



The Bihar Gazette

EXTRA ORDINARY

PUBLISHED BY AUTHORITY

3 BHADRA 1936(S)

(NO. PATNA 696)

PATNA, MONDAY, 25TH AUGUST 2014

Bihar Electricity Regulatory Commission
Vidyut Bhawan, J.L. Nehru Marg, Patna 800 021

**BIHAR ELECTRICITY REGULATORY COMMISSION (DEMAND SIDE
MANAGEMENT) REGULATIONS, 2014**

NOTIFICATION

The 22nd August, 2014

No. BERC-SMP-21/14-07 —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 the 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 alongwith 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 labeling 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. Different 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;

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 Bihar Electricity Regulatory Commission hereby makes the following regulations namely Bihar Electricity Regulatory Commission (Demand Side Management) Regulations, 2014.

Chapter I: General

1. Short Title, Extent and Commencement

- 1.1 These Regulations may be called the "Bihar Electricity Regulatory Commission (Demand Side Management) Regulations, 2014.
- 1.2 These Regulations shall be applicable to the Distribution Licensees in the State in their respective areas of supply.
- 1.3 These Regulations shall come into force from the date of its notification 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" or "BEE" means the Bureau of Energy Efficiency established under sub-section (1) of Section 2 of The Energy Conservation Act, 2001;
 - iv. "Commission" means the Bihar Electricity Regulatory Commission constituted under sub-section (1) of Section 82 of the Act;
 - 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" or "DSM" 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 Organizations, 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 Service Company" means a company which is in the business of providing energy efficient and load management equipment and/or services to endues 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; and
 - x. "Monitoring and Reporting" means activities which monitor and evaluate the progress of DSM/energy efficiency programs of the Distribution Licensee.

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/peak shifting, cost effective energy savings, lowering the cost of electricity, reduction in emissions of greenhouse gases etc.

-
- 3.2 While formulating the DSM objective, the Commission may take into consideration the National DSM objectives/Plans formulated by BEE, if any.
- 3.3 The DSM objectives may 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 Licensee in the State shall carry out assessment of potential for DSM in the State every year. The first assessment of technical potential for DSM shall be carried out within three months of the notification of these Regulations.
- 4.2 Distribution Licensee shall be guided by methodology developed by Bureau of Energy Efficiency while assessing of technical potential for DSM.

5. DSM Targets

- 5.1 Each distribution licensee shall establish its DSM targets and get it approved by the Commission.
- 5.2 While approving 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 :
- (i) Percentage reductions in peak load growth;
 - (ii) Savings in kW, kWh
 - (iii) Savings as a percentage of total resources required to meet load;
- 5.4 While establishing the targets, the Commission shall consider the technical potential in the State as assessed by the Distribution Licensee.

6. Guidelines on DSM Process

- 6.1 The Commission shall issue guidelines to guide the Distribution Licensee in execution of the following activities:
- (i) Load and market research;
 - (ii) Implementation of DSM programmes;
 - (iii) Cost Effectiveness Assessment of DSM programmes;
 - (iv) Eligibility criteria for DSM programmes;
 - (v) Methodology for setting DSM targets and funding levels; and
 - (vi) 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 Licensee.

Chapter III : DSM Cell

7. Constitution of DSM Cell, its Roles and Responsibilities

7.1 Every Distribution Licensee shall, constitute DSM Cell within one month of notification of these Regulations.

7.2 The DSM Cell so constituted shall be provided with necessary authority, resources and training 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) Planning 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.

7.4 DSM Consultative Committee

7.4.1 Constitution of DSM Consultative Committee (DSM-CC) and its functions-

(1) A DSM Consultative Committee (DSM-CC) shall be constituted by the Commission which shall be the nodal agency to assist the Licensee and the Commission to drive the DSM programme under DSM Regulations. The DSM-CC shall be constituted as indicated below:-

- (i) Secretary of the Commission- Convener
- (ii) One representative from each of the Distribution Licensee not below the rank of Chief Engineer- Members
- (iii) One representative from each of the Transmission Utility not below the rank of Chief Engineer- Members
- (iv) Chief Electrical Inspector to the Government (State designated agency for energy audit and efficiency)- Member
- (v) Maximum five representatives from educational and research institutions; industry, agriculture and general public who have special knowledge or experience of and interest in power sector to be nominated by the Commission- Members

7.4.2 The functions of the DSM-Consultation Committee shall be-

- (a) to advise the licensee on conducting continuous consumer surveys and Load Research to seek information on end-use technologies, usage patterns, willingness to pay, sensitivity studies, market research etc. to assess DSM potential;
- (b) to promote cross-learning among the stakeholders to design appropriate DSM programmes and plans;
- (c) to review DSM programme and DSM Plans submitted by the licensee and to advise the Commission in assessment and approval;
- (d) to provide support to the Commission for instituting DSM Plan/Programme monitoring, review, evaluation, measurement and verification (EM&V) as and when required;
- (e) to study the impacts of already implemented DSM Programmes;
- (f) to apprise the Commission about all DSM related activities on quarterly basis.

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/s and end uses for DSM programmes to build the necessary database.
- 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 initially some 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 base line data shall not be a pre-requisite for design of such initial DSM programmes by the Distribution Licensee.

Formulation of DSM Plan

- 9.1. Distribution Licensee shall formulate and submit to the Commission a perspective DSM plan every year. 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 indicative cost effectiveness assessment of programmes. Notwithstanding above, the first DSM plan shall be prepared within three months of the date of notification of these Regulations.
- 9.2. The Distribution Licensee shall include all relevant DSM programmes (including multi-state programmes) developed by Bureau of Energy Efficiency 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 prioritization 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.

Commission Review and Approval of DSM Plan

- 10.1 Distribution Licensee shall submit the DSM plan to the Commission every year for approval at least three months before the start of the year.
- 10.2 The Commission may adopt procedures as specified in the Conduct of Business Regulations 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) Objective 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 such activities.

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.

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 cost, if any, associated with planning, design and implementation of programmes.

-
- 14.2 Cost of all DSM programmes and plans to be implemented by the Distribution Licensee shall be included in the Annual Revenue Requirement (ARR) and the licensee will clearly indicate the mechanism for financing of each DSM Programme.
- 14.3 In order to qualify for cost recovery, each program must be:
- (i) Approved prior to implementation;
 - (ii) Implemented in accordance with the approved program 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.
15. **Monitoring and reporting of DSM Programmes**
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.
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. Report 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 Programme 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 learnt and way forward.

Chapter VI: Incentives

20. The Commission may provide incentives to Distribution Utilities for achieving or exceeding DSM Objectives as identified in Section 3 of the Regulations.

Chapter VII: Miscellaneous

21. **Compliance of Directions**

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.

22. **Disputes**

All disputes arising under these Regulations shall be decided by the Commission based on an application made by the person aggrieved.

23. **Power to Remove Difficulties**

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.

24. **Power to Amend**

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

By order of the Commission,

Sd/-

(Parmanand Singh)

Secretary

Bihar Electricity Regulatory Commission