or Companies Act, 2013, as applicable ;together with notes thereto, and such other supporting statements and information as the Commission may direct :

Provided that separate Accounting Statements shall be prepared and submitted to the Commission for each licensed Business in accordance with the Licence conditions, and for each regulated Business :

Provided further that, in case separate Accounting Statements are not submitted for each licensed Business in accordance with the Licence conditions and for each regulated Business for the Financial Year (FY) 2022-23 onwards, the Petitions filed by the Transmission Licensee or SLDC, as the case may be, may be rejected by the Commission after giving the Petitioner a reasonable opportunity of being heard :

Provided also that the Transmission Licensee or SLDC, as the case may be, shall submit the Statutory Auditor's comments, observations and notes to Accounts, alongwith the Accounting Statements, and a summary of the key issues highlighted by the Statutory Auditor and the steps taken to address them :

Provided also that, in respect of a Local Authority engaged in the business of distribution of electricity, the Accounting Statement shall mean the items mentioned above as prepared and maintained in accordance with the relevant statutes applicable to such Local Authority:

Provided also that till the SLDC remains a part of Bihar State Power Transmission Company Limited (BSPTCL), separate books of accounts for SLDC shall be maintained by the Bihar State Power Transmission Company Limited and shall be audited and certified by the statutory auditor

- 3) "Audited accounts or Audited Accounting Statements" for the purpose of licensed or regulated business shall mean (Audited) Regulatory Accounts prepared in accordance with BERC (Power Regulatory Accounting) Regulations, 2018.
- 4) **"Additional Capitalisation"** means the capital expenditure actually incurred after the date of commercial operation of the transmission system and admitted by the Commission after prudent check subject to Regulation 19 provided herein after.
- 5) **"Aggregate Revenue Requirement" or "ARR"** means the costs pertaining to the licensed business which are permitted, in accordance

with these Regulations, to be recovered from the tariffs and charges determined by the Commission;

- 6) **"Allocation Statement"** means, for each Year, a statement in respect of each of the Other Businesses of the Transmission Licensee undertaken for optimum utilisation of its assets, showing the amounts of any revenue, cost, asset, liability, reserve or provision, etc., which has been charged from or to each such Other Business together with a description of the basis of that charge ; or determined by apportionment or allocation between different Businesses of the Transmission Licensee, together with a description of the basis of the apportionment or allocation :
- 7) **"Allotted Transmission Capacity"** means the power transfer in MW between the specified point(s) of injection and point(s) of drawal allowed to a long-term customer or a medium-term customer on the intra-State transmission system under the normal circumstances and the expression "allotment of transmission capacity" shall be construed accordingly:

Provided that the Allotted Transmission Capacity to a long-term transmission customer or a medium-term transmission customer shall be sum of the generating capacities allocated to the long-term transmission customer or the medium-term transmission customer from the generating stations and the contracted power, if any;
- 8) **"Auditor"** means an auditor appointed transmission licensee or SLDC as the case may be, in accordance with the provisions of sections 224, 233B and 619 of the Companies Act, 1956 (1 of 1956), as amended from time to time or Chapter X of the Companies Act, 2013 (18 of 2013) or any other law for the time being in force;
- 9) **"Authority"** means Central Electricity Authority constituted under section 70 of the Electricity Act, 2003.
- 10) **"Availability"** in relation to a transmission system for a given period means the time in hours during which period the transmission system is capable to transmit electricity at its rated voltage expressed in percentage of total hours in the given period and shall be calculated as provided in Appendix-II to these Regulations.

- 11) "**Base Year**" means the financial year immediately preceding first year of the control period and used for the purpose of these Regulations;
- 12) "**Balancing and Settlement Code**" means such Code as may be stipulated by the Commission, or by the SLDC with the approval of the Commission, for the balancing of energy accounts and settlement of differences among the users of the grid in the State of Bihar
- 13) "**Beneficiary(ies)**"
 - (a) in relation to a Transmission Licensee, the Transmission System Users.
 - (b) in relation to the SLDC, the Distribution Licensees and Open Access consumers who utilise the *Intra-State* Transmission system for transmission of electricity and / or utilise the distribution system of a Licensee in the State for wheeling of electricity and/or avail the services of the SLDC relating to scheduling and real-time grid operations, State energy accounting, operation of pool account, etc.
- 14) "**Books of Accounts**" for the purpose of licensed or regulated business shall mean Regulatory Books of Accounts drawn up in accordance with BERC (Power Regulatory Accounting) Regulations, 2018
- 15) "**Bulk Power Transmission Agreement**" means an executed Agreement that contains the terms and conditions under which a Transmission System User is entitled to access to an *intra-State* transmission system of a Transmission Licensee
- 16) "**Change in Law**" means occurrence of any of the following events:
 - (a) enactment, bringing into effect or promulgation of any new Indian law; or
 - (b) adoption, amendment, modification, repeal or re-enactment of any existing Indian law; or
 - (c) change in interpretation or application of any Indian law by a competent court, Tribunal or Indian Governmental Instrumentality which is the final authority under law for such interpretation or application; or
 - (d) change by any competent statutory authority in any condition or covenant of any consent or clearances or approval or licence available or obtained for the project; or

- (e) coming into force or change in any bilateral or multilateral agreement/treaty between the Government of India and any other Sovereign Government having implication for the generating station or the transmission system regulated under these Regulations.
 - (f) any change in taxes or duties, or introduction of any taxes or duties levied by the Central or any State Government
- 17) **"Charges"** means payments to be collected by the Transmission Licensee or SLDC for the services rendered by it.
- 18) **"Commission"** means the Bihar Electricity Regulatory Commission;
- 19) **"Conduct of Business Regulations"** means the Bihar Electricity Regulatory Commission (Conduct of Business) Regulations, 2005, and its amendments from time to time.
- 20) **"Contracted Capacity"** means the capacity in MW contracted by a long-term Transmission System User as part of its long-term power procurement plan through a power purchase agreement or arrangement, and shall be equivalent to the deemed Transmission Capacity Right of a Transmission System User as specified under the Regulations of the Commission governing Transmission Open Access.
- 21) **"Control Period"** means a multi year period normally comprising of five financial years or as may be determined by the Commission, for submission of forecast in accordance with these Regulations;
- 22) **"Cut off date"** means 31st March of the year closing after two years of the year of commercial operation of the project, and in case the project is declared under commercial operation in the last quarter of a year, the cut-off date shall be 31st March of the year closing after three years of the year of commercial operation:
- Provided that the cut-off date may be extended by the Commission if it is proved on the basis of documentary evidence that the capitalisation could not be made within the cut-off date for reasons beyond the control of the project developer;
- 23) **"Date of Commercial operation" or "COD"** in case of a transmission system shall mean the date declared by the Transmission Licensee from 00:00 hour of which an element of the transmission system is in regular service after successful trial operation for transmitting electricity and

communication signal from sending end to receiving end. Date of commercial operation in relation to a communication system or element thereof shall mean the date declared by the transmission licensee from 00:00 hour of which a communication system or element is put into service after completion of site acceptance test including transfer of voice and data to respective control centre as certified by the respective State Load Dispatch Centre.

Provided that where the transmission line or substation is dedicated for evacuation of power from a particular generating station, the Generating Company and Transmission Licensee shall endeavour to commission the generating station and the transmission system simultaneously as far as practicable and shall ensure the same through appropriate Implementation Agreement:

Provided further that in case a transmission system or an element thereof is prevented from regular service for reasons not attributable to the Transmission Licensee or its supplier or its contractors but is on account of the delay in commissioning of the concerned generating station or in commissioning of the upstream or downstream transmission system, the Transmission Licensee shall approach the Commission through an appropriate application for approval of the date of commercial operation of such transmission system or an element thereof.

- 24) **"De-capitalisation"** means the reduction in Gross Fixed Assets corresponding to the removal of assets as approved by the Commission.
- 25) **"Existing Project"** means transmission project declared under commercial operation from a date prior to notified date of these tariff regulations by the Commission as per Regulation 1.2.
- 26) **"Expenditure"** means reasonable and prudently required expenditure incurred on the following:
- a) salaries and wages of staff, welfare expenses excluding management remuneration covered below;
 - b) Directors remuneration, fees, expenses including facilities;
 - c) salaries and wages of corporate office / registered office;
 - d) financing cost excluding penal interest / charges;

- e) interest charges on loan(s) borrowed for capitalized assets;
 - f) interest on temporary accommodation to the extent of approved unrealized arrears from the consumers
 - g) interest on working capital
 - h) Return on equity;
 - i) financing charges applicable to operational account;
 - j) interest on security deposits (in cash) from consumers;
 - k) Impact of variation in foreign exchange rate in case of foreign currency loan taken with due approval and is not capitalised;
 - l) Depreciation
 - m) Rents, rates and taxes, other than all taxes relating to income / profits;
 - n) Legal charges;
 - o) Auditor's expenses, Auditor's fees; auditor's expenses; Payment to Auditors in any other capacity or for any work which is necessary to be got done from them in connection with audit;
 - p) Consultancy charges for work which cannot be done in house or is uneconomical in doing in-house or is essential to be done from outside sources;
 - q) Bad debts actually written off subject to Commission's clearance;
 - r) Other expenses necessary which are ancillary or incidental to the business of electricity except penalty etc levied under the Act or any other law in force;
- 27) "**Extended Life**" means the life of a transmission system or element thereof beyond the period of useful life, as may be determined by the Commission on case to case basis;
- 28) "**Financial Year**" means a period commencing on 1st April of a calendar year and ending on 31st March of the subsequent calendar year;
- 29) "**Force Majeure Event**" for the purpose of these regulations means the event or circumstance or combination of events or circumstances including those stated below which partly or fully prevents the transmission licensee to complete the project within the time specified in the Capital Investment Approval, and only if such events or circumstances are not within the control of the transmission licensee and

could not have been avoided, had the transmission licensee taken reasonable care or complied with prudent utility practices:

- (a) Act of God including lightning, drought, fire and explosion, earthquake, volcanic eruption, landslide, flood, cyclone, typhoon, tornado, geological surprises, or exceptionally adverse weather conditions which are in excess of the statistical measures for the last hundred years; or
- (b) Any act of war, invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action; or
- (c) Industry wide strikes and labour disturbances having a nationwide impact in India *and/or state wide impact in Bihar* ;

30) **“High Tension”** (or **“HT”**) means all voltages defined as “high” or “extra high” voltage under the applicable Rules and Regulations as specified by the Central Electricity Authority

31) **“Income”** shall include all income from any sources but shall not be limited to the following:

- a) Gross receipts from transmission of energy or SLDC fees & charges, as the case may be, excluding late payment surcharge, if any, based on the orders of the Commission;
- b) Rental of meters, plant, equipment and other apparatus hired to the consumers;
- c) Income from services to consumers by way of repair or any sale or other service other than capital receipts;
- d) Interest on investments, bank balances including fixed and call deposits and any other income in the form of interest;
- e) Profit on sale of assets;
- f) Wheeling of energy;
- g) Non tariff income;
- h) Income from other business;
- i) Any receipt or refund from other sources against any expense or likely expense which has been earlier allowed as expense in the tariff;

- j) All other general receipts arising from and ancillary or incidental to the business of electricity supply;
 - k) Other general receipts in terms of Act / Regulations including use of assets for other business whether actually recovered or not;
- 32) **“Indian Governmental Instrumentality”** means the Government of India, State Government and any Ministry or Department or Board or Agency or regulatory or quasi-judicial authority controlled by Government of India or the Government of the State where the Project is located
- 33) **“Intra-State Transmission System”** (or **“InSTS”**) means any system for conveyance of electricity by transmission lines within the area of the State of Bihar, and includes all transmission lines, sub-stations and associated equipment of Transmission Licensees in the State :
- Provided that the definition of point of separation between a transmission system and distribution system and between a Generating Station and transmission system shall be guided by the Regulations notified by the Central Electricity Authority under clause (b) of Section 73 of the Act
- 34) **"Implementation Agreement"** means the agreement, contract or memorandum of understanding, or any such covenant, entered into (i) between transmission licensee and generating station or (ii) between transmission licensee and developer of the associated transmission system for the execution of project in coordinated manner;
- 35) **"License"** means a License granted by the Commission under Section 14 of the Act;
- 36) **"Licensed Business"** means the functions and activities, which the Licensee is required to undertake in terms of the License granted by the Commission or as a deemed Licensee under the Act;
- 37) **“Market operation function”** means the functions of scheduling, despatch, data acquisition, energy accounting and deviation settlement, transmission loss calculation and apportionment, operation of pool account and congestion charge account, administering ancillary services, information dissemination and any other functions assigned to the SLDC by the Act or Regulations or Orders.

- 38) **“Non-Tariff Income”** means the income relating to the regulated Business other than from Tariff, excluding any income from Other Business.
- 39) **"Operation and Maintenance expenses" or "O&M expenses"** means the expenditure incurred on operation and maintenance of the transmission system including part thereof, and includes the expenditure on manpower, repairs, maintenance spares, consumables, insurance and overheads.
- 40) **"Original Project Cost "** means the actual expenditure incurred by the transmission licensee, as per the original scope of the project up to the cut-off date as admitted by the Commission;
- 41) **"Project"** includes transmission system comprising of specified transmission lines, sub - stations and associated equipment.
- 42) **"Rated Voltage"** means the manufacturer's design voltage at which the transmission system is designed to operate or such lower voltage at which the line is charged, for the time being, in consultation with the long – term transmission customer(s).
- 43) **"State Government"** means Government of Bihar.
- 44) **“State Grid Code”** means the Code specified by the Commission under clause (h) of sub-section (1) of section 86 of the Act
- 45) **“Transmission Capacity Rights”** means the right of a Transmission System User to transfer power in MW, under normal circumstances, between such points of injection and drawal as may be set out in the Bulk Power Transmission Agreement.
- 46) **“Transmission System User”** for the purpose of these Regulations means the Distribution Licensees and long-term Open Access Users, but excludes partial Open Access Users
- 47) **"Tariff"** means schedule of charges for generation, transmission, distribution and trading of electricity as well as various charges for providing open access of electricity, as determined by the commission from time to time.
- 48) **"Transformer Failure"** represents number of transformer failures of a particular capacity within the transmission system as a percentage of the total number of transformers in that capacity.

- 49) **"Trial Run" or "Trial Operation"** Trial operation in relation to a transmission system or an element thereof shall mean successful charging of the transmission system or an element thereof for 24 hours at continuous flow of power, and communication signal from sending end to receiving end and with requisite metering system, telemetry and protection system in service enclosing certificate to that effect from State Load Dispatch Centre.
- 50) **"Transmission Licensee"** means a person who has been granted licence for intra state transmission of electricity and includes any person deemed to be a transmission licensee for intra – state transmission of electricity.
- 51) **"Transmission Service Agreement"** means an agreement, contract, memorandum of understanding or any such covenant, entered into between the transmission licensee and the long – term transmission customer for the operational phase of the project.
- 52) **"Transmission System"** means a line with associated sub stations or a group of lines inter – connected together along with associated sub - stations and the term includes equipment associated with transmission lines and sub-stations.
- 53) **"Useful life"** in relation to a unit of a Transmission System from the COD shall mean 25 years for sub-station and 35 years for transmission line.

Provided that the useful life for AC and DC substations and GIS for which Notice Inviting Tender is floated on or after 01.04.2022 shall be considered as 35 years from the the date of COD

3.2 The words and expressions used and not defined in these Regulations, but defined in other Regulations or the Act, shall have the meanings assigned to them in the other Regulations or the Act respectively.

3.3 The words “Application” or “Petition” shall be interpreted synonymously.

PART-II

GENERAL PRINCIPLES

4. Multi Year Tariff Framework

4.1 The Commission shall determine the tariff for Transmission business or charges of SLDC operations under a Multi-Year Tariff framework with

effect from April 1st of each financial year subject to provisions under these Regulations.

4.2 The Multi Year Tariff frameworks shall be based on the following elements, for calculation of Aggregate Revenue Requirement and expected revenue from tariff and charges for Transmission Business and Fees and Charges of SLDC:

- i. Control Period, before commencement of which a forecast of the Aggregate Revenue Requirement and expected revenue from existing tariff in case of transmission licensee or Fees and Charges in case of SLDC, as the case may be, shall be submitted by the applicant and approved by the Commission;

Provided further that the performance parameters whose trajectories have been specified in these Regulations shall form the basis of projection for the Aggregate Revenue Requirement for the entire Control Period:

- ii. A detailed Business Plan based on the Operational Norms and trajectories of performance parameters specified in the MYT Regulations, for each year of the Control Period, shall be submitted by the applicant for the Commission's *approval* subject to provisions under these Regulations;
- iii. Based on the Business Plan, the applicant shall submit a petition with the forecast of Aggregate Revenue Requirement and expected revenue from existing tariff and charges for each year of the Control Period, and the Commission shall approve the transmission tariff and Fees and Charges in case of SLDC for each year of the Control Period;
- iv. The mechanism for pass-through of approved gains or losses in truing-up on account of uncontrollable factors as specified under Regulation 9 of these Regulations;
- v. The mechanism for sharing of approved gains or losses in truing-up arising out of controllable factors as specified under Regulation 10 of these Regulations;

5. Business Plan

5.1 The Transmission Licensee or SLDC, as the case may be, shall file a Business Plan, for the Control Period by a Petition in accordance with BERC (Conduct of Business) Regulations, 2005 and its amendments from time to time, by 15th September of the year prior to the commencement of

the Control Period and accompanied by such fee payable, as specified in the BERC (Fees, Fines and Charges) Regulations, 2019 as amended from time to time.

- 5.2 Such Business Plan shall comprise but not be limited to infrastructure requirement commensurate with load growth forecast and demand projections, capital investment plan, financing plan and physical targets.

Provided the Business Plan shall take into account schemes costing below the threshold limit to be notified separately that are to be developed by the State Transmission Utility on cost plus basis in accordance with the Tariff Policy notified by Govt. of India.

Provided that the Commission may permit SLDC to create and maintain a separate development fund for such purposes and from such sources of income, as the Commission may consider appropriate, on a Petition filed by SLDC.

Provided further that in case the Commission issues guidelines and formats, from time to time, the same shall be adhered to by the Transmission Licensee.

- 5.3 The Transmission Licensee or SLDC, as the case may be, shall make assessment of infrastructure requirement and prepare capital investment plan in accordance with BERC (Procedure for Filing Capital Investment and Capitalization Plan) Regulations, 2018 that will spill into the year(s) under review and new projects that will commence and may be completed within or beyond the tariff period.

Provided that all the new intra-state transmission projects costing above a threshold limit to be notified separately, shall be developed through Tariff Based Competitive Bidding.

Provided also that, It is the duty of the Licensee to ensure optimization of investments to enhance efficiency, productivity and meet performance standards prescribed by the Commission.

- 5.4 The Commission shall approve the infrastructure requirement and preparation of capital investment plan in accordance with BERC (Procedure for Filing Capital Investment and Capitalization Plan) Regulations, 2018.