

Part-III

Laws, Regulations and Rules passed thereunder



**Jammu and Kashmir
State Electricity Regulatory Commission**

No:- ____ /JKSERC of 2012

Jammu Dated:-

-2012

NOTIFICATION (Draft)

In exercise of powers conferred by section 138(1) read with section 55(d), 56(1)(d), 56(4) & 71(1)(b) of Jammu & Kashmir Electricity Act, 2010 and other powers enabling it in that behalf, J&KSERC makes the following regulations, namely:-

1. Short title, extent, applicability and commencement:

- 1.1 These Regulations shall be called Jammu and Kashmir State Electricity Regulatory Commission (Fuel Price Adjustment Formula) Regulations, 2012.
- 1.2 These Regulations shall come into force from the date of their publication in government gazette.
- 1.3 These Regulations shall extend to the whole of state of Jammu and Kashmir.
- 1.4 These Regulations shall be applicable for determination of surcharge on account of additional cost of Power Purchase due to Fuel Price Adjustment.
- 1.5 These Regulations shall be applicable to all existing and future power consumers and Power Distribution Utilities in the state of Jammu and Kashmir.

2. Introduction:

Section 56(4) of the Jammu and Kashmir Electricity Act, 2010 States:-

“No Tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of changes expressly permitted under the terms of any fuel surcharge formula as may be specified.”

In absence of J&K State Tariff Policy, a reference can be drawn from the provisions of Tariff Policy notified by the Govt. of India, specifying that uncontrolled costs be recovered speedily to ensure that the future consumers are not burdened with past costs. The uncontrolled costs include fuel cost, cost on account of inflation, taxes and Cess, variation in power purchase unit cost, including on account of hydro-thermal mix in case of adverse natural events.

Regulation 52 of J&K State Electricity Regulatory Commission (Conduct of Business) Regulations 2005 also states that:-

“The Tariff determined shall not be amended or modified more than once in a financial year except in respect of any change expressly permissible under the terms of any fuel surcharge formula as may be provided by the Commission.”

Therefore JKSERC, in these Regulations, specify a formula for recovery of the burden on account of additional power purchase cost incurred by the utility due to change in fuel prices. Accordingly, Commission makes these regulations, to recover additional power purchase cost, owing to increase in fuel cost for approved quantity of power purchases from approved sources of power for the distribution companies.

3. Definitions:

(1) In these Regulations, unless the context otherwise requires:

- (a) "Act" means the Jammu and Kashmir Electricity Act, 2010 (Act XIII of 2010);
 - (b) "Commission" means the Jammu and Kashmir State Electricity Regulatory Commission;
 - (c) "Generating Company" means any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person, which owns or operates or maintains a generating station;
 - (d) "Licensee" means a person who has been granted a licence under section 14 of the Act;
 - (e) "Tariff" shall mean the schedule of charges for generating and bulk supply, transmission, wheeling and distribution of electricity together with terms and conditions thereof;
 - (f) "unscheduled Interchange" (UI) shall mean unscheduled interchanges as defined in Indian Electricity Grid Code;
 - (g) "Year" shall mean financial year from 1st April to 31st March.
 - (h) "Current Year" shall mean the year in which the statement of annual accounts or petition for determination of tariff is filed;
 - (i) "Previous Year" shall mean the year immediately preceding the current year;
 - (j) "Ensuing Year" shall mean the year next following the current year; and
 - (k) "State" means the State of Jammu and Kashmir.
- (2) The words of expressions occurring in these regulations and not defined herein but defined in the Act shall bear the same meaning as in the Act.

4. Fuel Surcharge Adjustments (FSA):

The amount on account of Fuel Surcharge Adjustment (FSA) shall be computed as follows:-

FSA	=	$\frac{APPC(fc)}{EP - EL(pL)}$
FSA	=	Fuel Surcharge Adjustment recoverable from consumers (Rs/unit)
APPC(fc)	=	Additional cost of purchase of power due to change in fuel prices (Rs.)
EP	=	Energy Purchase during the period (Units)
EL(pL)	=	Energy Losses at prudent loss level during the period, as approved by the Commission (Units)

The Energy procured under UI or from sources other than approved or quantum in excess of that approved by the Commission for the year shall not be considered for FSA.

The Fuel Surcharge shall be recovered from all categories of consumers at uniform rate.

5. Implementation of the formula:

- 5.1 The FSA shall be recovered in the form of an incremental charge at uniform rate from all categories of consumers at the end of a quarter.
- 5.2 FSA upto 10 paisa/unit can be recovered by Distribution Licensee without making it necessary to go through the regulatory proceedings. The Distribution Licensee shall, however, be obligated to provide all relevant information to the Commission simultaneously. In any case, where the FSA is more than 10 paisa per unit, prior approval of the Commission shall be necessary. If Commission observes any discrepancies, the same will be adjusted during the next quarter. This mechanism will provide administrative and regulatory simplicity.

- 5.3 The FSA charge applicable to consumers shall be displayed prominently at the cash collection centres and also on the website of the Distribution Licensee alongwith details of the additional burden on account of changes in power purchase cost due to Fuel Price Adjustment and the FSA charges leviable to all consumers for each quarter along with detailed computations.
- 5.4 Each control period shall be a quarter year i.e. 3 months. Accordingly, the FSA surcharge for a quarter shall be charged from the first month of the following quarter.
- 5.5 This fuel surcharge formula shall be applicable to the Distribution Licensees unless it is amended, either on petition or suo-moto. The FSA formula will be applicable for all consumers unless exempted by the Commission.
- 5.6 Distribution Licensee shall file with the Commission all relevant information including audited actual data required for calculation of the Fuel surcharge within 60 days of the end of the respective quarter, failing which it shall forfeit any future claims on this account. It will also be incumbent upon Distribution Licensee to reconcile these figures at the end of the year, based on audited accounts.
- 5.7 Distribution Licensee shall undertake its power procurement during the year in accordance with the power procurement plan for such year as approved by the Commission in accordance with J&KSERC (Power Purchase & Procurement) Regulation, 2005 and J&KSERC (Terms and Conditions for determination of Distribution Tariff) Regulations, 2011. Any variation, during any quarter of a financial year, in the quantum or in the cost of power procured and any procurement from a source other than a previously

- approved source, in excess of five percent (5%) of quantum or cost, as the case may be, shall be only with the prior approval of the Commission.
- 5.8 Distribution Licensee can include a prior period expenses for recovery in the subsequent quarter if it can prove to the satisfaction of Commission that the details of the expenses claimed were not available for reasons beyond its control at the time of filing.
- 5.9 In the application of FSA formula, Distribution Licensee shall bear all costs/charges accruing on account of purchases done in contravention of the merit order principles.
- 5.10 Calculation and levy of such charges shall be subject to scrutiny by the Commission. The Commission shall make available the calculations of licensee for inspection by any person. The licensee shall refund or recover, as the case may be, any difference of such charge already recovered by it.
- 5.11 In case of any reduction in power purchase cost due to reduction in fuel cost, if the licensee fails to refund the additional charge to the consumers/customers within the stipulated time, the Commission shall suo-moto order the licensee to refund the same with 10 days notice to the licensee.
- 5.12 The Commission shall charge a fee of Zero point zero five (0.05) percent of the claimed amount for verification of all relevant documents pertaining to FSA claimed by the Distribution Licensees.
- 5.13 In case of any dispute, an appropriate petition in accordance with the Jammu and Kashmir State Electricity Regulatory Commission (Conduct of Business) Regulations, 2005, as

amended from time to time or any statutory re-enactment thereof, shall be filed before the Commission.

6. Overriding Effect:

Notwithstanding anything contained contrary, in the:

- a) JKSERC (Terms and Conditions for Open Access) Regulation, 2006; and
- b) JKSERC (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2011

framed by the Commission under section 138 of the J&K Electricity Act 2010; these regulations will have overriding effect.

7. Power to remove difficulties:

- (a) In case any difficulty in giving effect to any of the provisions of these Regulations, the Commission may by general or special order, direct the Licensee to take suitable action, not inconsistent with the provisions of J&K Electricity Act 2010, which appears to be necessary or expedient for the purpose of removing the difficulty.
- (b) The Distribution Licensee may file an application to the Commission and seek suitable orders to remove any difficulty that may arise in implementation of these Regulations.

8. Issue of orders and directions:

Subject to the provisions of the Act and these regulations, the Commission may, from time to time, issue orders/directions with regard to the implementations of these regulations and

procedure to be followed for such implementation and matters incidental or ancillary thereto.

9. Savings of Inherent Powers of the commission:

Nothing contained in these Regulations shall limit or otherwise affect the inherent powers of the Commission to adopt a procedure, which is at variance with any of the provisions of these regulations, if the Commission, in view of the special circumstances of the matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient to depart from the procedure specified in these regulations.

10. Power to Amend:

The Commission may from time to time add, vary, alter, suspend, modify, amend or repeal any provision of these regulations.

11. Interpretation:

All issues arising in relation to interpretation of these regulations shall be determined by the Commission and the decision of the Commission on such issues shall be final.

(By order of the Commission)

Sd/-

Secretary

J&K State Electricity Regulatory Commission,
Jammu