

ASSAM ELECTRICITY REGULATORY COMMISSION

Draft Notification

11th March, 2020

Assam Electricity Regulatory Commission (Payment of Fees etc.) Regulations, 2020

No. AERC.479//2014/Pt.1/19 -- In exercise of the powers conferred by sub-section (1) and clauses (zo) and (zp) of sub-section (2) of section 181 read with clause (g) of sub-section (1) of section 86 and sub-section (1) of Section 127 of the Electricity Act, 2003 (36 of 2003) and all powers enabling it on that behalf and in supersession of Assam Electricity Regulatory Commission (Payment of Fees etc.) Regulations, 2015, the Assam Electricity Regulatory Commission hereby makes the following Regulations:-

REGULATIONS

1. Short title, extent and commencement:-

- 1.1. These Regulations shall be called the Assam Electricity Regulatory Commission (Payment of Fees etc.) Regulations, 2020.
- 1.2. These Regulations shall extend to the whole of the State of Assam.
- 1.3. These Regulations shall come into force from the date of their publication in the official Gazette of Govt. of Assam.

2. Definitions:-

In these Regulations, unless the context otherwise requires:-

- (a) ‘Act’ means The Electricity Act 2003 (No. 36 of 2003);
- (b) ‘Chairperson’ means the Chairperson of the Commission;
- (c) ‘Commission’ means the Assam Electricity Regulatory Commission referred to in subsection (1) of section 82 of the Act;
- (d) “Fund” shall mean the State Electricity Regulatory Commission fund constituted under section 103 of the Act;

- (e) “Fees” means any sum of money, charges, cost under the provisions of the Act or prescribed under Schedule appended to these Regulations;
- (f) “Interlocutory Application” means an application filed in any petition or proceeding already instituted before the Commission but does not include an application for review;
- (g) ‘Licensee’ means a person who has been granted a license under Section 14 of the Act, including a person deemed to be a licensee referred to under any of the provisos to Section 14 of the Act;
- (h) ‘Member’ means a Member of the Commission;
- (i) ‘Officer’ means an Officer of the Commission;
- (j) ‘Petition’ shall include all petitions, complaints, appeals, replies, rejoinder, supplemental pleadings and other papers and documents filed before the Commission;
- (k) ‘Proceedings’ means proceedings of all nature that the Commission may decide to initiate or hold in the discharge of its functions under the Act but any preliminary meeting or any action done by the Commission before such initiation shall not be treated as a proceeding for the purposes of these Regulations;
- (l) ‘Receiving Officer’ shall mean the officer designated by the Chairperson for receiving the Petition.
- (m) “Schedule” refers to the schedule appended to these Regulations;
- (n) ‘Secretary’ means the Secretary of the Commission.
- (o) ‘State Government’ means the Government of the State of Assam

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

3. Fees on Petitions, Applications etc :

- 3.1 Every petition, application or grievance filed before the Commission shall be accompanied by such fee as specified in the “Schedule of Fees” of these

Regulations. However, every application for grant of license under Section 14 of the Act shall be accompanied by such fee as prescribed by the State Government under Section 15 of the Act.

Provided that no fee is payable on filing of objections or replies in response to a filed petition or application.

3.2 No fees under these Regulations shall be payable on the applications made by State Load Dispatch Centre, State and Union Government.

3.3 All fees received by the Commission under these Regulations shall be credited to the fund.

4. Fees Payable on license:

4.1. The licensees as well as deemed licensee shall pay the annual fee for the Financial Year after the date of notification in the gazette as specified in the Schedule appended to these Regulations.

4.2. In addition to the annual fee, new entrants shall be required to pay initial license fee also.

4.3. All annual fees commencing from the Financial Year 2020-21 shall be paid by 30th June of each financial year

4.4. In case of late payment of annual fee, interest will be payable on the delayed amount at the rate of 1.25 % per month or part thereof.

5. Payment of Fees:

The fee shall be payable by Account payee draft / pay order / banker's cheque / e-Transfer payable at Guwahati in favour of the Secretary, Assam Electricity Regulatory Commission. However, payment in cash may be accepted up to an amount of Rs. 2,000/- (Rupees Two Thousand) in each case.

6. Fee payable to State Load Dispatch Centre

The fees payable to State Load Dispatch Centre by the Generating Companies and Licensees engaged in Intra State Transmission of electricity as stipulated under sub-section (3) of section 32 of the Act, shall be decided by the Commission from time to time.

7. Payment of Fines and Charges.

- 7.1 Matters related to Fines and Charges payable under different provisions of the Act shall be as provided in the AERC (Conduct of Business) Regulations, 2004 (Regulations 30, 31 and 32).
- 7.2 The penalty shall be payable and the amount deposited in the same manner as provided under Regulation 4 of these Regulations.

8. Inclusion in Aggregate Revenue Requirement.

The Licensee shall be entitled to take into account any fee and/or charges paid under these Regulations as an expense in the determination of Aggregate Revenue Requirement, provided that any penalty paid under the provisions of the Act shall not be allowed as an expense in the determination of tariff.

9. Utilisation of Fund:

The Commission shall be entitled to utilise the Fund created through receipt of various Fees for the discharge of its functions. Any unutilised amount out of the fund in a financial year, if any, may be utilized in the succeeding financial year.

11. Repeals and Amendments:

With the coming into force of these Regulations, Assam Electricity Regulatory Commission (Payment of Fees etc.) Regulations, 2015 shall stand repealed.

12. Savings:

- 12.1 Notwithstanding such repeal anything done or any action taken or purported to have been done or taken including any order or notice made or issued or any instrument executed or direction given under the repealed regulations shall be valid and shall be deemed to have been done or taken under the corresponding provisions of these Regulations.
- 12.2 Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent powers of the Commission to make such orders as may be necessary for meeting the ends of justice or to prevent the abuse of power of the Commission.

13. Power to amend:

13.1 The Commission may, at any time, and in its sole discretion vary, alter, modify, add, delete or amend any provisions of these Regulations after following due procedures.

13.2 The Commission may, alter or waive the amounts of fees/penalties/fines payable as provided in these Regulations, by an Order to be made in this regard stating the reasons thereof.

14. Power to remove difficulties:

If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, pass appropriate orders not being inconsistent with the provisions of the Act, as may appear to be necessary or expedient for removing the difficulty, from time to time.

(By order of the Commission)

Secretary,
Assam Electricity Regulatory Commission

Schedules of Fees

(See regulation 3.1)

Assam Electricity Regulatory Commission (Payment of Fees etc.) Regulations, 2020

1. Fees to be paid with Application for a License :

Sl. No.	Nature of Application	Fee
1.1	Fee payable with application for a transmission/distribution/trading license under Section 15(1) of the Act	Rs. 1,00,000/- (Rupees One Lakh) as fixed by the Government vide Assam Electricity (Fees for making Application for Grant of License) Rules, 2017
1.2	Initial license fee under section 14 of the Act: 1.2.1 For a transmission /distribution license 1.2.2 Trading License	Rs. 1,00,000/- (Rupees One lakh) Rs 5,00,000/- (Rupees Five lakh)
1.3	Petition for grant of exemption from licensee and Annual Fee for the licensee/deemed licensee who has taken exemption from license under Section 14 of the Act.	Application Fee - Rs. 10,000/- (Rupees Ten Thousand) Renewal Fee - Rs. 5,000/- (Rupees Five Thousand) per year for subsequent years.

2. Annual License fees to be paid by the Licensees including a deemed Licensee:

Sl. No.	Type of License	Amount (per year)
2.1	Transmission License	Rs 1,00,00,000/- (Rupees One crore)
2.2	Distribution License	Rs 1,50,00,000/- (Rupees One crore Fifty lakh)
2.3	Trading License	Rs. 5,00,000/- (Rupees Five lakh)

3. Application for amendment of license u/s 18 of the Act.

Sl. No.	Nature of Application	Fee
3.1	3.1.1 Application by licensee. 3.1.2 Application by any person other than a licensee.	Rs. 1,00,000/- (Rupees One lakh) Rs. 10,000/- (Rupees Ten thousand)

4. Application for revocation of license under Sub-section (2) of Section 19 of the Act.

4.1	4.1.1 By licensee	Nil.
	4.1.2 By others	Rs. 10,000/- (Rupees Ten thousand)

5. Multi Year Tariff petition under the provisions of Clause (a) of sub-section 1 of Section 62 of the Act.

Sl. No.	Nature of Application	Fee
5.1	Application for Multi Year Tariff for supply of electricity, wholesale, bulk or retail, by a distribution Licensee including a deemed Licensee as also for determination of tariff/charges of wheeling in respect of such distribution Licensee including a deemed Licensee.	Paise 6 per 100kWh proposed to be transmitted and/or wheeled during the control period for which the application is being filed subject to a minimum of Rs.35,00,000/- (Rupees Thirty five lakh)
5.2	Application for Multi Year Tariff for supply of electricity to any distribution Licensee including a deemed Licensee by a generating company of following categories. (i) Conventional fuel (coal, gas, oil etc.) based plant except captive generating plant. (ii) Conventional fuel (coal, gas, oil etc.) based	Rs.6,000 per MW of installed capacity or part thereof subject to a minimum of Rs.25,00,000/- (Rupees Twenty Five lakh) Rs.6,000 per MW of installed

	<p>captive generating plant.</p> <p>(iii) For a class of project (Non-conventional and renewable energy based plants including Wind, Solar, Small Hydro Plant and Cogeneration Plant etc.)</p> <p>(iv) Hydro generating station including pumped storage plant other than mini or small hydro generating station and captive hydro generating plant.</p> <p>(v) Captive hydro generating station other than mini or small hydro generating station.</p>	<p>capacity or part thereof subject to a minimum of Rs.2,00,000/- (Rupees Two lakh)</p> <p>Rs.5,000 per MW of installed capacity or part thereof subject to a minimum of Rs.2,00,000/- (Rupees Two lakh)</p> <p>Rs.5,000 per MW of installed capacity or part thereof subject to a minimum of Rs.10,00,000/- (Rupees Ten lakh)</p> <p>Rs.5,000 per MW of installed capacity or part thereof subject to a minimum of Rs.1,00,000/- (Rupees One lakh)</p>
5.3	Application for Multi Year Tariff for transmission of electricity of a transmission Licensee including a deemed Licensee.	Paise3.5 for each 100 kWh proposed to be transmitted and/or wheeled during the control period for which the application is being filed subject to a minimum of Rs.25,00,000/- (Rupees Twenty Five lakh)

6. Fees for Truing Up of Generating Companies, Transmission Licensees and Distribution Licensees (including deemed Licensees) under MYT framework:

Sl. No.	Nature of Application	Fee
6.1	Application for Truing Up of tariff for supply of electricity, wholesale, bulk or retail, as also of tariff / charges for wheeling of a distribution Licensee under multi-year tariff framework.	Paise1.5 for each 100 kWh sold and/or wheeled during the year under Annual Performance Review subject to a minimum of Rs.20,00,000/- (Rupees Twenty lakh)
6.2	Application for Truing Up of tariff under Multi Year Tariff framework for supply of electricity to any distribution Licensee by a generation company of following categories:	

	(i) Conventional fuel (coal, gas, oil etc.) based plant except captive generating plant.	Rs.1,500 per MW of installed capacity or part thereof subject to a minimum of Rs.15,00,000/- (Rupees Fifteen lakh)
	(ii) Conventional fuel (coal, gas, oil etc.) based captive generating plant.	Rs.1,500 per MW of installed capacity or part thereof subject to a minimum of Rs.1,50,000/- (Rupees One lakh Fifty Thousand)
	(iii) For a class of project (Non-conventional and renewable energy based plants including Wind, Solar, Small Hydro Plant and Cogeneration Plant etc.)	Rs.1,000 per MW of installed capacity or part thereof subject to a minimum of Rs. 1,00,000/- (Rupees One lakh)
	(iv) Hydro generating station including pumped storage plant other than mini or small hydro generating station and captive hydro generating plant.	Rs.1,000 per MW of installed capacity or part thereof subject to a minimum of Rs.5,00,000/- (Rupees Five lakh)
	(v) Captive hydro generating station other than mini or small hydro generating station.	Rs.1,000 per MW of installed capacity or part thereof subject to a minimum of Rs.1,00,000/- (Rupees One lakh)
6.3	Application for Truing Up of tariff / charges for transmission of electricity of a transmission Licensee including a deemed Licensee under multi-year tariff framework.	Paise1 for each 100 kWh transmitted and / or wheeled during the year under Annual Performance Review subject to a minimum of Rs.15,00,000/- (Rupees Fifteen lakh)

7. Application for determination of rates, charges, terms and conditions under the Act:

Sl. No.	Nature of Application	Fee
7.1	Application for determination of rates, charges, terms and conditions under proviso to sub-section (1) of Section 36 of the Act.	Rs.1,00,000/- (Rupees One lakh)

8. Fees to be paid for Review of Orders :

Sl. No.	Nature of Application	Fee
8.1	Application for review of MYT order for a control period for any category mentioned in Serial 5 of this Schedule: 8.1.1 By Licensee and Generation Company. 8.1.2 By institution/organization. 8.1.3 By individual	 Rs.7,50,000/- (Rupees Seven Lakh Fifty thousand only) Rs.1,50,000/- (Rupees One Lakh Fifty thousand only) Rs.15,000/- (Rupees Fifteen thousand)
8.2	Application for review of an order of Truing Up of Multi Year Tariff mentioned in Serial No. 5 & 6 of the Schedule: 8.2.1.By Licensee and Generation Company 8.2.2 By institution/organization. 8.2.3 By individual	 Rs.5,00,000/- (Rupees Five lakh) Rs.1,00,000/- (Rupees One lakh) Rs.10,000/- (Rupees Ten thousand)
8.3	Application for review of any order of the Commission other than orders mentioned in Serial No. 5 and 6 of this Schedule	50% of fee as required for the original application.
8.4	Application for inspection of documents permitted to be inspected	Rs.100 (Rupees One Hundred) for every one hour of inspection or part thereof.

9. Fees to be paid with application / petitions for adjudication of disputes / grievances:

Sl. No.	Nature of Application	Fee
9.1	For filing Application for adjudication of disputes regarding availability of transmission facility under the second proviso to Sub-section (2) of Section 9 of the Act, to be paid by the person who has referred such dispute to the Commission.	Upto 5MW Rs.10,000/- (Rupees Ten thousand) and above 5MW Rs.25,000/- (Rupees Twenty Five thousand)

9.2	For filing Application for adjudication of dispute under section 33(4) and 86(1)(f) of the Act.	Rs.50,000/- (Rupees Fifty thousand)
9.3	Adjudication of dispute under Clause (f) of sub-section 1 of Section 86 of the Act regarding disputes between licensees and generating companies and between licensees themselves, not covered by these Regulations.	Rs.10,00,000/- (Rupees Ten lakh)
9.4	For filing Application for adjudication of dispute under Section 67(4) of the Act.	Rs.1,000/- (Rupees One Thousand)
9.5	<p>Application relating to open access under Section 42 (2) of the Act:</p> <p>9.5.1 Application under proviso to Section 35 of the Act for adjudication of dispute regarding extent of surplus capacity for intervening transmission.</p> <p>9.5.2 Application for adjudication of dispute regarding provision of non-discriminatory open access under Section 40 of the Act.</p> <p>i. For a person who has constructed and maintains and operates a captive generating plant.</p> <p>ii. For a person having a captive generating plant for generation of energy from renewable sources or cogeneration.</p> <p>iii. For a consumer.</p> <p>iv. For any person, other than a generating company or Licensee, who wheels or proposes to wheel electricity.</p>	<p>Rs.1,00,000/- (Rupees One lakh)</p> <p>Rs.50,000/- (Rupees Fifty thousand)</p> <p>Rs.20,000/- (Rupees Twenty thousand)</p> <p>Rs.5,000/- (Rupees Five thousand)</p> <p>Rs.30,000/- (Rupees Thirty thousand)</p>

9.6	Representation to the Ombudsman under section 42(6) of the Act.	Rs.1,000/- (Rupees One Thousand)
9.7	Appeal preferred to the appellate authority under section 127(1) of the Act.	Rs.5,000/- (Rupees Five thousand)

10. Application for imposing penalty under the Act.

Sl. No.	Nature of Application	Fee
10.1	Application for imposing penalty u/s 33(5) of the Act upon any licensee, generating company or any other person.	Rs.5,000/- (Rupees Five thousand)

11. Application for punishment due to non-compliance of the directions of the Commission under Section 142 of the Electricity Act.

Sl. No.	Nature of Application	Fee
11.1	11.1.1 Application made by a generation company or institution/organization	Rs.5,000/- (Rupees Five thousand)
	11.1.2 By any individual.	Rs.1,000/- (Rupees One Thousand)
11.2	Cases of non compliance of the orders of Consumers Grievances Redressal Forum (CGRF) or Ombudsman.	
	11.2.1 For individual.	Rs.100/- (Rupees One hundred)
	11.2.2 For institution/organization	Rs.1,000/- (Rupees One thousand)

12. Application seeking prior approval under Section 17 of the Act.

Sl. No.	Nature of Application	Fee
12.1	<p>12.1.1 To undertake any transaction to acquire by purchase or takeover or otherwise the utility of any other licensee under Section 17(1)(a) or merge his utility with the other utility of any other licensee in the State under Section 17(1)(b).</p> <p>12.1.2 To assign his license or transfer his utility or any part thereof by sale, lease, exchange or otherwise at any time under Section 17(3) of the Act.</p>	<p>Rs.5,00,000/- (Rupees Five lakh)</p> <p>Rs.5,00,000/- (Rupees Five lakh)</p>

13. Application for invoking power of the Commission under the Act.

Sl. No.	Nature of Application	Fee
13.1	Application for invoking power of the Commission u/s 23 of the Electricity Act, 2003. Direction to the licensee for regulating supply, distribution, consumption or use of electricity.	Rs.5,000/- (Rupees Five thousand)
13.2	Application for invoking power of the Commission u/s 24 of Electricity Act, 2003. Order for suspension of distribution license and sale of utility.	Rs.5,000/- (Rupees Five thousand)
13.3	Monopoly Control. Application for exercise of power under Section 60 of the Electricity Act, 2003 (Market domination).	Rs.5,000/- (Rupees Five thousand)

14. Application for review of General Order.

Sl. No.	Nature of Application	Fee
14.1	Application for review of Order passed by the Commission in connection with adjudication in disputes between licensees and generating companies and referring any disputes to arbitration under Clause (i) of Sub-section 1 of Section 86 of the Act.	10 per cent of the fees paid for the original order.
14.2	Application (i) to set aside ex-parte order or to drop ex-parte proceedings and or (ii) restore any case which was dismissed due to default. 14.2.1 For individual. 14.2.2 For institution/organization.	Rs.500/- (Rupees Five hundred) Rs.2,000/- (Rupees Two thousand)
14.3	Application/Petition/processing fees for review of order under PPA.	Rs.10,000/- (Rupees Ten thousand)
14.4	Application for review of any order on grounds of clerical error/mistake.	NIL
14.5	Application for review of order of the Commission not covered in this schedule.	Rs.5,000/- (Rupees Five thousand)

15. Petition under the Energy Conservation Act, 2001.

Sl. No.	Nature of Application	Fee
15.1	15.1.1 Application made by a generation company. 15.1.2 By any individual. 15.1.3 Application made by the State Government or by its officer in his official capacity.	Rs.1,000/- (Rupees One thousand) Rs.100/- (Rupees One hundred) Nil

16. Application for condonation of delay.

Sl. No.	Nature of Application	Fee
16.1	16.1.1 By a licensee and Generation Company. 16.1.2 By any other person.	Rs.5,000/- (Rupees Five thousand) Rs.500/- (Rupees Five hundred)

17. Fees on other application and miscellaneous charges :

Sl. No.	Nature of Application /Charge	Fee
17.1	Fee on Interlocutory Application on the main petition submitted before the Commission.	Rs.1,500/- (Rupees One Thousand and Five hundred)
17.2	Application for inspection of record/documents as per provision of the AERC (Conduct of Business) Regulations, 2004.	Rs.500/- (Rupees Five hundred)
17.3	Application for certified copy of the Commission's order or pleadings or unprivileged/non confidential documents filed in case matters under AERC (Conduct of Business) Regulations, 2004. 17.3.1 Fee on application 17.3.2 Fee per page.	Rs.100/- (Rupees Hundred) Rs.2/- (Rupees Two) per page
17.4	Miscellaneous applications, not covered in this schedule – 17.4.1 For individual / Non Profit Organization 17.4.2 For others	Rs.500/- (Rupees Five hundred) Rs.2,000/- (Rupees Two Thousand)

18. Processing Fee:

18.1	For processing of Petition for investment plan of the licensee.	0.01% of the proposed investment subject to a minimum of Rs. 20,000/- (Rupees Twenty thousand)
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19. Approval of Power Purchase:

19.1	For processing of Petition for approval of power purchase between Assam Power Distribution Company Ltd and a Generator.	Rs.500/- per MW subject to a minimum of Rs.20,000/- (Rupees Twenty thousand)
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