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BIHAR ELECTRICITY REGULATORY COMMISSION

NOTIFICATION

9th December 2024

No.-BERC-SMP No-16/2024-05—In exercise of the powers conferred under Section 181 of the Electricity Act, 2003 (36 of 2003), read with section 39, 40, 42, 61 and 86 thereof and all other powers enabling it in this behalf, and after previous publication, the Bihar Electricity Regulatory Commission hereby makes the following Regulations, namely.

CHAPTER-1

PRELIMINARY

1. Short Title, Extent and Commencement

- (1) These regulations may be called Bihar Electricity Regulatory Commission (Green Energy Open Access) Regulations, 2024.
- (2) These Regulation shall extend to the whole of the State of Bihar.
- (3) These Regulations shall come into force from date of their publication in the official Gazette of Government of Bihar.

2. Definitions

- (1) In these regulations, unless the context otherwise requires,

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- (a) **'Act'** shall mean the Electricity Act, 2003 and subsequent amendments thereof.
 - (b) **'Banking'** means the surplus green energy scheduled and injected into the grid and credited with the distribution licensee by the Green Energy Open Access consumer.
 - (c) **'Banking Cycle'** means a continuous period of two consecutive financial quarters including the quarter of commencement of Banking.

Illustration:

- (i) In case a Green Energy OA consumer is permitted to commence banking on 25th January of a year, the period of his banking cycle will be till 30th June of the year.
- (ii) In case the banking commences on 1st April of a year, the period of banking cycle will be till 30th September of the year."
- (d) **'Billing Cycle'** shall have the same meaning as has been specified under Bihar Electricity Supply Code, 2007 as amended from time to time or as per the Tariff Orders issued by the Bihar Electricity Regulatory Commission.
- (e) **'Central Commission'** means the Central Electricity Regulatory Commission referred to in sub-section (1) of Section 76 of the Act.
- (f) **'Central Nodal Agency'** means a Central Nodal Agency as notified by the Central Government to set up and operate a single window green energy open access system for renewable energy.
- (g) **'Commission'** means the Bihar Electricity Regulatory Commission (BERC) constituted under the Act.
- (h) **"Consumer"** means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under the Electricity Act, 2003 or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be.
- (i) **'Day Ahead Market (DAM)'** means a market where Day Ahead Contracts are transacted on the Power Exchange(s).
- (j) **'Entity'** shall mean any consumer who has contracted demand or sanctioned load of 100 kW or more either through single connection or through multiple connections aggregating 100 kW or more located in

same electricity division of a distribution licensee, except for captive consumers.

Provided that there shall be no capacity restriction for setting up of RE projects for captive use with respect to the consumer's contract demand/sanctioned load with Discoms.

- (k) **‘Existing Consumer’** shall mean a person already availing Open access for sourcing/ supplying renewable energy to the transmission system and/ or distribution system of a licensee in the State under an existing agreement or Commission’s Regulations/Orders on the date of coming into force of these Regulations.
- (l) **‘Forum of Regulators’** means the Forum as referred to in sub-section (2) of section 166 of the Act.
- (m) **‘Fossil Fuel’** means fuels such as coal, lignite, gas, liquid fuel, or combination of these as its primary source of energy, which are used in Thermal Generating Station for generating electricity.
- (n) **‘Green Energy’** means the electrical energy from renewable sources of energy as determined by the Central Government as per the provision of Clause G of sub-rule (2) of rule 4 of Electricity (Promoting Renewable Energy Through Green Energy Open Access), Rules 2022 and amendments thereof;
- (o) **‘Green Energy Open Access Consumer’** means any person who has contract demand or sanctioned load of Hundred (100) kW or more, either through single connection or through multiple connections aggregating Hundred (100) kW or more located in same electricity division of a distribution licensee, shall be eligible to avail Green Energy through Open Access, who is supplied with electricity from green energy sources for his own use by a licensee or the Government or from its own Captive Generation Plant or by any other person engaged in the business of supplying electricity to the public under the Electricity Act, 2003 or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving green energy with the works of a licensee, the Government or such person, as the case may be.

Provided that there shall be no capacity restriction for setting up of RE projects for captive use with respect to the consumer's contract demand/sanctioned load with Discoms availing power under Green Energy Open Access.

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- (p) **‘Month’** shall mean calendar month.
 - (q) **‘Obligated Entity’** shall mean the entities/person mandated under clause (e) of subsection (1) of section 86 of the Act to fulfil Renewable Purchase Obligation, which includes distribution licensee, captive user, and open access consumer.
 - (r) **‘Rules,’** means the Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022 and subsequent amendments.
 - (s) **‘Standby charges’** means the charges applicable to green energy open access consumers against the standby arrangement provided by the distribution licensee, in case such green energy open access consumer is unable to procure/schedule power from the generating sources with whom they have the agreements to procure power due to outages of generator, transmission systems and the like.
- (2) Words and expressions used and not defined in these regulations but defined in the Act or IEGC or State Grid Code any other regulation of the Appropriate Commission shall have the meaning assigned to them under the Act or the IEGC or the State Grid Code or any other regulation of the Commission as the case may be.

3. **Scope**

These regulations shall be applicable for allowing Connectivity and Open Access to electricity generated from green energy sources as defined under item no. 2(1) (n) of Regulation 3 of these Regulations, including the energy from non-fossil fuel-based Waste-to-Energy plant for use of Intra-State Transmission System (InSTS) and/or distribution system in the State or both, including Intra-State Transmission or Distribution System(s), which are incidental to Inter-State Transmission of electricity.

Provided that existing consumer(s)/generators shall continue to avail the open access as per the existing agreements or government policy for the period specified in those agreements or policies, unless specifically provided under any clause of these regulations.

4. **Renewable Purchase Obligation**

- 4.1 On and from the date of commencement of these Regulations, there shall be a uniform renewable purchase obligation, on all obligated entities in area of a distribution licensee.

4.2 Any entity, whether obligated or not may elect to generate, purchase and consume renewable energy as per their requirements by one or more of the following methods:

a. Own Generation from renewable energy sources:

There shall not be any capacity limit for installation of power plants from renewable energy sources by entities for their own consumption and such plants may be set up at any location in India and power shall be transmitted over Intra-State Transmission System (InSTS) or distribution system or both, which are incidental to Inter-State Transmission of electricity by using open access:

However an entity may have the liberty to install RE generating plant (Solar, Wind, Hydro etc) of a higher capacity for their convenience and at their own cost and risk. This will, however, not entitle the entity to seek any extra advantage on this ground.

Provided that the generating plant may be set up by the entity itself or by a developer with which the entity enters into a Power Purchase Agreement (PPA).

b. By procuring Renewable Energy through Open Access from any Developer either directly or through a trading licensee or through power market(s).

Explanation:

i. Developer means the generating company who generates electrical energy from renewable sources of energy.

ii. Trading Licensee means a person who has been granted a license by appropriate commission, for purchase of electricity for resale thereof.

c. By requisition from distribution licensee:

i. Any consumer may elect to purchase Green Energy either up to a certain percentage of the consumption or its entire consumption and they may place a requisition for this with their distribution licensee, which shall procure such quantity of green energy and supply it and the consumer shall have the flexibility to give separate requisition for solar and non-solar;

ii. The consumer may purchase on a voluntary basis, more renewable energy, than he is obligated to do and for ease of implementation, this may be in steps of 25% going up to 100%;

iii. The tariff for the green energy shall be determined separately by the Commission, which shall comprise of the average pooled

power purchase cost of the renewable energy, cross-subsidy surcharges if any, and service charges covering the prudent cost of the distribution licensee for providing the green energy;

- iv. Any requisition for green energy from a distribution licensee shall be for a minimum period of one year.

Provided that the requisition for green energy, if sufficiently available with the discoms, shall be met within a month. Further, if sufficient quantum of green energy is not available with the discoms, the requisition for green energy must be met within 6 months from the date of requisition.

- v. The quantum of green energy shall be pre-requisitioned for at least one month in advance;
- vi. The green energy purchased from distribution licensee or from Renewable Energy sources other than distribution licensee in excess of Renewable Purchase Obligation of obligated entity shall be counted towards Renewable Purchase Obligation compliance of the distribution licensee;
- vii. The accounting of renewable energy supplied at distribution licensee level shall be on a monthly basis.
- d. By consuming green energy from captive power plant.
- e. By purchasing of renewable energy certificates in accordance with the applicable regulations.
- f. Purchase of green hydrogen or green ammonia:
The obligated entity can also meet their Renewable Purchase Obligation by purchasing green hydrogen or green ammonia and the quantum of such green hydrogen or green ammonia would be computed by considering the equivalence to the green hydrogen or green ammonia produced from one MWh of electricity from the renewable sources or its multiples and norms in this regard shall be notified by the Central Commission.

CHAPTER-2

PROCEDURE FOR GRANT OF OPEN ACCESS

5. Nodal Agency:

- i. SLDC Bihar shall be the State Nodal Agency for grant of Green Energy Open Access for short term (for a period up to One month) and State Transmission Utility (STU) shall be nodal agency for grant of Green Energy Open Access, for medium term

(for a period exceeding Three months but not exceeding five years) and long term (for a period exceeding seven years).

- ii. All applications related with connectivity and green energy open access shall be received by the State Nodal Agency in accordance with the detailed procedure, through the single window green energy open access system for renewable energy developed by Central Nodal Agency.

6. Procedure and Grant of Green Energy Open Access:

- i. The detailed procedure for grant of connectivity and Green Energy Open Access including the application format, model banking agreement and applicable Bank Guarantees/ Fees/ Charges etc., shall be prepared by the State Nodal Agency, within a period of 60days from the date of notification of these regulations.

Provided that, if the above procedure is not formulated and published on DISCOMs website within the above timeframe, no application for grant of GEOA shall be refused merely for that reason.

- ii. All the applications for Green Energy Open Access complete in all respects shall be submitted on the portal setup by the Central Nodal Agency and these applications shall be routed to the State Nodal Agency as specified under these Regulations for grant of green energy open access.

- iii. The State Nodal Agency shall, by an order in writing, approve the application for the Green Energy Open Access within a period of fifteen days from the date of receipt of complete application for connectivity/ open access, failing which it shall be deemed to have been approved subject to the fulfilment of technical requirements.

Provided that the order of processing of such applications for Green Energy Open Access shall be first in first out.

Provided further that among Green Energy Open Access consumers, Long Term Green Energy Open Access consumers shall have preference over others, followed by Medium-term and Short-term, at any given time.

Provided also that, open access for non-fossil fuel source shall be given priority over the open access from fossil fuel.

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- iv. The open access shall be allowed for a minimum twelve-time block of 15-minute time interval during a day, for which the consumer shall not change the quantum of power consumed through open access.
Provided that open access allowed to such consumer shall be subject to the condition that they agree to the system constraints as well as power cut restrictions imposed by the STU/SLDC. In such cases, under drawl, if any, on account of power cut restrictions/ system constraints shall not be compensated.
 - v. There shall be no limit of quantum of supply of power for the captive consumers taking power under Green Energy Open Access.
 - vi. Such consumers/entities, having been declared insolvent or bankrupt or having uncontested outstanding dues against them for more than two months billing of the distribution/transmission licensee or have been convicted of an offence of unauthorized use of electricity/theft of electricity in the preceding months of making an application, shall not be eligible for open access.

CHAPTER-3

GREEN ENERGY OPEN ACCESS CHARGES

7. Charges for Green Energy Open Access

The charges on Green Energy Open Access consumers shall be as follows: -

- (1) Transmission Charges;
- (2) Wheeling Charges ;
- (3) Cross Subsidy Surcharge;
- (4) Additional Surcharge;
- (5) Standby Charges wherever applicable;
- (6) Banking Charge; and
- (7) Other fees and charges such as Application fees /SLDC fees and scheduling charges, deviation settlement (DSM) charges, reactive energy charges as per the relevant regulations.

(1) Transmission Charges

a) For use of inter-State transmission system:

Inter- State Transmission Charges and Inter- State Transmission losses shall be levied on Green Energy Open Access Consumer as determined by the CERC from time to time.

b) For use of intra-State transmission system:

Intra State Transmission Charges shall be levied on Green Energy Open Access Consumer as determined by the Commission in MYT Tariff Order from time to time.

- i. In case, where a dedicated transmission system used for open access has been constructed for exclusive use of an open access consumer, the transmission charges for such dedicated system shall be worked out by transmission licensee for their respective systems and get the same approved by the Commission. The charges shall be borne entirely by such open access consumer till such time the surplus capacity is allotted and used for by other persons or purposes.
- ii. In addition to Transmission Charge, Intra-State Transmission loss shall be applicable to consumers seeking Green Energy Open Access as may be determined and notified by commission from time to time in accordance with applicable Regulations.

Provided that the existing waivers or concessions in the Transmission Charges applicable for green energy open access transactions under BERC(Open Access Regulations) 2018 shall continue.

(2) **Wheeling Charges**

Wheeling Charges shall be levied on Green Energy Open Access Consumer as determined by the Commission in Retail Supply Tariff Order issued from time to time.

- i. In case, where a dedicated distribution system used for open access has been constructed for exclusive use of an open access consumer, the wheeling charges for such dedicated system shall be worked out by distribution licensee for their respective systems and get approved by the Commission. Such charges shall be borne entirely by such open access consumer till such time the surplus capacity is allotted and used for by other persons:

Provided that an open access consumer connected to the Intra State Transmission system shall be liable to pay the wheeling charges determined under this regulation, if such consumer was paying wheeling charges directly or indirectly before availing the green energy open access.

- ii. In addition to Wheeling Charge, Wheeling loss shall be applicable to consumers seeking Green Energy Open Access and it shall be determined by the commission from time to time.

Provided that, the Wheeling loss shall include only technical loss and not Aggregate Technical and Commercial loss of that Distribution Licensee.

Provided also that if feeder-wise data of losses is not available, the Commission shall consider the voltage-wise sample feeder for determining the wheeling losses.

Provided further that the existing waivers or concessions in the Wheeling Charges applicable for renewable energy open access transactions under BERC (Open Access Regulations) 2018 shall continue.

(3) **Cross subsidy surcharge**

- a) If Green energy open access facility is availed by a cross-subsidising consumer of a distribution licensee of the State, then such consumer, in addition to transmission and wheeling charges, shall pay cross subsidy surcharge determined by the Commission. Cross subsidy surcharge determined on Per Unit basis shall be payable, monthly by the green energy open access consumers based on the actual energy drawn during the month through open access. The amount of surcharge shall be paid to the distribution licensee of the area of supply from whom the consumer was availing supply before seeking open access.
- b) Cross subsidy surcharge shall be levied on Green Energy Open Access Consumers as determined by the Commission in its Retail Supply Tariff order from time to time
- c) The Cross-Subsidy Surcharge shall not exceed 20% of the Average Cost of Supply (ACoS) applicable to the category of the consumers seeking Green Energy Open Access.

Provided that the Commission may fix a lower surcharge in the situation of shortages and load shedding by the distribution licensee.

Provided further that such cross-subsidy surcharge shall not be levied in case distribution access is provided to a person who has been availing green power from the plant established as captive generation plant for his own use.

Provided also that the cross-subsidy surcharge for Green Energy Open Access Consumer purchasing green energy, from a generating plant using green energy (renewable energy) sources, shall not be increased, during twelve years from the date of operating of the generating plant using renewable energy sources, by more than fifty percent of the surcharge fixed for the year in which open access is granted.

Provided also that cross subsidy surcharge shall not be applicable in case power produced from a non-fossil fuel-based Waste-to-Energy plant is supplied to the Open Access Consumer.

Provided also that cross subsidy surcharge shall not be applicable in case green energy is utilized for production of green hydrogen and green ammonia.

- d) Cross-Subsidy Surcharge for Green Energy Open Access shall be computed in Rs/kWh and shall be charged on the actual energy consumed by the consumer under Green Energy Open Access.
- (4) **Additional Surcharge** – Additional surcharge shall be levied on Green Energy Open Access Consumers as determined by the Commission in its Retail Supply Tariff order from time to time.

Provided that Green Energy Open Access Consumer, in addition to transmission charges, wheeling charges and cross subsidy surcharge, shall pay additional surcharge on the actual energy drawn during the month through open access. The amount of additional surcharge shall be paid to the Distribution Licensee of the area of supply from whom the consumer was availing supply before seeking open access.

Provided further that the additional surcharge shall not be applicable for Green Energy Open Access Consumers, if fixed charges are being paid by such a consumer.

Provided also that such additional surcharge shall not be levied in case a person is availing green power from the plant established as captive generation plant for his own use.

Provided also that additional surcharge shall not be applicable in case power produced from a non-fossil fuel-based Waste-to-Energy plant is supplied to the Open Access Consumer.

Provided also that additional surcharge shall not be applicable in case green energy is utilized for production of green hydrogen and green ammonia.

Provided also that additional surcharge shall not be applicable in case electricity produced from offshore wind projects, which are commissioned up to December 2032 and supplied to the Open Access Consumer.

(5) Standby Facility and Charges

- a) In case the green energy open access consumer is unable to procure/schedule power from the generating sources with whom they have the agreements to procure power due to outages of generator, transmission systems and the like, standby arrangement shall be provided to Green Energy Open Access consumer by the distribution licensee of the area of its supply.
- b) The Standby Charges for Green Energy Open Access for such standby arrangement shall be 125% of energy charges applicable to the consumer tariff Category.

Provided that the standby charges shall be in addition to the applicable tariff on standby energy supplied by the Distribution Licensee to the Green Energy Open Access Consumer.

Provided that such Standby Charges shall not be applicable if the Green Energy Open Access Consumers have given notice, at least a day in advance before gate closure in DAM on 'D-1' day, 'D' being the day of delivery of power, for standby arrangement to the distribution licensee.

Provided also that Green Energy Open Access consumers would have the option to arrange standby power from any other source.

- c) The Standby Charges for Green Energy Open Access shall be computed in Rs/kWh, and it shall be charged on the actual energy drawn by the consumer from distribution licensee during the period of standby availed by Green Energy Open Access consumer in case of outage of RE generator under Green Energy Open Access.

(6) Banking Facility and Charges

- I. Banking facility shall be provided to the consumers availing Green Energy Open Access. The surplus energy from a 'Green Energy' Generating Station after setoff shall be banked with the Distribution Licensee.
 - a) The banking facility including injection of surplus energy and drawl of banked energy shall be subject to scheduling as per relevant Regulations.
 - b) The Banking charges shall be adjusted at a certain percentage of the energy delivered at point of transaction as specified hereunder:
 - During November to March, drawal of banked energy available during any time slot (peak period/off peak period/normal period) will be allowed during any of the time slot (peak TOD, off peak

TOD, and normal period) with banking charges in kind @ 8% of the energy banked.

- During April to October, drawal of Banked energy available during off peak TOD and normal TOD period shall be permitted by paying banking charges in kind @ 8% of the energy banked.
- During April to October, drawal of Banked energy during peak TOD period/slot shall not be permitted.

II. The permitted quantum of banked energy by the green energy open access consumers shall be at least 30% (thirty percent) of total monthly consumption of electricity from the distribution licensee by the consumers during the banking cycle.

For the purpose of calculating the permissible quantum of banked energy, which represents a minimum of 30% of total monthly consumption, only the energy directly procured from the distribution licensee shall be considered. Electricity obtained through Open Access arrangements either from a third-party supplier or via captive generation utilising the distribution network, will be excluded from this calculation.

III. The credit for banked energy shall not be permitted to be carried forward to subsequent bankingcycles and shall be adjusted during the same bankingcycle in the manner specified under these Regulations.

Provided further that the unutilized surplus banked energy shall be considered as lapsed at the end of each bankingcycle and the renewable energy generating station shall be entitled to get Renewable Energy Certificate (REC) to the extent of the lapsed banked energy.

(7) **Other Charges**

In addition to above charges, the consumer availing Green Energy Open Access shall also pay the following charges determined by the Commission as per the provisions of the relevant regulations of the Commission.

- a) Scheduling charges- The Green Energy Open Access consumers shall require to pay scheduling charge of Rs.2000/ day/approval for Short-Term Open Access and in case of Long-Term Open Access and Medium-Term Open Access the same shall be as per Tariff Order of the Commission for respective year.
- b) RE Deviation Settlement Charges (RE-DSM)- The Green Energy Open Access consumers shall be governed by the "Bihar Electricity Regulatory Commission (Intra-state Availability Based Tariff and Deviation Settlement Mechanism) Regulations, 2020. They shall be liable to pay deviation charges as per aforesaid Regulations as case may be.

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- c) Reactive Energy Charge- In respect of Green Energy generator, the payment for the reactive energy charges shall be in accordance with provisions stipulated in the Electricity Grid Code notified by the Commission read with Tariff Order passed by the Commission from time to time.
8. Settlement of open access energy for power drawn from inter-state as well as intra-state sources shall be in the following order of priority:
- Open Access Power through Exchange/ Bilateral transactions
 - Captive Power /Third Party (Non-RE)
 - RE generation after deduction of losses
 - Banked energy
 - Discom's power
9. Settlement of open-access energy for the generator shall be in the following order of priority:
- Open Access Power through Exchange/ Bilateral transactions
 - Captive Power /Third Party (Non-RE)
10. Curtailment Priority
- In case due to transmission/distribution system constraints or otherwise, it is necessary to curtail the service, the following priority shall be followed:
- The short-term Open-access consumer (other than GEOA consumer) shall be curtailed first followed by short-term GEOA consumers.
 - Next, medium-term Open-access consumer (other than GEOA consumer) followed by medium-term GEOA consumer shall be curtailed.
 - Next long-term Open-access consumer (other than GEOA consumer) followed by long-term GEOA consumer shall be curtailed.
- Provided that within a category, the GEOA consumers shall have equal curtailment priority and shall be curtailed on pro-rata basis.
- Provided further that distribution licensees shall be curtailed as last resort.
11. **Special Energy Meters**
- Metering shall be done in accordance with the provisions of CEA (Installation and Operation of Meters) Regulations, 2006 as amended from time to time.
 - Meters with Time of the Day (TOD) facility shall be installed by the GEOA Generators/consumers.

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- iii. The meters shall be capable of time-differentiated measurements (15 minutes) of necessary parameters. These meters shall always be maintained in good condition and shall be open for inspection by any person authorized by the State nodal agency.
 - iv. The meter shall include CTs, PTs and associated accessories and shall be tested and calibrated at least once in a year.
 - v. The meters shall be sealed by the distribution licensee in whose area the Generator/Consumer is situated.
 - vi. In case the meter is provided by the transmission/distribution licensee, the Openaccess consumer shall pay for its rent and also provide meter security deposit.
 - vii. The meter shall be capable of communicating its reading to SLDC on real time basis.
 - viii. The metering code and/or any other rules/ regulations/ code relevant to metering in the State shall be applicable to the GEOA consumers also.
- 12. Compliance of Grid Code/Distribution Code:** GEOA consumers shall abide by the State Grid Code, Indian Electricity Grid Code, Distribution Code and all other Codes and Standards, DSM Regulations as applicable.
- 13. Energy Losses:** Energy losses of the transmission and distribution system shall be applicable to the GEOA consumers as specified by the Commission from time to time.
- 14. Dispute Resolution**
- All disputes and complaints relating to GEOA shall be made to the SLDC, which may investigate and endeavor to resolve the grievance.
 - No application for Open access shall be denied unless the applicant has been given an opportunity of being heard in the matter.
 - If the SLDC is unable to redress the grievance, Petition against the order of the State Nodal Agency, shall be filed before the State Commission, within a period of thirty days from the date of receipt of Order.
 - The Commission shall dispose of the matter within three months and orders of the Commission shall be binding.

CHAPTER-4
MISCELLANEOUS

1. Power to give directions.

The Commission may from time to time issue such directions and orders as considered appropriate for implementation of these Regulations.

2. Power to relax

The Commission may by general or special 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 an interested person.

3. Power to amend

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

4. Power to remove difficulties.

If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by an order, make such provisions, not inconsistent to the provision of the Act and these Regulations, as may appear to be necessary for removing the difficulty.

By Order,
RaamishTauseef
(Secretary)
Bihar Electricity Regulatory
Commission