

BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW

Present:

1. Shri Raj Pratap Singh, Chairman
2. Shri S. K. Agarwal, Member
3. Shri Kaushal Kishore Sharma

IN THE MATTER OF:

"Addendum/Amendment To Uttar Pradesh Electricity Regulatory Commission (Fees And Fines) Regulations, 2010".

Order

1. A draft was prepared for amendment in UPERC (Fees & Fine) Regulation, 2010 thereby bringing amendments in items of fee, which were either absent in the existing framework or failed to capture varied nature of petitions in a sacrosanct manner; and similarly suggest pre-specified fines for non-compliance of directives of the Commission by licensee/generator.
2. Subsequent to it, vide UPERC notice dated 26th September, 2018, suggestions/comments on these draft regulations were invited from all stake holders up to 17th October, 2018. Only NPCL submitted its comments to the Commission on 17th October, 2018 itself. However, the Commission also conducted a public hearing in the matter on 23rd October, 2018. The public hearing was attended by NPCL, M/s Ghatampur Transmission Ltd. & Chief Engineer (RAU), UPPCL. NPCL reiterated its stand, what it had submitted in the form of comments on 17th October, 2018. M/s Ghatampur Transmission Ltd. also raised few issues regarding fees for transmission licensee. However, Chief Engineer (RAU), UPPCL requested for 7 working days additional time to submit comments on behalf of UPPCL & its Discoms.
3. Although UPPCL had sought 7 days' time on 23rd October 2018 i.e. the date of public hearing but they submitted their comments on 16th November 2018 i.e. much beyond the sought time therefore,

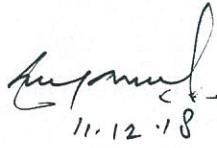


the Commission was not obliged to take their comments on record however, the Commission considered it appropriate to go through the comments of UPPCL.

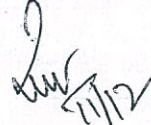
4. Accordingly, after considering all comments and suggestions submitted before it, either in written manner or during public hearing, the Commission has finalized its **“ADDENDUM/AMENDMENT TO UTAR PRADESH ELECTRICITY REGULATORY COMMISSION (FEES AND FINES) REGULATIONS, 2010”**. The amendments are hereby approved, and directions are being issued to send it for notification.



(Kaushal Kishore Sharma)
Member



(Suresh Kumar Agarwal)
Member



(Raj Pratap Singh)
Chairman

Place : Lucknow
Dated : 11th December 2018

FIRST ADDENDUM / AMENDMENT TO UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION (FEES AND FINES) REGULATIONS, 2010

Notification No. : UPERC/Secy./Regulation/1523

Dated Lucknow,

11-12-2018

In exercise of powers conferred on it by Section 86(1)(g) of the Electricity Act, 2003 and Section 52 of the Uttar Pradesh Electricity Reforms Act, 1999 (UP Act No. 24 of 1999) in so far as these are not inconsistent with the provisions of Electricity Act, 2003, and all powers enabling it in that behalf, the Uttar Pradesh Electricity Regulatory Commission hereby makes the following amendments to the UPERC (FEES AND FINES) REGULATIONS, 2010.

AMENDMENTS

The existing provision at S. No. 1.1 shall be replaced by following: -

These regulations may be called the Uttar Pradesh Electricity Regulatory Commission (Fees and Fines) Regulations, 2010 (First amendment).

The existing provision at S. No. 2.2(vi) shall be replaced by following: -

Reference herein to the "Schedules" shall be construed as a reference to the 'Schedule of Fee' & 'Schedule of Pre-specified Fines/penalties' annexed to these regulations as amended or modified by the Commission from time to time in accordance with the applicable laws in force.

The existing provision at S. No. 4.3 shall be replaced by following: -

Annual license fee as specified under these regulations for each year shall be paid by 15th July of that year. The date of submission of annual license fee as mentioned in this regulation shall supersede the date as may be mentioned in any other regulation of the Commission.

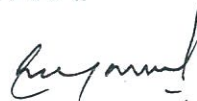
New provision to be added as S. No. 5.8: -

The Commission shall have undivided powers to reduce or relax the pre-specified fines / penalties through speaking order after providing an opportunity of hearing to the person, subsequent to issuing him notice to the effect of imposition of specified fine/penalty.

The existing provision at S. No. 6.2 shall be replaced by following: -

The fines/penalties shall be payable in the same manner as provided under sub clause (ii) of clause 3 of these Regulations. These fines/penalties will have to be mandatorily reflected in Annual Accounts of the Generator or the Licensee as the case may be, but will not form part of admissible expenditure under ARR.







The existing provision at S. No. 7.1 shall be replaced by following: -

The Commission shall be entitled from time to time to add, amend, alter or vary the amounts of Fees payable or the amounts of Fines / Penalties payable as provided in Schedules to these regulations by an order to be made by the Commission subject to the condition specified under section 181(3) of the Electricity Act, 2003, as it deems fit.

The existing 'Schedule of Fees' shall be amended as following: -

Amendment to 'Schedule of Fees'

PT. No.	Nature of Application/ Petition	Existing Fee	Amended Fee
Part – A General			
6	Miscellaneous applications i.e. application not covered elsewhere.	a. Rs.10,000 / application if filed by licensee b. Rs.1000 / application if filed by any body other than licensee or individual c. Rs.500 / application if filed by individual	a. Rs.25,000 / application if filed by licensee or generating company. b. Rs.1000 / application if filed by any body other than licensee or generating company
7	Application for review or reconsideration of any order of the Commission not covered elsewhere.	Rs. 1,000 (Rs. One Thousand Only)	50% of the original fee however, Commission may exempt if review is concerned with small consumers.
Part C –Grant of License			
2	Annual License Fee payable by the Distribution Licensee.	0.05% of amount billed/to be billed by the licensee initially at the time of grant of license and annual payment at the same rate in each subsequent financial year during the validity of the license. or Fee as may be prescribed by the State Government	0.04% of amount to be billed by the licensee initially at the time of grant of license and annual payment at the same rate in each subsequent financial year during the validity of the license. or Fee as may be prescribed by the State Government
3	Annual Licensee fee to be paid by the Transmission Licensee	Rs. 500 for every million units of electricity or part thereof handled/ to	The transmission licensee on being issued with intra-state transmission license shall pay the license fee at

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		<p>be handled by the licensee initially at the time of grant of license and annual payments at the same rate in each subsequent financial year during the validity of the license.</p> <p>or</p> <p>Fee as may be prescribed by the State Government under the provisions of Electricity Act, 2003.</p>	<p>the rate of Rs. 5.00 lakh per annum from date of grant of license upto the date of commercial operation of the transmission system or an element thereof. Subsequent to commercial operation, the licensee shall pay Rs. 500 for every million units of electricity or part thereof handled by the licensee in each subsequent financial year during the validity of the license. In case of partial operation of the system in the first year, the license fee shall be charged at the same rate on pro-rata basis.</p> <p>or</p> <p>Fee as may be prescribed by the State Government under the provisions of Electricity Act, 2003.</p>
Part D – Setting Tariff			
8	Determination of tariff under MYT for retail sale & wheeling of electricity.	Rs. 10 Lakhs + Rs. 500 per MVA of peak demand up to a maximum of Rs. 60 Lakhs	Rs. 10 Lakhs + Rs. 500 per MVA of peak demand up to a maximum of Rs. 50 Lakhs
11	Annual Performance Review of Transmission Licensee or generating company under MYT	Rs. 15 Lakhs	Rs. 10 Lakhs

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Addendum to 'Schedule of Fees'

Following additions are being made in the 'Schedule of Fees' of Regulations 2010: -

Sl. No. of Regulations 2010	Nature of Application / Petition	Fee (in Rupees)
Part-A General		
7	Surcharge for delay in submission of the Petition	Rs. 5000/day from due date (if prescribed by the Commission) up to the actual date of submission. However, this provision shall not be applicable in case of delay in submission of MYT / APR / True up petitions for which a separate express provision has been suggested under fine portion.
Part – B Resolution of disputes and complaints		
5	a. For adjudication on adequacy of Transmission capacity u/s 9 of the Act. b. Review of order issued under 5(a)	a. Rs.50,000/- b. Rs. 25,000/-
6	a. Dispute related to integrated grid operation U/s 33(4) b. Review of order issued under 6(a)	a. Rs. 50,000/- b. Rs. 25,000/-
7	Disputes arising under sub section 4 and 5 of Section 67 of the Act, (opening of Streets, Railways etc.)	Rs. 25,000/-
Part- C Grant of License		
8	Annual license fee for a. Special Economic Zone b. Rural Electric Cooperative Society	a. Rs. 1,00,000/-annum b. Rs. 50,000/- annum, however, Commission may relax this fee if it feels appropriate.
9	Application for revocation of license under subsection (2) of Section 19 of the Electricity Act,	By licensee Rs. 1,00,000/- By others Rs. 10,000/-
Part- D Setting Tariff		
12	Application for adoption of tariff for short/long/medium term power purchases to be made through competitive bidding	Long Term/ Medium Term: Conventional Fuel based (Coal, Oil etc.) including Hydel Plant above 25 MW – Rs. 25,000/- per MW or part thereof [Minimum of Rs.

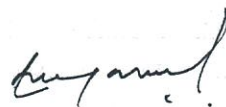
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		2,00,000/- and Maximum of Rs. 10,00,000/-] Non-Conventional and renewable energy sources including Hydel Plant up to 25 MW – Rs. 10,000/- per MW or part thereof [Minimum of Rs. 50,000/- and Maximum of Rs. 5,00,000/-] Short Term: Rs. 10,000 per bidding process.
13	Application for Truing up of Tariff Order, if filed as a separate petition.	Rs. 1,00,000/-
14	a. Petition with respect to FPPCA b. Review of order issued under 14 (a)	a. Rs. 50,000 b. Rs. 25,000
15	Petition for Tariff adoption towards tariff discovered through competitive guidelines – both for generation & transmission.	Rs. 25,00,000
Part- E Transmission Issues		
1	Petition for determination of rates, charges, terms and conditions under proviso to sub section (1) of section 36 of the Electricity Act, 2003 (<i>Petition for use of intervening transmission facility of another licensee</i>)	Rs. 1,00,000
2	Transmission Service Agreement	Rs. 500 per MW with a Minimum of Rs.15,000/- and Maximum of Rs. 2,00,000/ both for competitive bid projects and MoU based projects
3	Application for determination of Fees and Charges of the State Load Dispatch Centre:	Rs. 5,00,000/-







Schedule of 'Pre- specified Fines / Penalties' has been added as a separate schedule in Regulations, 2010

'Schedule of Pre- specified Fines / Penalties'

Sl. No. in Regulations 2010	Nature of Application / Petition	Fines / Penalty (in Rupees)
Part-A Information related to Generation		
1	Non-Submission of Performance Report by Generating Companies in term of Section 10(3) of Act & Section 2(7) of UPERC Generation Tariff Regulations 14 in the month of September & March respectively.	<p>a) Fine of Rs. 50,000 on first contravention and a fine of Rs.5,000 per day during continuance of contravention.</p> <p>b) If not cured by second due date, then it will attract a fine of Rs. 1,00,000 followed by a fine of Rs.10,000 per day during continuance of contravention.</p> <p>c) If not cured by third due date, then it will attract a fine of Rs. 2,00,000 followed by a fine of Rs.20,000 per day during continuance of contravention.</p> <p>d) On subsequent defaults, a fine of Rs. 5,00,000 will be repeatedly imposed followed by a fine of Rs. 20,000 per day during continuance of contravention. This is without prejudice to Commission taking any other measure as it may deem fit.</p>
2	Non-submission of data related to cost, expenditure & operation as per regulation 51(X) of UPERC Generation Tariff Regulations 14 in the month of September & March respectively.	<p>a) Fine of Rs. 50,000 on first contravention and a fine of Rs.5,000 per day during continuance of contravention.</p> <p>b) If not cured by second due date, then it will attract a fine of Rs. 1,00,000 followed by a fine of Rs.10,000 per day during continuance of contravention during the period subsequent to second due date.</p>

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		<p>c) If not cured by third due date, then it will attract a fine of Rs. 2,00,000 followed by a fine of Rs.20,000 per day during continuance of contravention during the period subsequent to third due date.</p> <p>d) On subsequent defaults, a fine of Rs. 5,00,000 will be repeatedly imposed followed by a fine of Rs. 20,000 per day during continuance of contravention during the period subsequent to fourth due date. This is without prejudice to Commission taking any other measure as it may deem fit.</p>
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3	Non-submission of Information in accordance with Section 11(2) of CRE Regulations 2014 within 90 days from date of notification of regulation	<p>a) A fine of Rs. 1,00,000 on contravention followed by an additional fine of Rs. 10,000 per day for next 30 days.</p> <p>b) If not submitted in next 30 days also, then it will attract a fine of Rs. 2,00,000 will be imposed along with an additional fine of Rs.20,000 per day for a period after 30 days. In such matters, the Commission may take any other action that it may deem fit</p>
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Part – B Information Related to Distribution & Supply

1	<p>On non-submission of quarterly MIS reports giving category-wise number of complaints received and the complaints, which could not be resolved within the stipulated time and reasons thereof. (Reference clause- 7.7.6 sub clause 4(e) of supply code)</p>	<p>a) If the quarterly information is not submitted then it will attract a fine of Rs. 25,000 on first default with a continuing fine of Rs. 2500/day during continuance of failure up to the second quarter cut-off.</p> <p>b) If the information is not submitted by second quarter cut-off also, it will attract a fine of Rs. 50,000 with a fine of Rs. 5,000/day after the second quarter cut-off and during continuance of failure up to 3rd quarter cut-off.</p> <p>c) If the information is not submitted by third quarter cut-</p>
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		<p>off also, it will attract a fine of Rs. 75,000 with a fine of Rs. 7,500/day after the third quarter cut-off and during continuance of failure up to 4th quarter cut-off.</p> <p>d) If the information is not submitted by 4th quarter cut-off also, it will attract a fine of Rs. 1,00,000 with an additional fine of Rs. 10,000 per day after the fourth quarter cut-off and during continuance of failure up to 5th quarter cut-off.</p> <p>e) Beyond this, it will continue to attract a fine of Rs. 10,000 per day till the cure of default.</p>
2	<p>On non-submission of quarterly statement to the Commission giving zone wise details of such bills (bills raised 6 months after energization) along with compensation given on this account during the quarter. (Reference clause- 7.7.2(d) of supply code)</p>	<p>a) If the quarterly information is not submitted then it will attract a fine of Rs. 25,000 on first default with a continuing fine of Rs. 2500/day during continuance of failure up to the second quarter cut-off.</p> <p>b) If the information is not submitted by second quarter cut-off also, it will attract a fine of Rs. 50,000 with a fine of Rs. 5,000/day after the second quarter cut-off and during continuance of failure up to 3rd quarter cut-off.</p> <p>c) If the information is not submitted by third quarter cut-off also, it will attract a fine of Rs. 75,000 with a fine of Rs. 7,500/day after the third quarter cut-off and during continuance of failure up to 4th quarter cut-off.</p> <p>d) If the information is not submitted by 4th quarter cut-off also, it will attract a fine of Rs. 1,00,000 with an additional fine of Rs. 10,000 per day after the fourth quarter cut-off and during</p>

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		continuance of failure up to 5th quarter cut-off. e) Beyond this, it will continue to attract a fine of Rs. 10,000 per day till the cure of default.
3	Non-submission of quarterly reports on following indices both to the Commission as well as on its website -	
a)	Reliability Indices (<i>Ref. Clause 7.14 of Supply Code</i>)	Failure to submit information regarding the reliability index, under clause 7.14, on time shall attract a fine of Rs. 25,000 and Rs. 2,500/day in case of continuing failure.
b)	Billing Mistakes (<i>Ref. Clause 7.17 of Supply Code</i>)	Failure to submit information regarding the billing mistakes, under clause 7.17, on time shall attract a fine of Rs. 25,000 and Rs. 2,500/day in case of continuing failure
c)	Faulty meters (<i>Ref. Clause 7.18 of Supply Code</i>)	Failure to submit information regarding the faulty meters, under clause 7.18, on time shall attract a fine of Rs. 25,000 and Rs. 2,500/day in case of continuing failure.
Part – C Information Related to Tariff		
1	Delay in submission of MYT petition / APR petition / True Up petition beyond the specified date.	A fine shall be levied at the rate of Rs. 5000/day in the first 30 days beyond the specified date. After 30 days, a fine of Rs. 1 lakh shall be imposed in addition to a fine at the rate of Rs. 10,000/day till the submission of petition.
2	Delay in submission of Business Plan beyond the specified date	A fine shall be imposed of Rs. 1,00,000 if Business plan is not submitted within 30 days of the specified date. Further, if it is not submitted within 60 days of the specified date, a fine of Rs. 2,50,000 will be imposed along with any other punitive measure that the Commission deems fit.
Part – D General Directions		
	Starred Directions* issued by Regulatory Commission under Tariff Order / Supply Code / Direction through any other order	A penalty of Rs. 50000 shall be imposed on the licensee, if he fails to abide by the starred direction by the specified date in the direction. Further, a penalty of Rs. 5000 per







	<p><i>*(Henceforth the Commission shall issue all its general directions, containing the date of implementation, under two heads viz starred directions and un-starred directions. The decision of the Commission regarding classification of its directions under starred & un-starred category shall be final. The Commission may also re-visit its existing un-complied directions and classify it under starred and un-starred category.)</i></p>	<p>day shall be imposed during the period of continuance of failure in abiding the direction</p>
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These regulations shall come into effect from the date of notification.



By the order of the Commission

Sanjay Srivastava
Secretary
UPERC