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## PART-IIA

MEGHALAYA STATE ELECTRICITY  
REGULATORY COMMISSION

### NOTIFICATION

The 9<sup>th</sup> March, 2023.

***MSERC (Renting/Leasing Out of the Discom assets for Facilitation of Telecommunication Network) Regulations, 2023.***

**No.MSERC/FoTN/Regulation/2022/37.** - In exercise of the power conferred under Section 51 read with Section 181 (o) and (y) of the Electricity Act, 2003 (36 of 2003) and all other powers enabling in this behalf, the Meghalaya State Electricity Regulatory Commission, **after previous publication**, hereby makes the following Regulations namely,

**The Meghalaya State Electricity Regulatory Commission (Renting/Leasing Out of the Discom assets for Facilitation of Telecommunication Network) Regulations, 2023.**

#### **1. Short Title, Scope, Extent and Commencement.**

1.1 These Regulations may be called the "Meghalaya State Electricity Regulatory Commission (Renting/Leasing Out of the Discom assets for Facilitation of Telecommunication Network) Regulations, 2023."

1.2 These Regulations shall extend to the whole State of Meghalaya and shall apply on the Distribution Licensees/Franchisees engaged in the business of distribution and supply of electricity in the State.

1.3 These Regulations shall come into force on the date of their publication in the Official Gazette.

#### **2. Definitions and Interpretation.**

2.1 The words, terms and expressions that are defined in the Act, or Safety Rules as specified by the Central Electricity Authority (here in after referred to as 'Authority'), as amended from time to time and used in the Facilitation of Telecommunication Network Regulations 2023 shall have and carry the same meaning as defined and assigned in the same Act and/or Safety Rules as specified by the Authority.

2.2 Subject to the above, expressions used herein but not specifically defined in the Act or Safety Rules or in this Regulation shall have the meaning as is generally assigned in the electricity industry.

2.3 In the interpretation of this MSERC (Renting/Leasing Out of the Discom assets for Facilitation of Telecommunication Network) Regulations, 2023 unless the context otherwise requires:-

(a) Words in the singular or plural term, as the case may be, shall also be deemed to include the plural or the singular term respectively;

(b) References to any statutes, Regulations or Guidelines shall be construed as including all statutory provisions consolidating, amending or replacing such statutes, Regulations or guidelines as the case may be referred to;

2.4 In these Regulations, unless the context otherwise requires-

(a) "**Act**" means the Electricity Act, 2003;

(b) "**Armed forces authorities**" means the Indian Army, Indian Air Force, Assam Rifles, the Border Security Force, the Central Reserve Police Force.

(c) "**Commission**" means the Meghalaya State Electricity Regulatory Commission.

(d) "**Distribution Licensee**" means a person who has been granted a license under section 14 of Electricity Act 2003 and authorized to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply.

(e) "**Distribution Assets**": Distribution assets such as electric poles, official buildings etc., of distribution licensee but distribution transformers, wires and other assets not allowed to be used excluding wires.

(f) "**Gross Revenue**" in respect of usage of assets for facilitation of telecommunication network means the gross revenue other than core business of supply of electricity by the distribution licensee in a financial year;

(g) "**Telecommunication Company**" means a telecommunication company holding license issued under Section 4 of the Indian Telegraph Act 1885 engaged in transmission of data in words, voice, audio, image, video mode, etc., and are registered under Companies Act.

(h) "**Telecommunication Network Business**" means any business including hiring of distribution assets for installation of telecommunication network infrastructure (wires or cables/wireless business such as 5G etc.) for telecommunication business, in accordance with provisions of Section 51 of the EA Act 2003 subject to system protection measures ensured by the user of the Asset as per IE rules.

(i) "**Metering Mechanism**" all electricity consumption by telecommunication network of Telecom Companies installed on distribution assets shall be metered at the point of installation through a smart meter and billing of such consumption shall be done on point of installation basis as per Supply Code Regulations 2018.

(j) "**Agreement**" agreement for rental and related services signed between telecom company and distribution licensee for installation of telecommunication network on point of installation of such distribution assets.

(k) "**Infrastructure Provider**" means an infrastructure provider registered with the Department of Telecommunication to set up Telecom Infrastructure in Meghalaya State.

(l) "**Franchisee**" means an authorization granted by the Distribution Licensee to an individual or a group, enabling to carry out the distribution functions in the specified area as an agent of the Distribution Licensee.

(m) "**Telecom Service Provider (TSP)**" means a licensee providing telephone services, including *inter alia*, mobile phone services, internet and data transfer services etc.,

(n) "Policy" means the Meghalaya Telecom Infrastructure Policy, 2018.

### 3. Intimation of other business:

3.1 The distribution licensee shall inform the Commission regarding installation of telecommunication network on its distribution assets and income derived from such activities on annual basis through ARR. While giving information in terms of Clause of this Regulation, the licensee shall furnish the following details-

I. The nature and extent of (no. of poles, buildings and other electrical assets) the use of distribution assets of the licensee, which are utilized or proposed to be utilized for telecommunication business.

The Distribution Licensee shall maintain record of the assets rented out and period of renting etc., for utilization by the Telecom Companies.

II. The impact, if any, of such use of assets and facilities on the ability of the licensee to carry out the duties and obligations of the licensed business.

Distribution Licensee shall allocate certain percentage of R&M works expenditure in the preceding year and fix the rental charges to be collected such as rental charges per pole, rental charges per installation on office building etc., from the beneficiary (Telecom Company) on monthly basis and details shall be provided to the Commission.

III. Annual revenue income derived or estimated to be derived from the rent of the telecommunication business.

IV. Any other details required by the Commission.

3.2 The distribution licensee shall have the absolute responsibility to ensure that the utilization of the assets and facilities of the Licensed Business for telecommunication purposes shall not in any manner affect the performance of the obligations or the quality of service required from the Licensee including as specified under CENTRAL ELECTRICITY AUTHORITY (MEASURES RELATING TO SAFETY AND ELECTRICITY SUPPLY) Regulations, 2010, MSERC (Standards of Performance) Regulations 2012, Electricity Supply Code, or any other Regulation of the Commission and that any such utilization shall be entirely at the cost and risk of the Licensee.

### 4. Functions of Distribution Licensee:

(1) Distribution Licensee can rent out its distribution assets and provide related services to telecommunication company for installation of telecommunication network including 5G network.

(2) The Assets of Distribution licensee are subject to strengthening/renovation necessitated due to the increase in demand year on year, the Distribution Licensee shall enter into rental deed related services agreement for a period of three years, which may be extended for another period of 3 years on the agreed terms for each term of 3 years and till the expiry of the tenure of telecom franchise with the Telecom company within its area of supply for installation of telecommunication network including 5G network on the distribution assets. However, the connection agreement can be signed collectively for all the distribution assets within a distribution division depending upon the convenience of distribution licensee. The connection agreement will provide the location coordinates or GPS location or pole number or DT number or name of Substation allotted to a telecom company within a division.

(3) The assignment of distribution assets to telecom companies will be done through a transparent process/mechanism.

The Network of the Electricity Discom has been divided into area wise territorial jurisdiction divisions for convenience of operational performance.

Telecom companies shall have their own badges for infrastructure network identity. Distribution licensee shall provide access to the assets on the first come first serve basis if there are more than one telecom licensee in the territorial division. Distribution licensee shall ensure permission to use the assets of Telecom companies subject to weight bearing capacity of the assets and ground clearance as per IE rules before providing access for laying of infrastructure cables/apparatus.

(4) The Distribution Licensee shall adopt the "implementation procedure" notified *vide* para 11 (12) and 12 (4) & (5) of the "Meghalaya Telecom Infrastructure Policy 2018".

(5) All electricity consumption by telecommunication network installed on distribution assets of the distribution licensee shall be metered at the point of installation through a Smart Meter/Prepaid Meter and the billing of such consumption shall also be done at the point of installation as individual connections will be released on each point of installation. However, the consolidated bill of all the connections of a particular telecom licensee within a distribution division or equivalent territory can be generated with connection wise details for convenience of billing & collection. The cost of the connection and the meter shall be borne by the telecom company.

(6) Income from renting & related services of distribution assets shall be projected by distribution licensee as non-tariff income in the respective ARR/Tariff petition in accordance with the classification given under chapter 2 of MSERC Supply Code Regulations 2018.

(7) The licensee shall ensure that at no point of time:

- Renting of its assets result in lack of available capacity for its consumers to carry out its own licensed activity.
- The usage of poles by Telecom companies shall not be more than weight bearing capacity of the asset.
- Safety of the assets of the licensee is compromised.
- Renting of its assets affect the performance of obligations or the quality of service required from the licensee including as specified under Standards of Performance Regulations, Electricity Supply Code 2018, or any other Regulations of the Commission as amended from time to time.

#### **5. Manner of sharing revenue earned from telecommunication network business**

If the distribution licensee rents out its distribution assets for installation of telecommunication network including 5G network, then an amount equal to 30% from the gross rent as received from the telecommunication company in a given financial year shall be retained by the distribution licensee, and the remaining 70% shall be shown as non-tariff income of corresponding ARR.

Separate Accounts to be maintained for this revenue/expenditure from renting and related services for use of Distribution assets for installation of telecommunication network including 5G network.

#### **6. Inherent powers of the Commission-**

- i. Nothing in these Regulations shall be deemed to affect the powers of the Commission to make such orders as may be necessary to meet the ends of justice.
- ii. Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the EA Act 2003, a procedure that is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or a clause of matter, deems it just or expedient for deciding such matter or clause of matters.

iii. Nothing in these Regulations shall, expressly or implied, bar the Commission dealing with any matter or exercising any powers under the Act for which no Regulations have been framed, and the Commission may deal with such matters, powers, and functions in a manner, as it considers just and appropriate.

#### **7. Powers to remove difficulties.**

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

##### **7.1 Penalty**

Distribution Licensee shall ensure protection of assets from illegal use and take penal action.

If an Applicant violates any provision of Meghalaya Telecom Infrastructure Policy 2018 in respect of the assets of Discom (Distribution company), or if the applicant is responsible for unauthorized usage of the Discom assets, the applicant shall be liable to be penalized as per the terms and conditions notified in the para 16 of the policy:

a) As soon as Local Authority (Discom) comes to know that any provision has been violated, a show cause will be issued to TSP/IP, TSP/IP should reply within 15 days from date of service of notice.

b) If reply is not satisfactory, the TSP/IP will be levied with penalty upto Rs. 35000. The penalty money may be recovered from Bank Guarantee provided by the Applicant to **any of the Local Authority** in case the amount is not deposited within the time period specified by the Local Authority/Discom.

8. If at any point during the period of the agreement the TSP/IP violates the terms of agreement with the Distribution Licensee or defaults in payment of the rental dues. The distribution licensee shall issue notice to the TSP/IP, by providing 30 days for taking necessary corrective action. Failure to respond and or in the event of no corrective measures or satisfactory action being taken even after 90 days of receiving the notice, may lead to termination of the agreement.

#### **9. Power to amend**

The Commission may, at any time vary, alter, modify, or amend by notification any provision of these Regulations.

#### **10. Dispute Resolution Committee**

The Distribution Licensee shall notify the State Level Telecom Committee and the District Level Telecom Committee with reference Para 17 (2.2) of the Meghalaya Telecom Infrastructure Policy 2018, for redress of any disputes that arise relating to usage of distribution assets by Telecom Infrastructure Providers.

#### **11. Savings**

Notwithstanding anything contained in MSERC (Multi Year Tariff for Distribution and Transmission) Regulations, 2014, as amended from time to time, the treatment of non-tariff income, in form of rentals derived from renting of distribution assets for facilitation of telecommunication network, shall be governed in accordance with the provisions of this Regulation.

**E. SLONG,**  
Secretary,  
Meghalaya State Electricity Regulatory Commission,  
Shillong.