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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

WEST BENGAL ELECTRICITY REGULATORY COMMISSION

NOTIFICATION

No. 28/WBERC **Dated: 04.05.2006**

In exercise of the powers conferred by clause (e) of sub-section (1) of section 86 read with sub-section (1) and clause (zp) of sub-section (2) of section 181 of the Electricity Act, 2003 (36 of 2003) and all powers enabling on that behalf, West Bengal Electricity Regulatory Commission hereby makes the following regulations.

1.0 **Short Title, Commencement and Interpretation:**

i) These regulations may be called the West Bengal Electricity Regulatory Commission (Co-generation & generation of electricity from Renewable Sources of energy) Regulations, 2006.

ii) They extend to the area of jurisdiction of the West Bengal Electricity Regulatory Commission.

iii) They shall come into force on the date of their publication in the official Gazette.

iv) The General Clauses Act, 1897 (10 of 1897) shall apply to the interpretation of these regulations unless otherwise indicated in these regulations or inconsistent with the provisions of the Electricity Act, 2003.

2.0 **Definitions:**

In these regulations, unless the context otherwise requires:

a) The 'Act' means the Electricity Act, 2003;

b) 'Commission' means the West Bengal Electricity Regulatory Commission constituted under section 82 of the Act;

c) 'DPL' means the Durgapur Projects Limited;

d) 'KV' means Kilo Volt;

e) 'KVARh' means Reactive Power in Kilo Volt ampere;

f) 'KWh' means Kilo Watt hour;

g) 'licensee' means a person who has been granted a licence under section 14 of the Act for distribution of electricity and includes a deemed licensee for supply of electricity under first proviso to section 14 of the Act;

h) 'MOU' means the Memorandum of Understanding entered into between the seller/developer and the licensee;

i) 'MW' means Mega Watt;

j) 'Nodal Agency' for these regulations means SLDC or SSLDC;

k) 'PPA' means the Power Purchase Agreement between two agencies for purchase/sale of power;

l) 'Renewable source' means renewable electricity generating sources such as small/mini/ micro hydel project up to 25 MW capacity, wind, solar, biomass based on 100% producer gas or combustion route, urban/municipal waste, industrial waste, geothermal, tidal, ocean trend energy conversion (OTEC) or other such sources as approved by the Ministry of Non-Conventional Energy Sources of the Government of India;

m) 'SLDC' means the State Load Despatch Centre;

n) 'SSLDC' means Sub-State Load Despatch Centre declared by SLDC with the approval of the Commission;

o) 'STU' means State Transmission Utility;

p) State for the purpose of these regulations shall mean the State of West Bengal;

q) 'TOD' means the Time-of-the-Day;

r) 'transmission licensee' means a person who has been granted a licence under section 14 of the Act for transmission of electricity and shall include a deemed licensee for transmission of electricity under first proviso to section 14 of the Act;

s) 'UI' means Un-scheduled Inter-change;

t) 'WBERC' means the West Bengal Electricity Regulatory Commission;

u) 'WBREDA' means the West Bengal Renewable Energy Development Agency;

v) 'WBSEB' means the West Bengal State Electricity Board;

w) Words and expressions used and not defined in these regulations shall have the same meanings as defined in the Act.

3.0 **Quantum of Purchase of Electricity from Cogeneration and Renewable Sources of Energy:**

3.1 The licensees shall purchase during the years 2006-07 and 2007-08 a minimum quantum of electricity as specified below from cogeneration and renewable sources expressed as percentage of their total consumptions during the respective years.

Licensee	Purchase obligation	
	2006-07	2007-08
WBSEB	1.9%	3.8%
CESC Ltd.	1.02%	2.03%
The Durgapur Projects Ltd.	0.72%	1.4%
DPSC Ltd.	0.43%	0.95%

For subsequent years the Commission will separately notify the purchase obligation and may raise the percentage based on availability, as the Commission deems fit.

3.2 Purchase obligation for licensees as specified above are minimum percentage of purchase to be maintained by the licensees. The licensees shall have the option to purchase higher percentage with the approval of the Commission.

3.3 The buyer licensee shall indicate the proposed quantum of purchase from cogeneration and renewable sources of energy for a year in the tariff petition for that year duly indicating the sources of purchase.

3.4 The buyer licensee shall source the proposed quantum of electricity from cogeneration and renewable sources of energy within the State. The drawal point at which the licensee shall purchase energy from cogeneration & non-conventional energy sources shall be the point of measurement for computing fulfilment of purchase obligation.

3.5 For the purpose of counter-checking & monitoring of the fulfilment of purchase obligation of each licensee, the energy from cogeneration and renewable sources, purchased by the licensee shall be considered for the average of last financial year as submitted in the tariff petition for the next financial year and assessed on pro rata basis from annual energy purchase obligation specified in regulation 3.1.

3.6 Energy from cogeneration and non-conventional energy sources generated within the State of West Bengal and used for captive purposes within the State through open access shall be taken into account for computing the fulfilment of purchase obligation of distribution licensees whose systems have been utilized for transmission and wheeling of such energy. The share of purchase obligation of such energy will be divided equally among all the participating distribution licensees.

3.7 While contracting power purchase from renewable sources, the priority for purchase shall be on the basis of the date of commercial operation of such generating stations.

3.8 The buyer licensee shall provide adequate payment security mechanism for purchase of power.

4.0 Determination of Tarrif of Electricity from Cogeneration and Renewable Source:

4.1 Tariff for purchase of electricity from cogeneration and renewable sources shall be agreed mutually by the licensees and the suppliers at a level not above the price cap indicated by the Commission in these regulations. Price cap for similar type of renewable sources of energy shall be the same.

4.2 To facilitate examination of reasonableness of price at which licensee shall procure energy from cogeneration and renewable energy sources, the prospective seller shall submit all cost data and financial charges to the purchaser with a copy to the Commission. MOU/PPA as agreed between the seller and the purchaser shall be submitted to the Commission. The Commission may accept the same for the present if the PPA is made as per these regulations. PPA, if any, entered into between the seller/developer and purchaser before the Act came into force, shall remain valid so far it is not inconsistent with the provisions of these regulations.

4.3 In case the parties are unable to agree mutually, the matter shall be referred to the Commission by filing a petition by either or both the parties for settlement.

4.4 The Commission shall as far as possible be guided by the principles of cost plus and other methodologies, if any, specified by Central Electricity Regulatory Commission while determining the tariff.

4.5 In determining the tariff the Commission may, to the extent possible, consider weightage based on technology, input supply risk, fuel market risk, environmental benefits, social contribution etc. of each type of renewable source.

5.0 **Price Capping for Energy from Cogeneration and Renewable Sources:**

5.1 The price at which the renewable energy from biomass source can be sold to the licensee is capped at Rs. 3.35 per KWh and shall remain fixed for three years from the date of commissioning. For wind energy, the price cap shall be at Rs. 4.00 per KWh for three years from the date of commissioning and for energy from small hydel projects, the price cap is fixed at Rs. 3.60 per KWh for 5 years from the date of commissioning.

5.2 The above price cap shall include all applicable taxes and the cost of connectivity through suitable transmission line up to the nearest grid point. For other kinds of renewable energy like solar, municipal waste etc., the Commission shall separately decide the capping limit. The Commission may, at any time, review the period of capped price, mentioned above, if necessary.

6.0 **Connectivity:**

6.1 The cogeneration and renewable energy soure shall be connected to the State Grid at a voltage level generally not below 33 KV. For small sets, synchronization at 11 KV level may be accepted by the Commission, if it is allowed by the State Transmission Utility after considering technical and commercial feasibility. The delivery point shall be nearest grid sub-station having 33 KV/11 KV voltage level. Synchronization point shall, however, remain at the power station end with all protection and inter-lock as agreed between the licensees, STU and developers. More than one such projects located near each other are to be clustered together as far as possible in order to avail connectivity with the grid sub-station. Communication system between grid sub-station and generating station shall be dveloped by the developer/developers at its/their cost.

Developers of cogeneration and non-conventional energy sources shall abide by all applicable codes, rules, regulations etc.

6.2 Wherever cogeneration and renewable energy sources have been connected to the State Grid at a lower voltage level and wherever such State Grid connection causes any bottleneck in capacity addition or causes avoidable discontinuance of generation or low voltage during peak hours or frequent outage of line or insufficient redundancy, such grid connection shall be converted to 33 KV level preferably with 33 KV double circuit line and cost for such conversion shall be borne by the developer.

7.0 **Open Access for Cogeneration and Renewable Sources of Energy:**

7.1 Any person generating electricity from cogeneration or renewable sources of energy shall have mandatory open access, subject to availability of adequate transmission/distribution facility, to any licensee's transmission system and/or distribution system or grid as the case may be within the State on payment of various charges as indicated hereafter.

8.0 **Charges for Open Access:**

8.1 **Non-refundable Application Fees, Meter rent, Meter reading and related charges, Scheduling & System Operation Charges, Handling and Service Charges:**

8.1.1 All such open ascess charges shall be payable as per regulations 3.0, 4.7 and 4.8 of WBERC (Terms and Conditions for Open Access—Schedule of Charges, Fees & Formats for Open Access) Regulations, 2005 except meter rent, meter reading and other related charges;

8.1.2 Meter rent and meter reading and other related charges shall be paid by the open access customer at the rate of 0.75 paisa/unit of monthly energy reading per month subject to minimum of Rs. 500/- and maximum of Rs. 2,000/- per month and shall be paid to the licensee who is rendering such service.

8.2 **Transmission Charges:**

8.2.1 Transmission charges payable for open access availed by cogeneration and renewable energy sources shall be two-third of the rate of such charges applicable for open access customers for long term and short term open access as indicated in clause (a) of regulation 14.3 of WBERC (Terms and Conditions for Open Access) Regulations, 2005 and regulation 4.1 of WBERC (Terms and Conditions for Open Access—Schedule of Charges, Fees & Formats for Open Access) Regulations, 2005.

8.2.1.1 Accordingly, for WBSEB system, transmission charges for the year 2005-06 for open access customers of cogeneration and renewable energy sources shall be as follows:

a) For long term open access customers—Rs. 45,500/MW/month.

b) For short term open access customers—Rs. 380/MW/day.

8.2.1.2 For subsequent years the transmission licensee shall submit to the Commission details relating to computation of transmission charges and the Commission shall consider the transmission charges for open access customers of cogeneration & renewable energy sources at a rate of two-third of

such computed transmission charges for open access and shall be declared for each financial year through separate order.

8.3 **Wheeling Charges:**

8.3.1 Wheeling charges applicable for use of distribution system or associated facilities of a licensee by open access customers for conveyance of electricity from cogeneration and renewable energy sources shall be either one-third of the wheeling charges calculated as per clause (b) of regulation 14.3 of WBERC (Terms and Conditions for Open Access) Regulations, 2005 and regulation 4.2 of WBERC (Terms and Conditions for Open Access—Schedule of Charges, Fees & Formats for Open Access) Regulations, 2005 or 7.5% of the energy fed to the grid irrespective of the distance of wheeling, whichever is higher.

8.3.2 For every financial year, wheeling charges for each licensee shall be determined by the Commission in terms of clause (b) of regulation 14.3 of WBERC (Terms and Conditions for Open Access) Regulations, 2005 and regulation 4.2 of WBERC (Terms and Conditions for Open Access—Schedule of Charges, Fees & Formats for Open Access) Regulations, 2005, on the basis of data submitted in their tariff petitions and shall be declared for each financial year through separate orders. Wheeling charges for open access for cogeneration and renewable energy sources shall be calculated according to above principle each financial year up to 2008-09 after which the Commission may take a fresh view in calculating the applicable rate for wheeling charges for such energy.

8.4 **Reactive Energy Charges:**

8.4.1 Reactive energy charges will be payable as per WBERC (Terms and Conditions for Open Access—Schedule of Charges, Fees & Formats for Open Access) Regulations, 2005 for all non-conventional sources of power generation except for wind power generation. For wind power the rate will be 20 paise/KVARh in place of the 6 paise/KVARh. This will be reviewed after 3 years.

8.5 **Grid Support Charges/Parallel Operation Charges:**

8.5.1 These charges shall be the same as per WBERC (Terms & Conditions for Open Access—Schedule of Charges, Fees & Formats for Open Access) Regulations, 2005.

8.6 **Un-scheduled/Mismatch Charges in Drawal/Injecting:**

8.6.1 Un-scheduled/mismatch charges in drawal/injecting energy shall be mutually decided and agreed on TOD/ABT basis. A 24-hour day ahead schedule shall be submitted by the open access customer/generator to the Nodal Agency on mutually agreed time block. Un-scheduled/mismatch charges for deviation from the schedule shall be paid weekly as per agreed rate. The modalities regarding billing and payment mechanism shall be decided and agreed both by the seller/developer and licensee. Wind power generation shall be excluded for un-scheduled interchange payment.

8.7 Other charges such as cross subsidy surcharge and additional surcharge, wherever applicable, and transmission and distribution losses shall be applicable for open access customer as per West Bengal Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2005.

9.0 **Procedure to be followed for Cogeneration & Renewable Energy Sources:**

9.1 After preliminary discussion with the buyer licensee, the developer shall submit to the licensee full details of the projects along with cost data & financial charges and tariff for direct sale.

9.2 The buyer licensee shall examine the tariff proposal in the light of price reasonableness, impact on consumer tariff and the price cap fixed by the Commission.

9.3 MOU/PPA shall be signed between developer and purchaser. In case of open access, the transmission or wheeling agency shall also be a party to the MOU/PPA. In the MOU/PPA with details of connectivity, completion of project and commencement of supply, periods of supply (monthwise), time of supply (peak/off peak), technical & commercial obligation of each party in line with these regulations etc. shall be suitably incorporated. The MOU/PPA, as agreed and signed, shall be submitted to the Commission.

10. **Effect of Default on power purchase obligation:**

10.1 Where any licensee fails to purchase the required percentage of power, the licensee shall be liable for penalty as may be decided by the Commission under section 142 of the Act. No penalty shall, however, be levied if such defaulter proves to the satisfaction of the Commission that there is no availability of such power within the State for purchase within the ceiling rates prescribed at regulation 3.1 inspite of best endeavour of the licensee to procure it.

10.2 Penalty, if any, levied under regulation 10.1, shall be placed at the disposal of WBREDA or any other entity nominated by the Government of West Bengal with the consent of the Commission for utilisation towards promotion of cogeneration and renewable sources of energy.

11. **Power to Remove Difficulties:**

The Commission shall *suo motu* or on an application from any person generating electricity from renewable sources or a buyer licensee may review these regulations and pass appropriate orders to remove any difficulty in exercising the provisions of these regulations.

12. **Power to Amend:**

The Commission may from time to time add, vary, alter, modify or amend any provisions of these regulations.

By Order of the Commission,

K. L. BISWAS
Secretary of the Commission.

Dated: 04.05.2006
Kolkata

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