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Electricity Act, 2003

Section 42 - Duties of Distribution Licensee and Open Access

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(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 disignated 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. 27-1-2004vide 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.