

PUBLIC WORKS NOTIFICATIONS
TELANGANA STATE ELECTRICITY REGULATORY COMMISSION
HYDERABAD

No.TSERC/-- /2015

Dated .12.2015

Compliance Audit

Draft Regulation No. ---- of 2015

INTRODUCTION:

In exercise of powers conferred under Section 87 read with Section 181 of the Electricity Act, 2003 (36 of 2003),the Commission hereby makes the following Regulation in regard to Compliance Audit, namely: -

1. SHORT TITLE, EXTENT AND COMMENCEMENT

- 1.1 This regulation may be called the Telangana State Electricity Regulatory Commission (Compliance Audit) Regulation, 2015.
- 1.2 This regulation shall be applicable in the State of Telangana.
- 1.3 This regulation shall come into force from the date of their publication in the Official Gazette.

2. DEFINITIONS AND INTERPRETATIONS

Definitions:

- 2.1 In this regulation, unless the context otherwise requires:
 - (a) **'Act'** means the Electricity Act, 2003 (36 of 2003);
 - (b) **"Regulated Entities"** mean distribution licensees,generation companies transmission licensees, Electricity Traders, Licence Exemption Holders including Rural Electric Cooperatives and State Load Dispatch Centre;
 - (c) **Officer:** Any Officer appointed by the Commission in its service on permanent basis and has completed a minimum of 5 years service.
- 2.2 Words and expressions used and not defined in this regulation but defined in the Act shall have the meanings assigned to them in the Act.

3. COMPLIANCE AUDITS

- 3.1 The Commission may, at any time, conduct audits of regulated entities for verifying their compliance with the Act, rules, regulations

made thereunder, orders and directions issued by the Commission.

- 3.2 The Commission may, by order, empanel consultants/auditors required to assist the Commission in the discharge of these functions on the terms and conditions as deemed fit.
- 3.3. The Commission may either appoint consultants/ auditors empanelled with it for an audit or go through the process of fresh selection, if required for a specific need.
- 3.4 The Commission may also consider the single source selection of consultants/auditors in exceptional cases where it is appropriate duly mentioning the reasons for such single source selection.
- 3.5 The Commission before initiating an audit will frame the terms of reference which will detail out the specific outputs that are to be provided by the Consultant / Auditor in relation to the task, the timeframe in which the task has to be completed and other terms relevant to the task.
- 3.6 The Commission shall assign, through an Order, the specific task of audit to the consultant / auditor based on the terms of reference framed by it before the audit of the regulated entity starts.

4. REQUIREMENTS OF CONSULTANT / AUDITOR

Consultants/auditors shall provide professional, objective, and impartial advice and at all times hold the Commission's interests paramount, without any consideration for future work, and that in providing advice they avoid conflicts with other assignments and their own corporate interests. Consultants / auditors shall not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of being unable to carry out the assignment in the best interest of the Commission. Without limitation on the generality of the foregoing, Consultants / auditors shall be engaged keeping in view the circumstances set forth below:

- (i) A consultant or an auditor engaged for a particular audit

must not hold office or have a commercial or any other interest in the regulated entity for a period of five (5) years preceding the engagement by the Commission.

- (ii) While conducting an audit, the consultant or auditor would be expected to do so honestly, fairly, professionally, independently and objectively and exercise a standard of skill, care and diligence that would be reasonable to expect of a person who is skilled, and who has substantial experience, in the provision of services the same as or similar to those to be provided by the auditor.
- (iii) The selected consultant or auditor would be required to provide a written declaration to the Commission that he has no conflict of interest while performing the tasks and functions assigned to him under this regulation nor by its nature, may be in conflict with another assignment of the consultant or auditor.
- (iv) The prospective consultant/auditor, as far as possible, shall have proper and relevant qualification to handle the specified job.
- (v) Notwithstanding any other matter contained in this regulation, the Commission may appoint an Officer, as defined in this regulation, as auditor to carry out assigned duties. The Commission, as far as possible, will ensure to appoint an Officer who has not worked in regulated entities in the past.

5. EXPENSES

- (i) All expenses of, and incidental to, any audit made under this regulation shall be paid by the Commission and thereafter such expenses shall be defrayed by the regulated entity in favour of the Commission **within thirty (30) days of the claim.**
- (ii) 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 part of their Administrative & Trueup of relevant year ;
- (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 Despatch Centre may claim the said expenses as pass through in its fee and charges proposal in accordance with the regulation on fee and charges.
- (e) License exemption holders may be charged a special one time charge to recover expenses associated with the audit related to license exemption holder.

Provided however, in case as a result of compliance audit the Regulated entity if found guilty of non-compliance to the Act/Rules & Regulations made thereunder, orders and directions issued by the Commission and where such non-compliance results in imposition of penalty through proceedings under Section 142, all the costs related to such audit, shall be borne by the Regulated entity itself and shall not be permitted to be claimed as expenses

(iii) If the Commission appoints one of its officer as auditor under para 4(v) above, no expenses shall be charged to regulated entities.

6. METHODOLOGY

6.1 The consultant / auditor may, at any time, and shall, on being directed so to do 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.

- 6.2 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.
- 6.3 The consultant / auditor shall collect sufficient amount of 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 offer an opportunity 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 the data. The consultant / auditor shall 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.

6.4 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 discussion 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 being undertaken by the regulated entity to rectify them, and an assessment of the adequacy of the actions.

6.5 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.

6.6 The consultant / auditor shall supply to the regulated entity a copy of his report.

7. On receipt of any report under this regulation, the Commission may,

after giving such opportunity to the regulated entity, to make a representation in connection with the report as in the opinion of the Commission, seems reasonable, by order in writing take appropriate action under the Act on being satisfied regarding the non-compliance or contravention, as the case may be.

8. POWER TO REMOVE DIFFICULTIES

If any difficulty arises in giving effect to any of the provisions of this regulation, 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. POWER TO AMEND

The Commission may at any time, amend any provisions of this Regulation.

10. ORDERS AND PRACTICE DIRECTIONS

Subject to the provisions of the Act, the Commission may from time to time issue orders, and practice directions in regard to the implementation of this Regulation.

11. Savings

The entrusting of any consultation or auditing work of regulated entities done earlier by the Commission for providing advice or auditing of the work with regard to compliance of Act, Rules and Regulations respectively, made before coming into force of the Telangana State Electricity Regulatory Commission (Compliance Audit) Regulation, 2015 shall continue to be governed by the provisions of the earlier that is regulation No. 6 of 2013 as adopted by the Commission in Regulation No.1 of 2014 notified by the Commission.

12. Repeal

On and from the date of publication of this Regulation in the Official Gazette of the Government of Telangana, the Regulation No.6 of 2013 along with the amendments as made by the erstwhile APERC from time to time and adopted by the Commission in its Regulation No. 1 of 2014, stands repealed to the extent relating to the Regulation on Compliance Audit.

Notwithstanding such repeal any action taken under the said Regulation shall not become invalid and deemed to have been taken under the corresponding provision of the present Regulation, or to the extent, if not provided for in this Regulation, such action shall subsist and deemed to have been taken as if such repeal provision is subsisting.

(BY ORDER OF THE COMMISSION)

Sd/-

**HYDERABAD
Dt: 07-12-2015**

**(Dr.K.SRINIVAS REDDY ^{IRS})
COMMISSION SECRETARY
TELANGANA STATE ELECTRICITY
REGULATORY COMMISSION**