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

GOVERNMENT OF WEST BENGAL

Department of Power and Non-conventional Energy Sources

New Secretariat Buildings, 7th floor

1, K.S.Roy Road, Kolkata-700001

NOTIFICATION

No. 311-PO/O/III/3R-15/2005 dated, the 8th September, 2006.- In exercise of the powers conferred by clause (b) of sub-section(2) of section 180 read with sub-section (2) of section 67 of the Electricity Act, 2003 (36 of 2003), the Governor is pleased hereby to make the following rules regulating the works of licensees, namely:-

Rules

1. Short title and commencement. – (1) These rules may be called the West Bengal Works of Licensees Rules, 2006.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions. - (1) In these rules unless the context otherwise requires, -

(a) “Act” means the Electricity Act, 200-3;

(b) “Occupier” of any building or land means a person in lawful occupation of that building or land.

(2) Words and expression used herein and not defined in these rules but defined in the Act, shall have the same meanings as respectively assigned to them in the Act.

3. Licensee to carry out works. – (1) A licensee may, -

(a) carry out works, lay down or place any electric supply-line or other works in, through, or against, any building, or on. Over or under any land whereon, wherever or whereunder any electric supply-line or works has not already been lawfully laid down or placed by such licensee, with the prior consent of the owner or occupier of any building or land,

(b) fix any support of overhead line or any stay or strut required for the purpose of securing in position any support of an overhead line on any building or land or having been so fixed, may alter such support.

Provided that in case where the owner or occupier of the building or land raises objections in respect of works to be carried out under this rule, the licensee shall obtain permission in writing from the District Magistrate or the Commissioner of Police or any other officer authorized by the State Government in this behalf, for carrying out the works:

Provided further that if at any time, the owner or occupier of any building or land on which any works have been carried out or any support of an overhead line, stay or strut has been fixed shows sufficient cause, the District Magistrate or the Commissioner of Police, or the officer so authorized by the State Government may be order in writing direct for any such works, support, stay or strut to be removed or altered.

(2) When making an order under sub-rule (1), the District Magistrate or the Commissioner of Police or the officer so authorized by the State Government, as the case may be, shall fix, after considering the representations of the concerned persons, if any, the amount of compensation or annual rent or both, which shall be paid by the licensee to the owner or occupier.

(3) Every order made by a District Magistrate or a Commissioner of Police or any officer authorized by the State Government under sub-rule (1), shall be subject to revision by the West Bengal Electricity Regulatory Commission.

(4) Nothing contained in this rule shall affect the powers conferred upon any licensee under section 164 of the Act.

4. Works affecting streets, railway, tramway, canal or waterway.- (1) Where the exercise of any of the powers of a licensee in relation to the execution of any works involves the placing of any works in, under, over, along or across any street, part of a street, railway, tramway, canal or waterway, the licensee shall serve upon the person responsible for the repair of the street or part of a street (hereinafter referred to as “the repairing authority”) or upon the person for the time being entitled to work in the railway, tramway, canal or waterway (hereinafter referred to as “works authority”), as the case may be, a notice in writing, not less than 15 days before commencing the execution of the works describing the proposed works, together with a section and plan thereof on a scale sufficiently large to show clearly the details of the proposed works, and such scale shall not in any case smaller than one inch to eight feet vertically and sixteen inches to the mile horizontally and intimating the manner in which, and the time at which, it is proposed to interfere with or alter any existing works, and shall, upon being required to do so by the repairing authority or works authority, as the case may be, from time to time give such further information in relation thereto as may be desired.

(2) If the repairing authority intimates to the licensee that it disapproves of such works, section or plan giving reason for disapproval, or approves thereof subject to amendment, the licensee may, unless settled by an agreement, appeal to the West Bengal Electricity Regulatory Commission within one week of receiving such intimation, whose decision, after considering the reasons given by the repairing

authority for its action, shall be final.

(3) If the repairing authority fails to give notice in writing of its approval or disapproval to the licensee within 15 days of the receipt of the notice under sub-rule (1), it shall be deemed to have approved of the works, section and plan, and the licensee may, after giving not less than forty-eight hours' notice in writing to the repairing authority, proceed to carry out the works in accordance with the notice and the section and plan served under sub-rule (1).

(4) If the works authority disapproves of such works, section or plan giving reasons for disapproval, or approves thereof subject to amendment, he may, within 15 days after the service of the notice under sub-rule (1), serve a requisition upon the licensee demanding that any question in relation to the works or to compensation, or to the obligations of the works authority to others in respect thereof, shall be determined, unless settled by agreement, by the West Bengal Electricity Regulatory Commission.

(5) Where no requisition has been served by the works authority upon the licensee within the time period as provided under sub-rule (4), the works authority shall be deemed to have approved of the works, section and plan, and in the case, or where after the matter has been determined by the West Bengal Electricity Regulatory Commission, the works may upon payment or securing of compensation, be executed according to the notice and the section and plan, subject to such modifications as may have been determined by the West Bengal Electricity Commission or agreed upon between the parties:

Explanation.- In sub-rules (1) to (5), the word "works" includes a service line in, under, over, along or across a railway even if such line is immediately attached or intended to be immediately attached to a distributing main, but does not include any other service line so attached or intended to be so attached to a distributing main, or works which consist of the repair, renewal or amendment of existing works of which the character or position is not to be altered.

(6) Where the works to be executed consist of the laying of any underground service line immediately attached, or intended to be immediately attached, to a distributing main, the licensee shall give to the repairing authority or the works authority, as the case may be, not less than forty-eight hours' notice in writing of his intention to execute such works;

(7) Where the works to be executed consist of the repair, renewal or amendment of existing works of which the character or position is not to be altered, the licensee shall, except in cases of emergency, give to the repairing authority, or to the works authority, as the case may be, not less than forty-eight hours' notice in writing of his intention to execute such works, and, on the expiry of such notice, such works shall be commenced forthwith and shall be carried on with all reasonable dispatch, and, if possible, both by day and by night until completed.

5. Repairs and works during emergency. – The licensee may, in case of emergency due to the breakdown of an underground electric supply-line, after informing the repairing authority or the works authority, as the case may be, of his intention to do so, place an overhead line without complying with the provisions of rule 4:

Provided that such overhead line shall be used only until the defect in the underground electric supply-line can be made good, and in no case such line shall be used for a period exceeding six weeks, and shall be removed as soon as may be after such defect is removed:

Provided further that the extension for use of such overhead line shall be granted under special circumstances, to be recorded in writing, by the repairing authority or the works authority or the occupier as the case may be.

6. Procedure for carrying out other works near sewers, pipes or other electric lines or works. –

(1) The licensee or any duly authorized person, as the case may be (hereinafter in this rule referred to as “the operator”) shall, -

(a) where the licensee requires to dig or sink any trench for laying down any new electric supply-lines or other works, near to which any sewer, drain, water-course or work under the control of the State Government or on any local authority, or any pipe, siphon, electric supply-line or other work belonging to any duly authorized person, has been lawfully placed, or.

(b) where any duly authorized person is required to dig or sink any trench for laying down or constructing any new pipes or other works, near to which any electric supply-lines or works of a licensee have been lawfully placed,

Unless it is otherwise agreed upon between the parties interested or in case of sudden emergency, give to the State Government or local authority, or to such duly authorized person or to the licensee, as the case may be (hereinafter in this Rule referred to as “the owner”), not less than forty-eight hours’ notice in writing before commencing to dig or sink the trench and the owner shall have the right to be present during the execution of the work, which shall be executed to the reasonable satisfaction of the owner.

(2) Where the operator finds it necessary to undermine, but not to alter, the position of any pipe, electric supply-line or work, he shall support it in position during the execution of the work, and before completion shall provide a suitable and proper foundation for it where so undermined.

(3) Where the operator (being the licensee) lays any electric supply-line across, or so as to be liable to touch, any pipes, lines or service-pipes or service-lines belonging to any duly authorized person or to any person supplying, transmitting or using energy under the Act, he shall not, except with the written consent of such person and in accordance with the provisions relating to safety as specified under section 53 of the Act, lay his electric supply-lines so as to come into contact with any such pipes, lines or service-pipes or service-lines.

(4) Where the operator makes default in complying with any of the provisions of this rule, he shall make full compensation for any loss or damage incurred by reason thereof.

(5) Where any difference or dispute arises under this rule, the matter shall be determined by the West Bengal Electricity Regulatory Commission.

(6) Where the licensee is a local authority, the references, in this rule to the local authority and to sewers, drains, water-courses or works under its control shall not apply.

7. Alteration of the position of pipes, electric lines, etc. – (1) Any licensee may alter the position of any pipe (not forming part of a local authority's main sewer), or of any wire under 'or over any place which he is authorized to open or break up, if such pipe or wire is likely to interfere with the exercise of his powers under the Act; and any person may alter the position of any electric supply-lines or works of a licensee under or over any such place as aforesaid, if such electric supply-lines or works are likely to interfere with the lawful exercise of any powers vested in him.

(2) The licensee or other person desiring to make the alteration, unless otherwise agreed, shall, not less than one month before commencing any alteration, serve upon the person for the time being entitled to clearly the details of the proposed works, and not in any case smaller than one inch to eight feet vertically and sixteen inches to the mile horizontally, and intimating the time when it is to be commenced, and shall subsequently give such further information in relation thereto as the owner may desire;

(3) The owner may, within fourteen days after the service of the notice, section and plan, serve upon the operator a requisition to the effect that any question arising upon the notice, section or plan, shall, unless settled by agreement, be determined by West Bengal Electricity Regulatory Commission, and thereupon the matter shall be determined by the West Bengal Electricity Regulatory Commission.

(4) The West Bengal Electricity Regulatory Commission to whom a reference is made under sub-rule(3), shall have regard to any duties or obligations which the owner is under, and may require the operator to execute any temporary or other works so as to avoid, as far as possible, interference therewith.

(5) Where no requisition is served upon the operator under sub-rule (3) within the time limit, or where such a requisition has been served and the matter has been settled by agreement or determined by the West Bengal Electricity Regulatory Commission, be executed in accordance with the notice, section and

plan and subject to such modifications agreed upon between the parties or as may have been determined by the West Bengal Electricity Regulatory Commission.

(6) Where the operator desiring to make the alteration takes default in complying with any of these provisions, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by the West Bengal Electricity Regulatory Commission.

(7) Where the owner or occupier desires to carry out certain works himself: -

(a) he may, at least ten days before the operator desiring to make the alteration of pipes or wires is entitled to commence the alteration, serve upon the operator a statement in writing to the effect that he desires to execute the alteration himself and requires the operator to give such security for the repayment of any expenses as may be agreed upon or, in default of agreement, determined by the West Bengal Electricity Regulatory Commission.

(b) where a statement is served upon the operator under clause (a), he shall, not less than forty-eight hours before the execution of the alteration is required to be commenced, furnish such security and serve upon the owner a notice in writing intimating the time when the alteration is required to be commenced, and the manner in which it is required to be made; and thereupon the owner may proceed to execute the alteration as required by the operator;

(c) where the owner declines to comply, or does not within the time and in the manner prescribed by a notice served upon him under clause (b), comply with the notice, the operator may himself execute the alteration,

(d) all expenses incurred by the owner in complying with a notice served upon him by the operator under clause

(b) may be recovered by him from the operator.

8. Works not repairable by the Central Government or the State Government or a local authority.- The licensee shall open or break up any street not repairable by the Central Government or the State Government or a local authority only with the written consent of the person by whom the street is repairable or with the written consent of the State Government:

Provided that the State Government shall not give any such consent as aforesaid, until the licensee has given notice by advertisement or otherwise as the State Government may direct, and within such period as the State Government may fix in this behalf, to the person above referred to, and until all representations or objections received in accordance with the notice have been considered by the State Government.

9. Procedure for fencing, guarding, lighting and other safety measures relating to works and immediate reinstatement of streets, railways, sewers, drains or tunnels. - (1) Where any person, in exercise of any of the powers conferred by or under these rules opens or breaks up the soil or pavement of any street, railway or tramway, or any sewer, drain or tunnel, he shall,-

(a) immediately cause the part opened or broken up to be fenced and guarded and fix caution boards to alert traffic,

(b) cause a light or lights, sufficient for the warning of passengers before sunset, to be set up and maintained until sunrise against or near the part opened or broken up,

(c) make suitable arrangements for smooth flow of traffic,

(d) fill in the ground and reinstate and make good the soil or pavement, or the sewer, drain or tunnel, opened or broken up with all reasonable speed, and carry away the rubbish occasioned by such opening or breaking up, and

(e) after reinstating and making good the soil or pavement, or the sewer, drain or tunnel broken or opened up, keep the same good repair for three months and for any further period, not exceeding nine months, during which subsidence continues.

(2) Where any person fails to comply with any of the provisions of sub-rule (1), the person having the control or management of the street, railway, tramway, sewer, drain or tunnel in respect of which the default has occurred, may cause to be executed the work which the defaulter has delayed or omitted to execute, and may recover from him the expenses incurred in such execution.

(3) Where any difference or dispute arises as to the amount of the expenses incurred under sub-rule (2), the matter shall be determined by the West Bengal Electricity Regulatory Commission,

10. Avoidance of public nuisance, environmental damage and unnecessary damage to the public and private property by such works. – The licensee shall, while carrying out works, ensure that such works do not cause public nuisance, environmental damage and unnecessary damage to the public or private property.

11. Manner of deposit of amount for restoration of railways, tramways, waterways etc. – The licensee shall deposit the amount for restoration of railways, tramways, waterways etc, under these rules by means of demand draft in favour of the officer-in-charge of the maintenance of the works concerned.

12. Manner of restoration of property affected by such works and maintenance thereof. – The licensee shall carry out the restoration of property affected by works and undertake necessary maintenance thereof for one month.

13. Determination and payment of compensation to affected persons. - (1) Where the licensee makes default in complying with any of the provisions of these rules, he shall make full compensation for any loss or damage incurred by reason thereof to the person affected, as may be determined by the District Magistrate the Commissioner of Police or by any other officer authorized by the State Government in this behalf, if not agreed mutually between the parties concerned.

(2) Where any difference and dispute arises as to the amount of compensation determined under sub-rule (1), the matter shall be determined by the West Bengal Electricity Regulatory Commission.

14. Procedure for deposit of compensation payable by the licensee and furnishing of security. - (1) The amount of compensation payable by the licensee under these rules shall be deposited by means of demand draft.

(2) The security required to be furnished under these rules shall be in the form of Bank Guarantee from a Scheduled Bank.

15. Determination of dispute or difference by the West Bengal Electricity Regulatory Commission. - When a matter is brought to the West Bengal Electricity Regulatory Commission for determination under these rules, such matter shall be determined by the West Bengal Electricity Regulatory Commission within a period of thirty days and after hearing the parties concerned.

16. Service of notice etc. - Wherever a notice is required to be served upon a person under these rules, the procedure prescribed under section 171 of the Act and rules made thereunder shall be followed.

By order of the Governor,

(SUNIL MITRA)

Principal Secy. to the Govt. of West Bengal

