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ORISSA ELECTRICITY REGULATORY COMMISSION

BIDYUT NIYAMAK BHAWAN

UNIT - VIII, BHUBANESWAR - 751 012

NOTIFICATION

The 20th August 2011

No. 1530—OERC-Engg.-61/1998(Vol.II)-A.- WHEREAS Section 23 of the Electricity Act, 2003 provides that "If the Appropriate Commission is of the opinion that it is necessary or expedient so-to-do for maintaining the efficient supply, securing the equitable distribution of electricity and promoting competition, it may, by order, provide for regulating supply, distribution, consumption or use thereof";

AND WHEREAS Section 42 (1) of the Electricity Act, 2003 provides that "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" ;

AND WHEREAS Section 61 of the Electricity Act, 2003 provides that "The Appropriate Commission shall, subject to the provisions of this Act, specify the terms and conditions for the determination of tariff, and in doing so, shall be guided by the following, namely:-"Clause (c) "the factors which would encourage competition, efficiency, economical use of resources, good performance and optimum investment" ;

AND WHEREAS Section 86(2) of the Electricity Act, 2003 provides that "State Commission shall advise the State Government on all or any of the following matters, namely:—"Clause (i) "promotion of competition, efficiency and economy in activities of the electricity industry"

AND WHEREAS Clause 5.9.2 of the National Electricity Policy provides that "The potential number of installations where demand side management and energy conservation measures are to be carried out is very large, Bureau of Energy Efficiency (BEE) shall initiate action in this regard. BEE would also make available the estimated conservation and DSM potential, its staged implementation along with cost estimates for consideration in the planning process for National Electricity Plan";

AND WHEREAS Clause 5.9.4 of the National Electricity Policy provides that "In the field of energy conservation initial approach would be voluntary and self-regulating with emphasis on labelling of appliances. Gradually as awareness increases, a more regulatory approach of setting standards would be followed";

AND WHEREAS Clause 5.9.6 of the National Electricity Policy provides that "In order to reduce the requirements for capacity additions, the difference between electrical power demand during peak periods and off-peak periods would have to be reduced. Suitable load management techniques should be adopted for this purpose. Differential tariff structure for peak and off-peak supply and metering arrangements (Time of Day metering) should be conducive to load management objectives. Regulatory Commissions should ensure adherence to energy efficiency standards by utilities.

NOW, THEREFORE, in exercise of the powers conferred by clause (zp) of sub-section (2) of Section 181 of the Electricity Act, 2003 (36 of 2003), the Orissa Electricity Regulatory Commission hereby makes the following Regulations namely Orissa Electricity Regulatory Commission (Demand Side Management) Regulations, 2011.

CHAPTER I GENERAL

1. Short Title, extent and Commencement :

1.1. These Regulations may be called the "Orissa Electricity Regulatory Commission (Demand Side Management) Regulations, 2011".

1.2. These Regulations shall be applicable to the Distribution Licensees in the Orissa in their respective areas of supply.

1.3. These Regulations shall come into force from the date of its publication in the official Gazette.

2. Definitions :

2.1. In these Regulations, unless the context otherwise requires —

- (i) "Act" means the Electricity Act, 2003 (36 of 2003) ;
- (ii) "Baseline data" means the initial base level consumption and/or demand for electricity before a DSM programme begins to provide a starting point for comparison for assessing programme impact";
- (iii) "Bureau" means the Bureau of Energy Efficiency established under sub-section (1) of Section 2 of The Energy Conservation Act, 2001;
- (iv) "Commission" means the Orissa Electricity Regulatory Commission;
- (v) "Cost Effectiveness Index" means an indicator of the attractiveness of any investment in DSM programme or when compared to the costs of energy produced and delivered in the absence of such an investment;

- (vi) "Demand Side Management" means the actions of a Distribution Licensee, beyond the customer's meter, with the objective of altering the end-use of electricity - whether it is to increase demand, decrease it, shift it between high and low peak periods, or manage it when there are intermittent load demands - in the overall interests of reducing Distribution Licensee costs;
- (vii) "DSM Resource Acquisition" means a mechanism to implement DSM projects through customers, Energy Service Companies, Non-Government Organisations, Manufacturers/Suppliers, or other Private Sector Organizations, with payment made to them by the Distribution Licensee for the resultant energy and load reductions;
- (viii) "Energy Services Company" means a company which is in the business of providing energy efficient and load management equipment and/or services to end-use customers and is approved by Bureau;
- (ix) "Evaluation, Measurement and Verification" means activities which evaluate, measure and verify performance or other aspects of DSM/energy efficiency programs or their market environment;
- (x) "Monitoring and Reporting" means activities which monitor and evaluate the progress of DSM/energy efficiency programs of the Distribution Licensee.
- (xi) "MYT" means Multi Year Tariff.

CHAPTER II : DSM OBJECTIVES, TARGETS AND GUIDELINES

3. DSM Objectives :

3.1. The Commission shall formulate DSM objectives that shall be considered in the advancement and implementation of cost effective DSM initiatives in the State. The objectives may include power shortage mitigation, seasonal peak reduction, cost effective energy savings, lowering the cost of electricity, reduction in emissions of greenhouse gases, reducing the need for investment in networks and/or power plants thus saving the precious and exhaustible fossil fuels etc.

3.2. While formulating the DSM Objectives, the Commission may take into consideration the National DSM Objectives/ Plans formulated by BEE, if any. DISCOMs, OPTCL & GRIDCO may be involved in the process of formulation of objectives.

3.3. The DSM objectives shall be consistent with the DSM objectives set out by Bureau as a part of Energy Conservation Plan for the country.

4. Assessment of technical potential for DSM :

4.1. The Distribution Licensees in the State shall carry out assessment of potential for DSM in the area of their supply one year before the start of every M.Y.T. Control Period. Involvement and co-operation of Distribution Engineers as well as consumers is required in this assessment.

Notwithstanding above provision, the first assessment of technical potential for DSM shall be carried out within six months of the notification of these Regulations.

4.2. Distribution Licensee shall be guided by methodology developed by Bureau while assessing of technical potential for DSM.

5. DSM Targets :

5.1. The Commission shall establish DSM targets for each Distribution Licensee in the State.

5.2. While setting DSM target for the Distribution Licensee, the Commission will give due consideration to factors such as consumer mix, load profile, etc.

5.3. Examples of DSM targets may include the following :

- * Percentage reductions in load growth;
- * Savings in kW, kWh;
- * Savings as a per cent of total resources to meet load.

5.4. While establishing the targets, the Commission shall consider the technical potential in Orissa as assessed by the Distribution Licensees.

6. Guidelines on DSM process :

6.1. The Commission shall issue guidelines to guide the Distribution Licensees in execution of the following activities,—

- (i) load and market research;
- (ii) implementation of DSM programmes;
- (iii) cost Effectiveness Assessment of DSM programmes;
- (iv) monitoring and Reporting of DSM Plans and programmes;
- (v) eligibility criteria for DSM programmes;
- (vi) methodology for setting DSM targets and funding levels; and
- (vii) database development framework.

6.2. The Commission shall issue guidelines on these matters from time to time

6.3. Issuance of such guidelines shall not be a pre-requisite for preparation and submission of the first DSM plan by the Distribution Licensees.

CHAPTER III : DSM CELL

7. Constitution of DSM Cell, its roles & responsibilities :

7.1. Every Distribution Licensee shall, constitute DSM Cell within one month of publication of these Regulations in the official Gazette and shall submit to the Commission, the details of DSM cell such constituted. The DSM cell shall be under direct control of CEO with proper delegation of power.

7.2. The DSM Cell so constituted shall be provided with necessary authority and resources so as to execute the functions assigned to it under these Regulations.

7.3. The DSM Cell shall be responsible for,—

- (i) Load research and development of baseline data;
- (ii) Formulation of DSM Plan;
- (iii) Design and development of DSM projects including cost benefit analysis, plans for implementation, monitoring & reporting and for measurement & verification;
- (iv) Seeking necessary approvals to DSM Plan and individual programmes;
- (v) Implementation of DSM programmes; and
- (vi) Any other additional function that may be assigned by the Commission from time to time.

CHAPTER IV : DSM PROCESS

8. Load and market research and development of baseline data :

8.1. Distribution Licensee shall undertake load research to identify the target consumer segment and end uses for DSM programmes to build the necessary database. DISCOMs may be empowered to engage consultant/expert teams for this purpose.

8.2. Distribution Licensee shall undertake market research to estimate market potential for specific energy efficiency technologies and applications, establish key performance indicators, and determine existing baseline market conditions.

8.3. On the basis of the results of load and market research, the Distribution Licensee shall develop baseline data for its area of supply.

8.4. Distribution Licensee shall design, develop and implement the initial few DSM programmes on the basis of available data and studies completed by BEE till the complete baseline data is available for its area of supply and establishment of baseline data shall not be a pre-requisite for design of such initial DSM programmes by the Distribution Licensees. DISCOMs may undertake the market research through in-house arrangement or engage consultants/outside agencies having practical working experience / expertise in conducting such research.

9. Formulation of DSM Plan :

9.1. Distribution Licensee shall formulate and submit to the Commission a perspective DSM Plan covering period of the control period, within one year of notification of these Regulations. The Plan shall include,—

- (i) an overall goal for DSM Plan;
- (ii) description of DSM programmes to form a part of DSM Plan;
- (iii) implementation process and schedule of each programme in the plan as a whole;
- (iv) plan for Monitoring and Reporting; and
- (v) indicative cost effectiveness assessment of programmes.

Notwithstanding above, the first DSM Plan shall be prepared within one year of the date of notification of these Regulations and shall be for the period till the end of ongoing MYT Control Period.

9.2. The Distribution Licensee shall include all relevant DSM programmes (including multi-state programmes) developed by Bureau in its perspective plan as and when such programmes are announced by Bureau.

9.3. The Distribution Licensee shall submit on rolling basis, an annual plan, not inconsistent with the perspective plan, for upcoming year, along with the Annual Performance Review.

9.4. Selection and prioritisation of various DSM programmes in the DSM Plan shall be guided by the following factors,—

- (i) The Cost effectiveness guidelines issued by the Commission;
- (ii) DSM Objectives identified in Regulation 3;
- (iii) Whether the proposed programmes supplement National level efforts adopted by the Bureau; and
- (iv) Programmes with high visibility and therefore potential for creation of awareness within consumers.

10. Commission review and approval of DSM plan :

10.1. Distribution Licensee shall submit the DSM Plan to the Commission for approval at least six months before the start date of the next MYT period.

10.2. The Commission may adopt procedures as specified in the OERC (Conduct of Business Regulations, 2004, for according approval to the DSM Plan.

11. Preparation of DSM Programme Document :

11.1. For each DSM programme included in the DSM Plan, a detailed description shall be provided in a separate Programme Document. The description shall include general information, technology, schedule for deployment, budget, cost effectiveness assessment, detailed implementation plan, estimation of savings, etc.

11.2. For each DSM programme cost benefit analysis shall be carried out as per guidelines issued by the Commission on Cost effectiveness from time to time.

12. Approval of DSM Programme Document :

12.1. Prior to implementing any DSM programme, Distribution Licensee must obtain approval of the Commission.

12.2. Each Programme Document shall include the following:

- (i) description of the programme;
- (ii) objectives and rationale for the programme;
- (iii) consumer segments and estimated level of participation;
- (iv) estimate of baseline;
- (v) assessment of programme in line with Cost Effectiveness Guidelines issued by the Commission;
- (vi) mechanism for recovery of cost and performance incentives;
- (vii) marketing, delivery strategy and Implementation schedule;
- (viii) implementation mechanism, e.g. Energy Service Companies, DSM Bidding, DSM Resource Acquisition, etc.;
- (ix) monitoring and evaluation plan; and
- (x) plan for Training/Seminars/Workshops to increase consumer awareness.

12.3. The Commission shall approve a DSM program if it is in line with the Objectives set out in Section 3 of the Regulations. The Commission may direct modifications to proposed or on-going programmes to ensure consistency with the DSM Objectives. However, the Commission shall allow Distribution Licensee adequate time to notify consumers of program modification.

13. Implementation of DSM programmes :

13.1. Distribution Licensee shall undertake implementation of DSM programmes in line with the guidelines issued by the Commission from time to time. For the State of Orissa, GRIDCO shall be the Agency for implementation of the DSM schemes.

13.2. The implementation of the programme shall be undertaken in the manner as approved by the Commission.

13.3. Distribution Licensee shall undertake implementation of quick gain DSM programmes

13.4. Distribution Licensee shall carry out implementation of activities assigned to it either by itself or through engagement of appropriate independent entity while doing so, the Distribution Licensee shall ensure that continuity and consistency is maintained and interest of the consumers is not compromised.

14. Mechanism for Cost Recovery :

14.1. Distribution Licensee shall identify the net incremental costs, if any, associated with planning, design and implementation of programmes.

14.2. Distribution Licensee may propose methodology for recovery of net incremental costs through tariff or any other mechanism.

14.3. In order to qualify for cost recovery, each programme must be :

- (i) approved prior to implementation;
- (ii) implemented in accordance with the approved programme plan; and
- (iii) implemented cost effectively.

14.4. Distribution Licensee shall provide all necessary assistance to the Commission, or third party assigned by the Commission in undertaking Evaluation Measurement and Verification of DSM programmes implemented by it.

14.5. The Commission may direct the Distribution Licensee to undertake DSM programmes that may not be cost effective but is highly beneficial to the society.

The Commission will make available resources for such project.

15. Monitoring and reporting of DSM Programmes :

15.1. Distribution Licensee shall prepare plan and undertake monitoring and reporting of DSM programmes as per Guidelines on Monitoring and Reporting issued by Commission from time to time or as approved by the Commission while approving the DSM programme.

15.2. The Commission may direct the Distribution Licensee to place, update and maintain the progress of each individual DSM programme, category-wise or in any other manner the Commission may desire, in its Website for monitoring.

16. Evaluation Measurement and Verification of DSM Programme :

16.1. Distribution Licensee shall prepare plan for evaluation, measurement and verification of savings from DSM programmes as per Guidelines on Evaluation, Measurement and Verification issued by the Commission from time to time.

16.2. Third Party Evaluation Measurement and Verification of DSM programmes may be undertaken by the Commission or third party assigned by Commission. While engaging the agency, the Commission shall ensure that the agency is not undertaking any other engagement which could conflict with the interests of the consumers in the State.

16.3. Distribution Licensee shall make available necessary information/data to the Commission or third party assigned by the Commission to measure and verify the savings from DSM programmes.

CHAPTER V DSM PLAN AND PROGRAMME COMPLETION REPORT

17. Reports on progress of DSM Plan and expenses incurred on implementation of DSM Plan shall be submitted by the Distribution Licensee every six months.

18. The Distribution Licensee will prepare and submit a detailed Program Completion Report and submit the same to the Commission within one month of completion of such programme.

19. The Report shall cover the programme expenses, achievements, outcomes and outputs, constraints and difficulties faced, conclusions, recommendations, lessons learned and way forward.

CHAPTER VI INCENTIVES

20. The Commission may provide incentives to Distribution Licensees for achieving or exceeding DSM Objectives as identified in Section 3 of the Regulations. In case of deliberate and persistent default, the Commission may impose penalty after giving sufficient opportunity to the distribution licensees.

CHAPTER VII MISCELLANEOUS

21. The Commission may, at any time add, vary, alter, modify or amend any provisions of these Regulations.

22. If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by general or specific order, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty.

23. The Commission may, from time to time, issue orders and practice directions in regard to the implementation of the Regulations and procedures to be followed.

24. All disputes arising under these Regulations shall be decided by the Commission based on an application made by the person aggrieved, by way of a proceeding as provided in the Orissa Electricity Regulatory Commission (Conduct of Business) Regulations, 2004.

By order of the Commission

P. K SWAIN

Secretary