

Gujarat Electricity Regulatory Commission (Fees, Fines and Charges) Regulations, 2005

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SCHEDULE 1 :- Schedule 1

Gujarat Electricity Regulatory Commission (Fees, Fines and Charges) Regulations, 2005

In exercise of the powers conferred under Sec.181 of the Electricity Act, 2003 (Act 36 of 2003) and unde Sec. 17 of the Gujarat Electricity Industry (Reorganisation and Regulation) Act, 2003 (Gujarat Act 24 of 2003), and all powers enabling it in that behalf, the Gujarat Electricity Regulatory Commission hereby makes the following Regulations, namely:

CHAPTER 1

GENERAL

1. Short title, extent and commencement :-

(i) These regulations may be called the Gujarat Electricity Regulatory Commission (Fees, Fines and Charges) Regulations, 2005 .

(ii) These Regulations extend to the whole of the State of Gujarat.

(iii) These shall come into force on the date of their publication in the Gazette.

CHAPTER 2

DEFINITIONS AND INTERPRETATIONS

2. Definitions and Interpretation :-

2.1 In these Regulations, unless the context otherwise requires :

(i) "Acts" refers jointly to the Electricity Act, 2003 and the Gujarat Electricity Industry (Re-organisation and Regulation) Act, 2003.

(ii) "Commission" means the Gujarat Electricity Regulatory Commission,

(iii) "Electricity Act" means the Electricity Act, 2003 (Act 36 of 2003).

(iv) "Fees" means fees mentioned in the Schedule.

(v) "Fines and / or Charges" refers to fines and/or charges that the Commission is empowered to impose under the Acts.

(vi) "Fund" shall mean the State Electricity Regulatory Commission Fund constituted under S.103 of the Electricity Act, 2003.

(vii) "Generating Company" shall have the meaning ascribed to it under the Electricity Act.

(viii) "Grid" means the high voltage backbone system of inter-connected transmission lines, sub-stations and generating plants;

(ix) "State Act" means the Gujarat Electricity Industry (Reorganisation and Regulation) Act, 2003 (Gujarat Act 24 of 2003).

(x) "Licensees" mean licensees under the Acts.

(xi) "Proceedings" means and include proceedings of all nature that the Commission may hold in the discharge of its functions under the Acts.

(xii) "Regulations" mean the Gujarat Electricity Regulatory Commission (Fees, Fines and Charges) Regulations, 2004.

(xiii) "Schedule" refers to the schedule appended to these Regulations.

(xiv) "Secretary" means the Secretary of the Gujarat Electricity Regulatory Commission. Words and expressions used and not defined in the Regulations but defined in the Acts shall have the meanings assigned to them in the Acts. Expressions used herein but not specifically defined in the Regulations or in the Acts but defined under any law passed by a competent legislature and applicable to the electricity industry in the State shall have the meaning assigned to them in such law. Subject to the above, expressions used herein but not specifically defined in these Regulations or in the Acts or any law passed by a competent legislature shall have the meaning as is generally assigned in the electricity industry. The Bombay General Clauses Act, 1904 , shall apply for the purpose of the present Regulations,

2.2 Interpretation. In the interpretation of these Regulations, unless the context otherwise requires: (i) Words in the singular or plural term, as the case may be, shall also be deemed to include the plural or the singular term, respectively; (ii) The terms "include" or "including" shall be deemed to be followed by "without limitation" or "but not limited to" regardless of whether such terms are followed by such phrases or words of like import; (iii) References herein to the "Regulation" shall be construed as a reference to these Regulations as amended or modified by the Commission from time to time in accordance with the applicable laws in force. (iv) The headings are inserted for convenience and may not be taken into account for the purpose of interpretation of these Regulations. (v) References to the statutes, regulations or guidelines shall be construed as including all provisions consolidating, amending or replacing such statutes, regulations or guidelines, as the case may be, referred to.

CHAPTER 3 FEES

3. Fees on Applications and Petitions :-

(i) Every application, petition and appeal made to the Commission shall be accompanied by such Fees as specified in the Schedule.

(ii) The Fees payable under these Regulations shall be paid by means of bank draft or pay order, drawn in favour of the 'Gujarat Electricity Regulatory Commission', payable at Ahmedabad.

(iii) All Fees received by the Commission under these Regulations shall be credited to the Fund.

(iv) However, when the applicant/petitioner is Government of Gujarat, no fee shall be levied.

CHAPTER 4

FINES AND/OR CHARGES

4. Imposition of Fines and/or Charges :-

(i) Subject to the provisions of the Acts, the Commission may, while deciding any matter or proceeding pending before the Commission or at any other time, initiate a proceeding for imposition of Fines and/or Charges against any person including generating companies and licensees for non-compliance or violation on their part of the provisions or requirements of the Act or Rules, Regulations or Codes framed under the Act or the directions or orders of the Commission made from time to time.

(ii) While determining the quantum or extent of the Fines and/or Charges to be imposed, the Commission shall consider, amongst other relevant things, the following :

The nature and extent of non-compliance or violation.

The wrongful gain or unfair advantage derived as a result of the non-compliance or violation.

The loss or degree of harassment caused to any person(s) as a result of the non-compliance or violation.

The repetitive nature of the non-compliance or violation.

(iii) Before imposing any Fines and/or Charges, the Commission shall give an opportunity to the person upon whom such Fines and/or Charges are proposed to be imposed, to represent against the proposal to impose such Fines and/or Charges and also on the quantum or extent of the Fines and/or Charges proposed to be imposed.

(iv) The Commission shall issue a notice to the person specifying the nature of non-compliance or violation on the person's part and also all upon him to show cause within the time specified in the notice as to why Fines and/or Charges may not be imposed on him for such non-compliance or violation.

(v) Where in reply to the notice, the person admits non-compliance or violation in writing, the Commission shall record it and may impose such Fines and/or Charges as it may consider fit in the

circumstances of the case, subject to the provisions of the Act.

(vi) If the person to whom a notice has been issued under sub clause (iii) fails to show cause or denies non compliance with or violation of any provision of the Act or rules or regulations or an order of the Commission, the Commission may enquire into the matter in such manner as it deems fit.

(vii) The Commission may on being satisfied that no non-compliance or violation of any provision of Act, rules or regulations or an order of the Commission has been committed, discharge the notice.

5. Payment of Fines and Charges :-

(i) The Fines and/or Charges as ordered by the Commission shall be paid within 30 days of the order of the Commission imposing the Fines or Charges or within such extended date as may be allowed by the Commission in such order.

(ii) The Fines and/or Charges shall be payable in the same manner as provided under sub-clause (2) of clause 3 of these Regulations.

(iii) If the Fines and/or Charges ordered by the Commission are not paid within the prescribed time, they shall be recoverable as arrears of land revenue.

6. Fees Payable on license :-

(i) The licensees as well as deemed licensee shall pay the annual fee for the Financial Year 2005-06 onwards as specified in the Schedule and shall not be required to pay any initial license fee.

(ii) In addition to the annual fee new entrants shall be required to pay initial license fee also.

(iii) All annual fees commencing from the Financial Year 2005-06 shall be paid by 15th April each year.

(iv) In case of late payment of annual fee, interest will be payable on the delayed amount at the rate of 1% per month.

7. Utilisation of the funds :-

All amounts received as Fines and/or Charges under these Regulations shall be deposited in a separate bank account opened and maintained by the Commission therefor and shall not form part of the Fund unless the State Government so notifies under-clause

(c) of Sec. 103 of the Electricity Act.

(i) Unless the State Government through a notification under S.103 of the Electricity Act, 2003 specifies to the contrary, the Commission shall be entitled to utilise the amount deposited with the bank under sub-clause (i) above for the discharge of its functions in such manner as it deems fit.

8. Amendment of Schedule :-

The Commission shall be entitled to add, amend, alter or vary the amounts of Fees payable as provided in Schedule, by order, from time to time, as it deems fit.

9. Miscellaneous :-

Nothing in these Regulations shall be deemed to limit or otherwise affect the power of the Commission to make such orders as may be necessary to meet the ends of justice.

(i) Nothing in these Regulations shall bar the Commission from adopting in conformity with provisions of the Act, 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 a class of matters and for reasons to be recorded in writing, deems it just or expedient for deciding such matter or class of matters.

(ii) Nothing in these Regulations shall, expressly or impliedly, bar the Commission dealing with any matter or exercising any power under the Act for which no regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner, as it considers just and appropriate.

SCHEDULE 1

Schedule 1