



**Delhi Electricity Regulatory Commission**  
**Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17**

No. F. 11(1307)/DERC/2015-16/5044

**Petition No. 79/2015**

**In the matter of:   Petition seeking amendment of Regulation 5(5) of the Delhi Electricity Regulatory Commission (Treatment of Income from other Business of Transmission Licensee and distribution Licensee) Regulation 2005.**

Tata Power Delhi Distribution Ltd.  
Through its Managing Director  
Grid Sub Station Building  
Hudson Lines, Kingsway Camp,  
Delhi 110 009

....**Petitioner**

**Coram:   Sh. Krishna Saini, Chairperson,  
              Sh. B. P. Singh, Member**

**Appearance:**

1. Mr. Vishal Anand, Adv. TPDDL
2. Mr. Rahul Kinra, Adv. TPDDL
3. Mr. Ajay Kapoor, TPDDL
4. Mr. Anurag Bansal, TPDDL
5. Mr. Divyanshu Bhatt, TPDDL
6. Mr. Yuganshu Pathak, TPDDL
7. Ms. Jyoti Jagtani, TPDDL
8. Mr. J.K. Sinha, TPDDL

**ORDER**

(Date of Hearing: 14.06.2016)  
(Date of Order: 15.07.2016)

1. The present petition has been filed seeking amendments to Regulation 5 (5) of the Delhi Electricity Regulatory Commission (Treatment of Income from Other Business of Transmission Licensee and Distribution Licensee) Regulations, 2005 which specifies the ratio for sharing of income generated by the Petitioner from the business other than its licensed business.
2. The following prayers have been made in the petition:  

*“ (i) When the utilisation of the distribution assets is involved, the income so generated net of expenses must be shared in the ratio 50:50 and the same may be subject to revision on project to project basis.*

*(ii) When there is no utilization of the distribution assets as demonstrated above then this Hon'ble Commission may consider the ratio for sharing of income at 90:10 basis, net of expenses wherein the licensee retains 90% of the income generated from other business and remaining 10% is passed through in the ARR."*

3. The submissions made by the Petitioner are as under :

a) That the Regulation 5 (5) of the Delhi Electricity Regulatory Commission (Treatment of Income from Other Business of Transmission Licensee and Distribution Licensee) Regulations, 2005 provides. *"As a general principle, the Licensee shall retain 20% of the revenues arising on account of Other Business and pass on the remaining 80% of the revenues to the regulated business."*

b) That the Commission has issued clarification dated 25.05.2007 through its Communication No. F.3(69)/Tariff/DERC/2004-05/762 that the sharing has to be done on the basis of net revenue since the cost incurred has to be apportioned out of the revenue earned in the Other Business and regarding the sharing ratio, DERC's Regulations (Clause 5.5) prescribe a ratio of 80:20 though there is a proviso that in case a change in the above provision regarding sharing of revenues is considered by the licensee, he may approach the Commission for change of the aforesaid formula, with proper justification, for approval of the Commission. Based on the aforesaid proposition, relaxation and reconsideration of the ratio for sharing of income norms as specified by the Commission is being sought.

c) That after consideration of certain objectives like creating additional avenues for growth of its business, disseminating, sharing of its expert domain knowledge and implementing best practices across utilities, and most importantly, in line with its strategy for contributing in reduction of cost of wheeling, retail supply of electricity to consumers, has been exploring the possible avenues for revenue growth since 2007-08. The Petitioner has built up considerable expertise in various areas including but not limited to change-management, business processes reengineering, implementation of IT Solutions, etc. in the Electricity Distribution Sector. Further, it has also been the direction of the Commission

through its Tariff order dated 13.07.2012, to explore all possible measures for raising the revenue to be utilized for reducing the impact on tariff.

- d) That the Licensee utilities have to share any gain arising from the additional activities/other licensee activities with the consumers, while in case of any loss the entire portion will have to be borne by the Licensee utilities. As 100% risk of the failure of project is associated with the licensee utility therefore in line with principles of Equity, generally accepted financial principles (more risk follows more reward) major portion of the revenue should be allocated to the Licensee utilities. Further, the Petitioner is seeking revision in revenue sharing in order to incentivize the Petitioner for its efforts to generate additional revenue for the benefit of the consumer. A better percentage will enable the Petitioner to undertake more business and will be beneficial for both consumer as well as the Petitioner.
- e) That Section 51 of the Electricity Act, 2003, read with Regulation 3 of the Other Business Regulations permits licensee to engage in Other Business for optimum utilization of assets with prior intimation to the Commission and for the Commission to stipulate the ratio of sharing of income from the same.
- f) The Hon'ble Appellate Tribunal for Electricity in the matter of Shri Padmakar Samant & Ors. vs. MERC & Ors. (Appeal No.19/2008), has held that the conditions laid down in Section 51 are applicable only when the asset of a distribution licensee is used for 'other business' of the same licensee with a view to optimize the utilization of the asset. Despite the above fact, the Petitioner is open to sharing from the profit of other business whether the same is undertaken with or without the utilization of distribution asset.

- 4. On the Commissions query regarding definition of 'asset' in the present context, the Counsel for the Petitioner submitted that the term "asset" has not been defined under the Electricity Act, 2003. However, the Central Electricity Regulatory Commission in exercise of its power under Section 178 has specified Central Electricity Regulatory Commission (Sharing of

revenue derived from utilization of transmission assets for other business) Regulations, 2007 for interstate transmission licensees, which defines the word "asset" under Regulation 2(2), as under:

(2) "assets" means any assets forming part of inter-State transmission system under the regulatory jurisdiction of the Commission.

Accordingly, from the above it is evident that "asset" relates to physical assets of the licensee including wires, buildings etc.

5. The Commission considered the detailed submissions made by the Petitioner in light of the relevant provisions of the Act and Regulations made thereunder and observed that the amendment of any Regulation can be made by following a prescribed procedure such as previous publication, inviting public comments etc. and therefore a Regulation cannot be amended on a petition filed by the utilities. However, keeping in view the submission of Petitioner, the Commission contemplates amendment in the Delhi Electricity Regulatory Commission (Treatment of Income from Other Business of Transmission Licensee and Distribution Licensee) Regulations, 2005. The submissions made by the Petitioner will be given due consideration while amending the Regulations.
6. With the above observations the Petition stands disposed of.
7. Ordered accordingly.

**Sd/-**  
**(B.P. Singh)**  
**Member**

**Sd/-**  
**(Krishna Saini)**  
**Chairperson**