

Electricity Act, 2003

Part VI - Distribution of Electricity

Section 42 - Duties of distribution licensee and open access

(1) It shall be the duty of a distribution licensee to develop and maintain an efficient, co-ordinated and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in this Act.

(2) The State Commission shall introduce open access in such phases and subject to such conditions, (including the cross subsidies, and other operational constraints) as may be specified within one year of the appointed date by it and in specifying the extent of open access in successive phases and in determining the charges for wheeling, it shall have due regard to all relevant factors including such cross subsidies, and other operational constraints:

PROVIDED that [2](#)[such open access shall be allowed on payment of a surcharge] in addition to the charges for wheeling as may be determined by the State Commission:

PROVIDED FURTHER that such surcharge shall be utilised to meet the requirements of current level of cross subsidy within the area of supply of the distribution licensee:

PROVIDED also that such surcharge and cross subsidies shall be progressively reduced [3](#)[***] in the manner as may be specified by the State Commission:

PROVIDED also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use:

[1](#) [PROVIDED also that the State Government shall, not later than five years from the date of commencement of the Electricity (Amendment) Act, 2003, by regulations, provide such open access to all consumers who require a supply of electricity where the maximum power to be made available at any time exceeds one megawatt.

(3) Where any person, whose premises are situated within the area of supply of a distribution licensee, (not being a local authority engaged in the business of distribution of electricity before the appointed date) requires a supply of electricity from a generating company or any licensee other than such distribution licensee, such person may, by notice, require the distribution licensee for wheeling such electricity in accordance with regulations made by the State Commission and the duties of the distribution licensee with respect to such supply shall be of a common carrier providing non-discriminatory open access.

(4) Where the State Commission permits a consumer or class of consumers to receive supply of electricity from a person other than the distribution licensee of his area of supply, such consumer shall be liable to pay an additional surcharge on the charges of wheeling, as may be specified by the State Commission, to meet the fixed cost of such distribution licensee arising out of his obligation to supply.

(5) Every distribution licensee shall, within six months from the appointed date or date of grant of licence, whichever is earlier, establish a forum for redressal of grievances of the consumers in accordance with the guidelines as may be specified by the State Commission.

(6) Any consumer, who is aggrieved by non-redressal of his grievances under sub-sec. (5), may make a representation for the redressal of his grievance to an authority to be known as Ombudsman to be appointed or designated by the State Commission.

(7) The Ombudsman shall settle the grievance of the consumer within such time and in such manner as may be specified by the State Commission.

(8) The provisions of sub-sections (5), (6) and (7) shall be without prejudice to right which the consumer may have apart from the rights, conferred upon him by those sub-sections.

1. Inserted by Electricity (Amendment) Act, 2003 (57 of 2003), w.e.f. 27-1-2004 vide SO 119(E), dt. 27-1-2004.

2. Substituted by The Electricity (Amendment) Act, 2007, Dated 28.05.2007. Prior to Substitution it read as under:

"such open access may be allowed before the cross subsidies are eliminated on payment of a surcharge"

3. Omitted for the words "and eliminated" by The Electricity (Amendment) Act, 2007, Dated 28.05.2007.

Section 43 - Duty to supply on request

(1) [1](#)[Save as otherwise provided in this Act, every distribution] licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply:

PROVIDED that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission:

PROVIDED FURTHER that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

[2](#)[Explanation.--For the purposes of this sub-section, "application" means the application complete in all respects in the appropriate form, as required by the distribution licensee, along with documents showing payment of necessary charges and other compliances.]

(2) It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in sub-section (1):

PROVIDED that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price determined by the Appropriate Commission.

(3) If a distribution licensee fails to supply the electricity within a period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default.

1. Substituted for the words "Every distribution" by The Electricity (Amendment) Act, 2007, Dated 28.05.2007.

2. Inserted by The Electricity (Amendment) Act, 2007, Dated 28.05.2007.

Section 44 - Exceptions from duty to supply electricity

Nothing contained in section 43 shall be taken as requiring a distribution licensee to give supply of electricity to any premises if he is prevented from so doing by cyclone, floods, storms or other occurrences beyond his control.

Section 45 - Power to recover charges

- (1) Subject to the provisions of this section, the prices to be charged by a distribution licensee for the supply of electricity by him in pursuance of section 43 shall be in accordance with such tariffs fixed from time-to-time and conditions of his licence.
 - (2) The charges for electricity supplied by a distribution licensee shall be--
 - (a) fixed in accordance with the methods and the principles as may be specified by the concerned State Commission;
 - (b) published in such manner so as to give adequate publicity for such charges and prices.
 - (3) The charges for electricity supplied by a distribution licensee may include--
 - (a) a fixed charge in addition to the charge for the actual electricity supplied;
 - (b) a rent or other charges in respect of any electric meter or electrical plant provided by the distribution licensee.
 - (4) Subject to the provisions of section 62, in fixing charges under this section a distribution licensee shall not show undue preference to any person or class of persons or discrimination against any person or class of persons.
 - (5) The charges fixed by the distribution licensee shall be in accordance with the provisions of this Act and the regulations made in this behalf by the concerned State Commission.
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Section 46 - Power to recover expenditure

The State Commission may, by regulations, authorise a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply.

Section 47 - Power to require security

- (1) Subject to the provisions of this section, a distribution licensee may require any person, who requires a supply of electricity in pursuance of section 43, to give him reasonable security, as may be determined by regulations, for the payment to him of all monies which may become due to him--
 - (a) in respect of the electricity supplied to such person; or
 - (b) where any electric line or electrical plant or electric meter is to be provided for supplying electricity to such person, in respect of the provision of such line or plant or meter,and if that person fails to give such security, the distribution licensee may, if he thinks fit, refuse to give the supply of electricity or to provide the line or plant or meter for the period during which the failure continues.
- (2) Where any person has not given such security as is mentioned in sub-section (1) or the security given by any person has become invalid or insufficient, the distribution licensee may, by notice, require that person, within thirty days after the service of the notice, to give him reasonable security for the payment of all monies which may become due to him in respect of the supply of electricity or provision of such line or plant or meter.

(3) If the person referred to in sub-section (2) fails to give such security, the distribution licensee may, if he thinks fit, discontinue the supply of electricity for the period during which the failure continues.

(4) The distribution licensee shall pay interest equivalent to the bank rate or more, as may be specified by the concerned State Commission, on the security referred to in sub-section (1) and refund such security on the request of the person who gave such security.

(5) A distribution licensee shall not be entitled to require security in pursuance of clause (a) of sub-section (1) if the person requiring the supply is prepared to take the supply through a pre-payment meter.

Section 48 - Additional terms of supply

A distribution licensee may require any person who requires a supply of electricity in pursuance of section 43 to accept--

(a) any restrictions which may be imposed for the purpose of enabling the distribution licensee to comply with the regulations made under section 53;

(b) any terms restricting any liability of the distribution licensee for economic loss resulting from negligence of the person to whom the electricity is supplied.

Section 49 - Agreements with respect to supply or purchase of electricity

Where the Appropriate Commission has allowed open access to certain consumers under section 42, such consumers, notwithstanding the provisions contained in clause (d) of sub-section (1) of section 62, may enter into an agreement with any person for supply or purchase of electricity on such terms and conditions (including tariff) as may be agreed upon by them.

Section 50 - The Electricity Supply Code

1[50. The Electricity Supply code.--

The State Commission shall specify an Electricity Supply Code to provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply of electricity for non-payment thereof, restoration of supply of electricity, measures for preventing tampering, distress or damage to electrical plant or electrical line or meter, entry of distribution licensee or any person acting on his behalf for disconnecting supply and removing the meter, entry for replacing, altering or maintaining electric lines or electrical plants or meter and such other matters.]

1. Substituted by The Electricity (Amendment) Act, 2007, Dated 28.05.2007. Prior to Substitution it read as under:

"The State Commission shall specify an Electricity Supply Code to provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply of electricity for non-payment thereof, restoration of supply of electricity, tampering, distress or damage to electrical plant, electric lines or meter, entry of distribution licensee or any person acting on his behalf for disconnecting supply and removing the meter, entry for replacing, altering or maintaining electric lines or electrical plant or meter."

Section 51 - Other businesses of distribution licensees

A distribution licensee may, with prior intimation to the Appropriate Commission, engage in any other business for optimum utilisation of its assets:

PROVIDED that a proportion of the revenues derived from such business shall, as may be specified by the concerned State Commission, be utilised for reducing its charges for wheeling:

PROVIDED FURTHER that the distribution licensee shall maintain separate accounts for each such business undertaking to ensure that distribution business neither subsidises in any way such business undertaking nor encumbers its distribution assets in any way to support such business:

PROVIDED also that nothing contained in this section shall apply to a local authority engaged, before the commencement of this Act, in the business of distribution of electricity.

Section 52 - Provisions with respect to electricity trader

Provisions with respect to electricity traders

- (1) Without prejudice to the provisions contained in clause (c) of section 12, the Appropriate Commission may, specify the technical requirement, capital adequacy requirement and creditworthiness for being an electricity trader.
- (2) Every electricity trader shall discharge such duties, in relation to supply and trading in electricity, as may be specified by the Appropriate Commission.

Section 53 to 56 - Provisions relating respect to supply generally

Section 53 - Provision relating to safety and electricity supply

The Authority may, in consultation with the State Government, specify suitable measures for--

- (a) protecting the public (including the persons engaged in the generation, transmission or distribution or trading) from dangers arising from the generation, transmission or distribution or trading of electricity, or use of electricity supplied or installation, maintenance or use of any electric line or electrical plant;
- (b) eliminating or reducing the risks of personal injury to any person, or damage to property of any person or interference with use of such property;
- (c) prohibiting the supply or transmission of electricity except by means of a system which conforms to the specifications as may be specified;
- (d) giving notice in the specified form to the Appropriate Commission and the Electrical Inspector, of accidents and failures of supplies or transmissions of electricity;
- (e) keeping by a generating company or licensee the maps, plans and sections relating to supply or transmission of electricity;
- (f) inspection of maps, plans and sections by any person authorised by it or by Electrical Inspector or by any person on payment of specified fee;
- (g) specifying action to be taken in relation to any electric line or electrical plant, or any electrical appliance under the control of a consumer for the purpose of eliminating or reducing the risk of personal injury or damage to property or interference with its use.

Section 54 - Control of transmission and use of electricity

- (1) Save as otherwise exempted under this Act, no person other than the Central Transmission Utility or a State Transmission Utility, or a licensee shall transmit or use electricity at a rate exceeding two hundred and fifty watts and one hundred volts--

(a) in any street, or

(b) in any place,--

(i) in which one hundred or more persons are ordinarily likely to be assembled; or

(ii) which is a factory within the meaning of the Factories Act, 1948 (63 of 1948) or a mine within the meaning of the Mines Act, 1952 (35 of 1952); or

(iii) to which the State Government, by general or special order, declares the provisions of this sub-section to apply,

without giving, before the commencement of transmission or use of electricity, not less than seven days' notice in writing of his intention to the Electrical Inspector and to the District Magistrate or the Commissioner of Police, as the case may be, containing particulars of the electrical installation and plant, if any, the nature and the purpose of supply and complying with such of the provisions of Part XVII of this Act, as may be applicable:

PROVIDED that nothing in this section shall apply to electricity used for the public carriage of passengers, animals or goods, on, or for the lighting or ventilation of the rolling stock of any railway or tramway subject to the provisions of the Railways Act, 1989 (24 of 1989).

(2) Where any difference or dispute arises as to whether a place is or is not one in which one hundred or more persons are ordinarily likely to be assembled, the matter shall be referred to the State Government, and the decision of the State Government thereon shall be final.

(3) The provisions of this section shall be binding on the Government.

Section 55 - Use, etc., of meters

(1) No licensee shall supply electricity, after the expiry of two years from the appointed date, except through installation of a correct meter in accordance with the regulations to be made in this behalf by the Authority:

PROVIDED that the licensee may require the consumer to give him security for the price of a meter and enter into an agreement for the hire thereof, unless the consumer elects to purchase a meter:

PROVIDED FURTHER that the State Commission may, by notification, extend the said period of two years for a class or classes of persons or for such area as may be specified in that notification.

(2) For proper accounting and audit in the generation, transmission and distribution or trading of electricity, the Authority may direct the installation of meters by a generating company or licensee at such stages of generation, transmission or distribution or trading of electricity and at such locations of generation, transmission or distribution or trading, as it may deem necessary.

(3) If a person makes default in complying with the provisions contained in this section or the regulations made under sub-section (1), the Appropriate Commission may make such order as it thinks fit for requiring the default to be made good by the generating company or licensee or by any officers of a company or other association or any other person who is responsible for its default.

Section 56 - Disconnection of supply in default of payment

(1) Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days' notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses

incurred by him in cutting off and reconnecting the supply, are paid, but no longer:

PROVIDED that the supply of electricity shall not be cut off if such person deposits, under protest,--

(a) an amount equal to the sum claimed from him, or

(b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months,

whichever is less, pending disposal of any dispute between him and the licensee.

(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.

Section 57 to 60 - Consumer protection: Standards of performance

Section 57 - Standards of performance of licensee

(1) The Appropriate Commission may, after consultation with the licensees and persons likely to be affected, specify standards of performance of a licensee or a class of licensees.

(2) If a licensee fails to meet the standards specified under sub-section (1), without prejudice to any penalty which may be imposed or prosecution be initiated, he shall be liable to pay such compensation to the person affected as may be determined by the Appropriate Commission:

PROVIDED that before determination of compensation, the concerned licensee shall be given a reasonable opportunity of being heard.

(3) The compensation determined under sub-section (2) shall be paid by the concerned licensee within ninety days of such determination.

Section 58 - Different standards of performance by licensee

The Appropriate Commission may specify different standards under sub-section (1) of section 57 for a class or classes of licensees.

Section 59 - Information with respect to levels of performance

(1) Every licensee shall, within the period specified by the Appropriate Commission, furnish to the Commission the following information, namely:--

(a) the level of performance achieved under sub-section (1) of section 57;

(b) the number of cases in which compensation was made under sub-section (2) of section 57 and the aggregate amount of the compensation.

(2) The Appropriate Commission shall at least once in every year arrange for the publication, in such form and manner as it considers appropriate, of such of the information furnished to it under sub-section (1).

Section 60 - Market domination

The Appropriate Commission may issue such directions as it considers appropriate to a licensee or a generating company if such licensee or generating company enters into any agreement or abuses its

dominant position or enters into a combination which is likely to cause or causes an adverse effect on competition in electricity industry.

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