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THE TELANGANA GAZETTE
PART - II EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 14]

HYDERABAD, MONDAY, JANUARY 25, 2016.

NOTIFICATIONS BY HEADS OF DEPARTMENTS, Etc.

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PUBLIC WORKS NOTIFICATIONS

TELANGANA STATE ELECTRICITY REGULATORY COMMISSION, HYDERABAD.

COMPLIANCE AUDIT

Regulation No. 01 of 2016

INTRODUCTION:

No. TSERC/01/2016.- In exercise of the powers conferred under Section 181 of the Electricity Act, 2003 (36 of 2003), the Commission hereby makes the following Regulation with regard to Compliance Audit, Namely:-

1. **SHORT TITLE, EXTENT AND COMMENCEMENT**

- 1.1 This regulation may be called the Telangana State Electricity Regulatory Commission (Compliance Audit) Regulation, 2016.
- 1.2 This regulation shall be applicable in the State of Telangana.
- 1.3 This regulation shall come into force from the date of its publication in the Official Gazette.

2. **DEFINITIONS AND INTERPRETATIONS**

Definitions:

- 2.1 In this regulation, unless the context otherwise requires:
 - (a) 'Act' means the Electricity Act, 2003 (36 of 2003);

- (b) **'Regulated Entity'** means a distribution licensee, a generating company, a transmission licensee, an Electricity Trader, the Licence Exemption Holders including Rural Electric Cooperative and the State Load Dispatch Centre;
- (c) **'Officer'** means any Officer appointed by the Commission in its service on a permanent basis and has completed a minimum of Five years of service.

2.2 Words and expressions used and not defined in this regulation but defined in the Act, shall have the meanings as assigned to them in the Act.

3. COMPLIANCE AUDIT

3.1 The Commission may, at any time, conduct an audit of a regulated entity for verifying its compliance with the provisions of the Act, rules, regulations made thereunder, orders and directions issued by the Commission.

3.2 The Commission may, by order, empanel consultants or auditors required to assist the Commission in discharge of audit functions on the terms and conditions as it deems fit.

3.3. The Commission may either appoint consultants or auditors empanelled with it for an audit or go through the process of a fresh selection, if required for a specific need.

3.4 The Commission may also consider the single source selection of consultants or auditors in exceptional cases where it is appropriate by giving the reasons in writing for such a single source selection.

3.5 The Commission before initiating an audit shall frame the terms of reference which shall detail out the specific outputs that are to be provided by the Consultant or Auditor in relation to the task, the timeframe in which the task has to be completed and other terms relevant to the task.

3.6 The Commission shall assign, through an Order, the specific task of audit to the consultant or auditor based on the terms of reference framed by it, before the audit of the regulated entity starts.

4. REQUIREMENTS OF CONSULTANT OR AUDITOR

4.1 The Consultant or Auditor shall provide professional, objective, and impartial advice and at all times shall hold the Commission's interests paramount, without any consideration for the future work. In providing the advice, he shall avoid conflict with other assignments and his own corporate interests. The Consultant or Auditor shall not be hired for any assignment that would be in conflict with his prior or current obligations to his other clients, or that may place him in a position of being unable to carry out the assignment in the best interests of the Commission.

4.2 In particular and without prejudice to the generality of the provisions in Para 4.1, the Consultants or Auditors shall be engaged keeping in view the circumstances set forth below:

- (i) A consultant or an auditor engaged for a particular audit must not hold office or have a commercial or any other interest in the regulated entity for a period of five (5) years preceding the engagement by the Commission.
- (ii) While conducting an audit, the Consultant or Auditor shall act honestly, fairly, professionally, independently and objectively. The Consultant or Auditor shall exercise a standard of skill, care and diligence that would be reasonable to expect of a person who is skilled, and has a substantial experience in provision of the services or similar to those to be provided by the auditor.
- (iii) The selected consultant or auditor shall be required to provide a written declaration to the Commission that he has no conflict of interest while performing the tasks and functions

assigned to him under this regulation or by its nature, may be in conflict with another assignment of the consultant or auditor.

- (iv) The prospective consultant or auditor, as far as possible, shall have proper and relevant qualifications to handle the specified job.
- (v) Notwithstanding anything contained in this regulation, the Commission may appoint an Officer, as an Auditor to carry out the assigned duties. The Commission, as far as possible, shall ensure to appoint an Officer who has not worked in the regulated entity in the past.

5. EXPENSES

- (i) All expenses of, and incidental there to, any audit made under this regulation shall be paid by the Commission and thereafter such expenses shall be defrayed by the regulated entity in favour of the Commission **within thirty (30) days of the claim.**
- (ii) The regulated entity shall be permitted to claim the said expenses as follows –
 - (a) A Distribution licensee or a transmission licensee may claim the said expenses as a part of its Administrative and General expenses in the true-up of relevant year;
 - (b) A Generation company may claim the said expenses while filing the application for determination of tariff;
 - (c) An Electricity Trader may claim the said expenses as increase in trading margin with the approval of Commission;
 - (d) The State Load Despatch Centre may claim the said expenses as a pass through in its fee and charges proposal in accordance with the regulation on fee and charges;

- (e) The License exemption holder may be charged a special one time charge to recover expenses associated with the audit related to license exemption holder.

Provided that as a result of compliance audit if the Regulated entity is found guilty of non-compliance of the provisions of the Act or Rules and Regulations made thereunder, orders and directions issued by the Commission and where such non-compliance results in imposition of penalty through proceedings under Section 142, all the costs related to such audit, shall be borne by the Regulated entity itself and shall not be permitted to be claimed as expenses.

- (iii) If the Commission appoints one of its officer as an auditor under para 4.2 (vi), no expenses shall be charged to the regulated entity.

6. METHODOLOGY

- 6.1 The consultant or auditor may, at any time, and shall, on being directed so to do by the Commission, cause an inspection to be made, by one or more of his officers, of any regulated entity and its books of account, registers and other documents in its custody, and to investigate into the affairs of the regulated entity in a manner as deemed fit by the Commission.

Provided that the regulated entity shall be given a reasonable advance notice in writing of such inspection and / or investigation.

- 6.2 It shall be the duty of every regulated entity, to produce before the consultant or auditor, all such books of account, registers and other documents and to furnish him with any statement and information relating to the affairs of the regulated entity as required in writing, within such time as he intimates to the regulated entity.

6.3 The consultant or auditor shall collect adequate evidence to support the work performed and to serve as the basis for the conclusions reached during the course of the audit. The information gathered may be through:

- a) **Data Requests** - The primary method of obtaining data shall be through data requests to the regulated entity. The data obtained through data requests may include financial and operational information, procedures, manuals, organization charts, reports, email and voice mail records, and studies. The data may be obtained either electronically or as paper documents.
- b) **Site Visits** - The consultant or auditor may conduct Site visits to ensure accurate interpretation of the information provided by the regulated entity. The consultant or auditor may collect materials on-site, observe processes, and offer an opportunity to conduct face-to-face interviews, as relevant to the audit.
- c) **Interviews** - The consultant or auditor may conduct interviews in person or over the phone.
- d) As the data are collected from the regulated entity under audit, the consultant or auditor shall compile and analyze the data. The consultant or auditor shall analyze information gathered from multiple sources, including filings made before the Commission by such regulated entity, as well as from public records. Advanced analysis may require the creation of complex spreadsheets and databases, and the use of sampling to test for potential non-compliance of the Act, rules, regulations made thereunder, orders and directions issued by the Commission.
- e) **Third party complaints** - Areas of non-compliance may also be identified through the third party complaints, for example, customer complaints.

- 6.4 The consultant or auditor shall full report to the Commission, which shall contain, as a minimum:
- a) A description of the reporting scope and methodology, which shall include all matters specified in the terms of reference.
 - b) A description of the systems and procedures that have been established to comply with the regulatory obligations, including the identification of relevant document and responsible positions.
 - c) A discussion of how compliance is managed, addressing generic compliance issues and any specific issues identified for that report.
 - d) Details of any non-compliance identified and the actions being undertaken by the regulated entity to rectify them, and an assessment of the adequacy of the actions.
- 6.5 The report shall include a statement, signed by the auditor, which states that:
- a) The terms of reference have been complied with by the consultant or auditor in making the findings and in preparing the report; and
 - b) The report reflects the professional opinion of the auditor.
- 6.6 The consultant or auditor shall supply to the regulated entity a copy of his report.
7. On receipt of any report under this regulation, the Commission may, after giving an opportunity to the regulated entity, and after considering the representation or explanation of the regulated entity, by an order in writing take the appropriate action under the Act on being satisfied regarding the non-compliance or contravention, of the provisions of the Act, Rules, Regulations, orders and directions as the case may be.

8. POWER TO REMOVE DIFFICULTIES

If any difficulty arises in giving effect to any of the provisions of this regulation, the Commission may, by general or special order, take suitable action, not being inconsistent with the Act, which appears to the Commission to be necessary or expedient for the purpose of removing the difficulties.

9. POWER TO AMEND

The Commission may at any time, amend any provisions of this Regulation.

10. ORDERS AND PRACTICE DIRECTIONS

Subject to the provisions of the Act, the Commission may from time to time issue orders, and practice directions in regard to the implementation of this Regulation.

11. SAVINGS

The entrusting of any consultation or auditing work of a regulated entity done earlier by the Commission for providing advice or auditing of the work with regard to compliance of the provisions of the Act, Rules and Regulations respectively, made before coming into force of the Telangana State Electricity Regulatory Commission (Compliance Audit) Regulation, 2016 shall continue to be governed by the provisions of the earlier regulation i.e., Regulation No. 6 of 2013 as adopted by the Commission in Regulation No.1 of 2014 notified by the Commission.

12. REPEAL

On and from the date of publication of this Regulation in the Official Gazette of the Government of Telangana, the Regulation No.6 of 2013 along with the amendments as made by the erstwhile APERC from time to time and adopted by the Commission in its Regulation No. 1 of 2014, stands repealed to the extent relating to the Regulation on Compliance Audit.

Notwithstanding such repeal any action taken under the said Regulation shall not become invalid and deemed to have been taken under the corresponding provision of the present Regulation, or to the extent, if not provided for in this Regulation, such action shall subsist and deemed to have been taken as if such repeal provision is subsisting.

(By order of the Commissioner)

Hyderabad,
20-01-2016.

Dr. K. SRINIVAS REDDY,
Commission Secretary,
Telangana State Electricity Regulatory
Commission.

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