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KERALA GAZETTE
കേരള ഗസറ്റ്

EXTRAORDINARY
അസാധാരണം

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KERALA STATE ELECTRICITY REGULATORY COMMISSION (COMPLIANCE AUDIT) REGULATIONS, 2012

NOTIFICATION

No. 372/CT/2011/KSERC. *Thiruvananthapuram, 1st October, 2012.*

In exercise of the powers conferred by section 181 of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in this behalf, and after previous publication, the Kerala State Electricity Regulatory Commission hereby makes the following regulations, namely:—

REGULATIONS

1. *Short title and commencement.*—(1) These regulations may be called the Kerala State Electricity Regulatory Commission (Compliance Audit) Regulations, 2012.

(2) They shall be applicable to the whole of the State of Kerala.

(3) They shall come into force at once.

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33/4012/2012/DTP.

2. *Definitions.*— In these regulations, unless the context otherwise requires,—

(a) "Act" means the Electricity Act, 2003 (36 of 2003);

(b) "Commission" means the Kerala State Electricity Regulatory Commission constituted under section 82 of the Act.

(c) "Regulated entities" mean distribution licensees, generation companies, transmission licensees, Electricity Traders and State Load Dispatch Centres.

(d) Words and expressions used and not defined in these regulations but defined in the Act shall have the meanings assigned to them in the Act.

3. *Compliance Audits.*— (1) The Commission may, at any time, conduct audits of regulated entities for verifying their compliance with the Act, rules and regulations made thereunder, orders and directions issued by the Commission.

(2) The Commission may, by order empanel consultants/auditors to assist the Commission in the discharge of these functions on the terms and conditions as deemed fit.

(3) The Commission may either appoint consultants/auditors empanelled with it for an audit or select suitable persons if required for a specific purpose.

(4) The Commission shall, before initiating audit, frame the terms of reference detailing the specific outputs that are to be provided by the Consultant/Auditor in relation to the task, the time frame for completion and other terms relevant to the task.

(5) The Commission shall, issue an order assigning the specific task framed under clause (4) to the consultant/auditor.

4. *Requirement of Consultant/Auditor.*—(1) The Consultant/Auditor shall not have any conflict of interest with their other assignments or their own corporate interests with the regulated entities.

(2) The Consultant/Auditor, before accepting the assignment shall submit a declaration supported with an affidavit that they have no conflict of interest as stated in clause (1) above.

5. *Expenses.*—(1) All expenses of, and incidental to, any audit made under these regulations shall be paid by the regulated entities.

(2) The regulated entity shall be permitted to claim the said expenses as follows:—

(a) Distribution licensees or transmission licensees may claim the said expenses as pass through in their Annual Revenue Requirements;

(b) Generation companies may claim the said expenses while filing application for determination of tariff;

(c) Electricity Traders may claim the said expenses as increase in trading margin with the approval of Commission.

(d) State Load Dispatch Centre may claim the said expenses in their Annual Revenue Requirements.

6. *Methodology.*—(1) The consultant/auditor may, at any time, and shall, on being directed to do so by the Commission, cause an inspection to be made, by one or more of his officers of any regulated entity and his 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.

(2) It shall be the duty of every regulated entity, to produce before the consultant/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 the said consultant/auditor may require of him within such time as the said consultant/auditor may intimate in writing in this behalf.

(3) The consultant/auditor shall collect sufficient evidence to document the work performed and to serve as the basis for the conclusions reached during the course of the audit. The information gathered will be generally through,—

(a) *Data Requests.*—The primary method of obtaining data shall be through data requests to the concerned regulated entity. The data obtained through data requests could 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 depending upon the requirement.

(b) *Site Visits.*—The consultant/auditor shall conduct site visits to ensure accurate interpretation of the information provided by the concerned regulated entity. The consultant/auditor shall inter alia collect materials on-site, observe processes, and to conduct face-to-face interviews, as relevant to the audit.

(c) *Interviews.*—The consultant / auditor may conduct interviews in person and over the phone.

(d) As the data are collected from the regulated entity under audit, the consultant/auditor shall compile and 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 third party complaints, for example, customer complaints.

(4) The consultant/auditor will be required to provide full reports to the Commission, which shall contain, as a minimum,—

(a) A description of the reporting scope and methodology, which should include all matters specified in the terms of reference;

(b) A description of the systems and procedures that have been established to comply with regulatory obligations, including the identification of relevant documentation and responsible positions;

(c) A description 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 undertaken by the regulated entity to rectify them, and an assessment of the adequacy of the actions.

(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/ Auditor in making findings and in preparing the report; and

(b) the report reflects the professional opinion of the auditor.

7. *Action by the Commission.*—(1) On receipt of a report under these regulations, the Commission may examine it to see whether there is violation of the provisions of the Act, rules or regulations or the licensing condition and also serve a copy of the report to the concerned regulated entity.

(2) The Commission may, in suitable cases of reported violation after affording a reasonable opportunity to the concerned regulated entities issue appropriate order under the provisions of the Act.

8. *Power to remove difficulties.*—If any difficulty arises in giving effect to any of the provisions of these regulations, 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. *Orders and practice directions.*—Subject to the provisions of the act, the Commission may from time to time issue orders and directions of practice in regard to the implementation of these Regulations.

By order of the Commission,

K. CHANDRASEKHARA BABU,
Secretary,
Kerala State Electricity Regulatory Commission.

33/4012/12

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

Section 128 of the Act empowers the Commission to investigate the failure, if any, of any licensee in complying with the conditions of licence, failure of any generating company or licensee to comply with provisions of the Act or rules or regulations made thereunder. Commission has decided to issue regulations prescribing the procedure and powers and duties in the context of investigation in line with the model regulation framed by the Forum of Regulators. Hence this notification.