

**JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION,
RANCHI**

**Jharkhand State Electricity Regulatory Commission (Facilitation of
Telecommunication Network) Regulations, 2023**

[Gazette/ Notification No.] -- In exercise of powers conferred under Section 51, read with Sections 181(o) and (y) of the Electricity Act, 2003 and all other powers enabling it on that behalf, the Jharkhand State Electricity Regulatory Commission, hereby makes the following Regulations.

1. Short Title and Commencement

- 1.1. These Regulations may be called the Jharkhand State Electricity Regulatory Commission (Facilitation of Telecommunication Network) Regulations, 2023.
- 1.2. These Regulations shall come into force from the date of their publication in the Jharkhand State Government Gazette.

2. Scope and Extent of Applications

- 2.1. These Regulations shall be applicable to all Distribution Licensees/Distribution Franchisees engaged in the business of distribution and supply of electricity in the State.
- 2.2. These Regulations shall extend to the State of Jharkhand.

3. Definitions and Interpretation

- 3.1. The words, terms, and expressions that are defined in the Act, or Safety Rules as specified by the Central Electricity Authority (hereinafter referred to as 'Authority'), as amended from time to time and used in these Regulations shall have and carry the same meaning as defined and assigned in the same Act and/or Safety Rules as specified by the Authority.
- 3.2. In the interpretation of these Regulations, 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;
- 3.3. In this Regulation unless the context otherwise requires:
 - a) **'Act'** means the Electricity Act, 2003 and subsequent amendments thereof;

- b) **‘Agreement’** means the agreement for rental and related services signed between a telecom company and a distribution licensee for installation of telecommunication network on distribution assets;
- c) **‘Commission’** means the Jharkhand State Electricity Regulatory Commission (JSERC);
- d) **‘Distribution Assets’** means assets such as electric poles, distribution transformers, official buildings, etc., of the distribution licensee upto the voltage level of 33 kV, excluding cables, wires, etc;
- e) **‘Distribution Franchisee’** means an authorized entity (individual or a group of persons) of the Distribution Licensee, enabling it to carry out the distribution functions in the specified area as an agent of the Distribution Licensee;
- f) **‘Distribution Licensee’** means a licensee who has been granted a license under section 14 of the Electricity Act, 2003 and is authorized to operate and maintain a distribution system for supplying electricity to the consumers in its area of supply.
- g) **‘Gross Revenue’** in respect of these Regulations means the gross revenue accrued to licensee from facilitation of telecommunication network as prescribed under these regulations, and shall exclude the revenue from the regulated core business of the distribution licensee in a financial year;
- h) **‘Infrastructure Provider’** means a provider of telecom infrastructure registered with the Department of Telecommunication, Government of India to set up a telecommunication network in the State of Jharkhand;
- i) **‘Metering Mechanism’** means all electricity consumption by the 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 a point of installation basis as per the JSERC (Electricity Supply Code) Regulations, 2015, and its amendments thereof;
- j) **‘Telecommunication Company’** means a telecommunication company engaged in the transmission of data in words, voice, audio, image, video mode, etc., and is registered with the Department of Telecommunications, Government of India or any telecom services provider licensed from the Department of Telecommunication, Government of India.
- k) **‘Telecommunication Network Business’** means any business including renting of distribution assets for installation of Telecommunication Network infrastructure (including but not limited to all wireless business such as 5G, etc.) for telecommunication business, in accordance with the provision of Section 51 of the Act subject to system protection measures ensured by the user of the Asset;

3.4. Words and expressions used in these Regulations and not defined herein but defined in the Act shall have the meanings respectively assigned to them in the Act.

3.5. All proceedings under these Regulations shall be governed by the JSERC (Conduct of Business) Regulations, 2016, as amended or re-enacted from time to time.

4. Intimation of other business

4.1. A distribution licensee shall inform the Commission regarding the installation of a telecommunication network on its distribution assets and the income derived from such activities on annual basis will be submitted along with its Tariff Petition. While giving information in terms of these Regulation, the licensee shall furnish the following details: -

- a) The nature and extent of the use of distribution assets (no. of poles, buildings, etc.) of the licensee, which are utilized or proposed to be utilized for the telecommunication business.
- b) The Distribution Licensee shall maintain a record of the assets rented out and period of renting etc., for utilization by the Telecom Companies.
- c) 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.
- d) Annual revenue income derived or estimated to be derived from the rent of telecommunication company shall be reflected separately in the Tariff Petition.
- e) The Distribution licensee shall submit the auditor's certificate for the revenue generated from the renting and related services of distribution assets along with the Tariff Petition for the purposes of Truing-up.
- f) Any other details required by the Commission.

4.2. In case the cable of a telecom company is being extended through the assets of distribution licensee, the telecom company shall get the colour code, size and weight of cable per meter length approved by the distribution licensee. The distribution licensee shall indicate the clearing distance to be maintained between its lines & cable of the telecom company. Similarly, for telecom towers or equipment in case of wireless network, including but not limited to 5G network, the safety clearance from the insulator of the pole will have to be maintained.

4.3. The Licensee shall have the absolute responsibility to ensure that the utilization of the assets and facilities of the regulated Licensed Business for facilitation of telecommunication purposes shall not in any manner affect the standards of performance, obligations, or the quality of service of the Licensee as specified under CEA (Measures Relating to Safety and Electric Supply) Regulations, 2010; JSERC (Distribution Licensees' Standards of Performance) Regulations, 2015; JSERC (Electricity Supply Code) Regulations, 2015; along with the Amendments thereof; or any other Regulation of the Commission and that any such utilization shall be entirely at the cost and risk of the Licensee.

5. Functions of the Distribution Licensee

- 5.1.** Distribution licensee may rent out its distribution assets and provide related services to a telecommunication company for the installation of a telecommunication network including but not limited to a 5G network.
- 5.2.** The Distribution licensee shall sign a rental and related services agreement for a mutually agreeable period of three (3) years at a time, which may be extended on mutually agreed terms with each term of three (3) years but not exceeding the tenure of the license of the telecom company, within its area of supply for installation of telecommunication network including 5G network on its distribution assets.

Provided that such agreement needs to have provision for revision of rental charges at least once in three years.

- 5.3.** Distribution licensee shall ensure that a particular telecom company does not get access to more than 75% of its total distribution assets for installation of a telecommunication network including 5G network infrastructure to deter the abuse of its dominant position in case of multiple telecom licensees.
- 5.4.** The assignment of distribution assets to telecom companies shall be done through a transparent process/ mechanism. Telecom companies shall have their own badges for infrastructure network identity. The Distribution Licensee shall ensure permission to use the assets of Telecom companies subject to the weight-bearing capacity of the assets and ground clearance as per the provisions of the Act before providing access for laying of infrastructure cables/ apparatus.

6. Energy and Monetary Accounting Mechanism

- 6.1.** The electricity connection to the infrastructure of telecom companies installed on the Distribution Assets will be given on point of installation of distribution assets. However, the connection agreement can be signed collectively for all the distribution assets within a distribution area depending upon the convenience of the distribution licensee.

Provided that, the connection agreement will entail the location coordinates, or GPS location, or pole number, or distribution transformer number, or name of the sub-station allotted to a telecom company within an area.

- 6.2.** All electricity consumption by the telecommunication network installed on distribution assets of the distribution licensee shall be metered at the point of installation through a Smart Meter and the billing of such consumption shall also be done at the point of installation as individual connections. However, the Consolidated bill of all the connections of a particular Telecom licensee within a distribution area or equivalent can be generated with connection-wise details for the convenience of billing & collection. The cost of the connection and meter shall be borne by the telecom company.
- 6.3.** Income from renting & related services of the distribution assets, for the facilitation of telecommunication network as prescribed in these regulations,

shall form a part of the Gross Revenue of the distribution licensee, and the revenue generated from the sale of electricity, for such facilitation, shall form a part of the regulated tariff income of Distribution Licensee.

- 6.4.** The Distribution Licensee shall maintain a separate head in its balance sheet to record revenue/expenditure towards the Facilitation of Telecommunication Network, and shall submit an auditor's certificate for the Gross Revenue generated from the renting and related services of distribution assets along with the Tariff Petition at the time of truing-up.
- 6.5.** Separate Books of Accounts shall be maintained for the accounting of revenue from/expenditure towards renting and related services for use of Distribution assets for installation of telecommunication network including 5G network.
- 6.6.** The Licensee shall ensure that at no point in time: -
- a) Renting of its assets results in a lack of available capacity for its consumers to carry out its own regulated licensed activity.
 - b) The safety of the assets of the licensee is compromised.
 - c) The usage of distribution assets by Telecom companies shall not be more than the weight-bearing capacity of the asset.
 - d) Renting of its assets in any manner affect the standards of performance, obligations, or the quality of service of the Licensee as specified under CEA (Measures Relating to Safety and Electric Supply) Regulations, 2010; JSERC (Distribution Licensees' Standards of Performance) Regulations, 2015; JSERC (Electricity Supply Code) Regulations, 2015; along with the Amendments thereof; or any other Regulation of the Commission and that any such utilization shall be entirely at the cost and risk of the Licensee.

7. Manner of sharing of revenue from telecommunication business

- 7.1.** In case the distribution licensee rents out its distribution assets for the installation of a telecommunication network including but not limited to a 5G network, an amount equal to one-third of the gross revenue accrued to the licensee due to such activity in a given financial year shall be retained by the distribution licensee whereas, the remaining two-thirds shall be included as non-tariff income for the corresponding ARR.

8. Inherent powers of the Commission

- 8.1.** Nothing in these Regulations shall be deemed to limit or otherwise affect the power of the Commission to make such orders as may be necessary to meet the ends of justice.
- 8.2.** Nothing in these Regulations shall bar the Commission from adopting in conformity with provisions of the Act, a procedure which 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 class of matters, deems it just or expedient for deciding such matter or class of matters.

- 8.3.** Nothing in these Regulations shall, expressly or implied, bar the Commission from dealing with any matter or exercising any power 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.

9. Power to Relax

- 9.1.** The Commission may by general or specific order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected, may relax any of the provisions of these Regulations on its own motion or on an application made before it by the affected party.

10. Power to Remove Difficulties

- 10.1.** 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.

11. Power to amend

- 11.1.** The Commission may from time to time add, vary, alter, modify or amend any provisions of these Regulations after following the necessary procedures.

12. Interpretation

- 12.1.** The decision of the Commission regarding the interpretation of these Regulations shall be final and binding.

13. Savings

- 13.1.** Notwithstanding anything contained in the JSERC (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2020 and amendment 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 Regulations.