STATEMENT OF REASONS ON 1st AMENDMENT DERC OTHER BUSINESS REGULATIONS 2017

BACKGROUND

(1) In exercise of the powers vested under Sections 41 & 51 read with Section 181 of the Electricity Act, 2003 and all other enabling powers, DERC had uploaded the draft of *DERC (Treatment of Income from Other Business of Transmission Licensee and Distribution Licensee) (First Amendment) Regulations, 2017*, on its website http://derc.gov.in/.

(2) The Commission had invited comments/suggestions from stakeholders through Public Notices published in leading newspapers of English, Hindi, Urdu and Punjabi which was also uploaded on the Commission's website http://derc.gov.in/. The last date for submission of comments/suggestions from stakeholders on the said Regulations was till 16/09/2016.

(3) Finally, after considering the comments/suggestions of all stakeholders, the Commission notified *DERC (Treatment of Income from Other Business of Transmission Licensee and Distribution Licensee) (First Amendment) Regulations, 2017*.

(4) This Statement of Reasons (SOR) is being issued with the intent of explaining the rationale and objective behind stakeholders' comments/suggestions and finalisation of *DERC (Treatment of Income from Other Business of Transmission Licensee and Distribution Licensee) (First Amendment) Regulations, 2017*. However, in case of any deviation/discrepancy in the SOR, the provisions of *DERC (Treatment of Income from Other Business of Transmission Licensee and Distribution Licensee) (First Amendment) Regulations, 2017* shall be applicable.

(5) It may be mentioned for the sake of clarity, that the term *"Commission"* in most of the cases refers to the Officers of the Commission for carrying out the research/due diligence on the available information for preparation of SOR of *DERC (Treatment of Income from Other Business of Transmission Licensee and Distribution Licensee) (First Amendment) Regulations, 2017*.

(6) The Stakeholders' comments/suggestions along-with the Commission's View are detailed in the following paras.

A. GoNCTD

1. GoNCTD has commented that the justification may be provided for change of ratio, revenue sharing and prior in-principle approval of other businesses from the Commission.

Commission's View

2. In this regard, it is pertinent to state that the Commission is allowing net revenue from other businesses to the distribution licensee and transmission licensee only in case the other business operation has resulted into net income during the relevant financial year. There is risk involved for the distribution licensee and transmission licensee for undertaking other businesses that in case such other business operation resulted into deficit (lesser revenue compared to expenditure incurred), then the licensee has to bear such deficiency from other business on their own. Therefore, to incentivize and at the same time subsidizing the ARR, the proposal of the Commission for changing the ratio or revenue sharing has been considered.
3. Further, regarding prior in-principle approval of such other business, it is to state that Licensees are obligated to obtain prior approval of the Commission for usage of any Capital assets for the purpose other than the licensed business.
4. In case where Capital assets are not required for other business and the Commission gives in-principle approval prior to entering into such other business then in that case the Licensees may claim the deficit on account of other businesses through ARR of the licensee. Therefore, prior approval for other business activity may not be required where utilization of capital assets for such other business activities are not involved.

B. TPDDL

1. TPDDL has submitted that there is no definition of capital asset as such in either Electricity Act, 2003 or DERC (Treatment of Income from Other Business of Transmission Licensee and Distribution Licensee) Regulations, 2005. Therefore, the 'capital asset' may be replaced with the terms used in these Regulations and add as 'assets and facilities of the licensed business'.
2. Further, TPDDL has submitted that any income after deducting expenditure of the corresponding other business income should be deducted while sharing the revenue between ARR and the licensee. They have also submitted the revenue sharing mechanism towards other businesses applicable in other State Electricity Regulatory Commissions as follows:

Revenue from Other Business Sharing %			
State	**ARR**	**Discom**	**Relevant regulations**
Punjab	<= 10	>-90	Regulation 5.5. of PSERC Income of Other Businesses Regulations, 2005
Gujarat	33.3	66.6	Regulation 87.1 of the GERC MYT Regulation 2011

Revenue from Other Business Sharing %			
State	**ARR**	**Discom**	**Relevant regulations**
Maharashtra	33.3	66.6	Regulation 94 of the MERC Tariff Regulation 2011
Assam	33.3	66.6	Regulation 70 of the AERC MYT Regulations, 2015
Manipur & Mizoram	33.3	66.6	Regulation 78 of the JERC MYT Regulations, 2015
Uttarakhand	33.3	66.6	Regulation 88 of UERC MYT Regulations, 2011
Odisha	33.3	66.6	Regulation 7.62 of the OERC MYT Regulations, 2014
West Bengal	40	60	Regulation 5 of the WBERC Tariff Regulation 2011

Commission's View

3. There are different approaches adopted by various State Electricity Regulatory Commissions for deciding the ratio for sharing other business income which has range from 10% to 40% to be passed on into the ARR and 60% to 90% to the account of the licensee. The Commission has also proposed amendment in the same range. Therefore, there is no need to change the proposed ratio for revenue sharing mechanism. Further, it has also been indicated in the final proposal that the corresponding expenditure on account of other businesses which is accounted for while deciding the revenue sharing shall be excluded from the licensed business expenditure. The licensee shall maintain a segment-wise expenditure and revenue for such other businesses other than the licensed business.

C. BSES (BRPL & BYPL)

BSES DISCOMs has suggested about the ratio of sharing of revenue which has already been discussed above.

D. B.S.Vohra, President, East Delhi RWAs

1. The stakeholder has submitted that the licensee has no right to carry out any other business by using the capital assets of the licensed business and should pass on entire revenue to the ARR of the regulated business.

Commission's View

2. It is pertinent to state that in case, the proposals of Mr. B.S.Vohra is accepted, any deficit from such other business shall also form part of ARR and may result into additional burden of the consumers. The primary purpose of any incentive scheme is to maximize return so as to improve on subsidization in the ARR for the licensed business. Further, usage of any Capital assets for the purpose other business, it is pertinent to state that Licensees are obligated to obtain prior approval of the Commission for usage of any Capital assets for the purpose other than the licensed business.