

[DRAFT]

[To be published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i)]

GOVERNMENT OF INDIA

MINISTRY OF POWER

NOTIFICATION

New Delhi, dated the June, 2023

G.S.R. (E).- In exercise of the powers conferred by Section 176 of the Electricity Act, 2003 (36 of 2003), the Central Government hereby makes the following rules, further to amend the Electricity Rules, 2005, namely:-

1. (1) These rules may be called the Electricity (Amendment) Rules, 2023.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the said Rules, after Rule 21, the following Rule shall be inserted, namely:-
 22. **Establishment, operation and maintenance of dedicated transmission lines:** A generating company or a person setting up a captive generating plant or an Energy Storage System or a consumer having load of not less than twenty five (25) MW in case of Inter State Transmission System and ten (10) MW in case of State Transmission System shall not be required to obtain license under the Act for establishing, operating or maintaining a dedicated transmission line to connect to the grid if such company or person or consumer complies with the Regulations, technical standards, guidelines and procedures issued under the provisions of the Electricity Act, 2003.
 23. **Open Access Charges:**
 - i. **Wheeling charges:** Wheeling charges shall be computed as per following formula:
Wheeling Charge = Aggregate Revenue Requirement towards wheeling/Energy wheeled during the year

- ii. **Charges for using network of State Transmission Utilities (STU):**
The charges for using STU network by the consumers availing short-term open access shall not be more than one hundred ten percent (110%) of the charges levied on consumers using STU network on long-term basis.
- iii. **Additional Surcharge:** The additional surcharge levied on any open access consumer shall not be more than fifty percent of the wheeling charges for that category of consumers.

Provided that for a long term open access consumer, the additional surcharge to that consumer shall be linearly eliminated within five years from the date of grant of open access.

Explanation: For the purpose of this Rule, 'long term' means a period not less than seven years.

24. Gap between approved ARR and estimated annual revenue from approved tariff:

The tariff shall be cost reflective and there shall not be any gap between approved Annual Revenue Requirement (ARR) and estimated annual revenue from approved tariff except under natural calamity conditions.

Provided that such gap, created if any, shall not be more than three percent (3%) of the approved ARR.

Provided also that such gap along with the carrying costs at the 'base rate of Late Payment Surcharge' as specified in the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 shall be liquidated in maximum three numbers of equal yearly installments from the next financial year.

Provided further that any gap between approved Annual Revenue Requirement (ARR) and estimated annual revenue from approved tariff existing on the date of notification of these Rules, along with the carrying costs at the 'base rate of Late Payment Surcharge' as specified in the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 shall be liquidated in maximum seven numbers of equal yearly installments starting from the next financial year.

25. Appeal before the Appellate Tribunal for Electricity:

Any person appealing against the order made by the Appropriate Commission under the Act, shall, while filing an appeal before Appellate Tribunal for Electricity, pay at least fifty per cent. (50 %) of the payable amount as per the order of the Appropriate Commission.

Provided that in case of matters related to 'Change in Law' as defined in Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021, such payment shall be, seventy five per cent. (75 %) of the payable amount as per the order of the Appropriate Commission.

Provided also that after final order of the Tribunal on the appeal, any excess amount paid by the appellant to the other party(ies) at the time of filing the appeal shall be refunded along with the interest at the 'base rate of Late Payment Surcharge' as specified in the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022, within ninety (90) days from the date of the Order passed by Appellate Tribunal for Electricity (APTEL) or in accordance with the order by the APTEL.

Provided also that where the APTEL or the Supreme Court deems the appeal to have been frivolous and without any cogent ground whatsoever the rate of Late Payment Surcharge shall be 18 per cent.
