
PREAMBLE:

Whereas Karnataka Electricity Regulatory Commission had published the draft Karnataka Electricity Regulatory Commission (Compliance Audit) Regulations, 2016 and in the official gazette of Karnataka, vide Notification No. B/2/16, dated 28th August, 2016, inviting objections, suggestions, views, if any, from the stake holders. The draft amendments were also hosted on the Commission’s website www.karnataka.gov.in/kerc and duly publishing notices in the newspapers for the information of public/ interested persons. The Commission also held a ‘Public Hearing’ on 21.12.2016 in the matter.

And whereas, the Commission has considered the objections/ suggestions received.

Now, in exercise of the powers conferred on it under Section 56 of the Karnataka Electricity Reforms Act, 1999 (Karnataka Act 25 of 1999) and Section 181 of the Electricity Act, 2003 (Central Act No 36 of 2003), and all other powers enabling it in this behalf, the Karnataka Electricity Regulatory Commission, hereby makes the following Regulations, namely -

1. SHORT TITLE, EXTENT AND COMMENCEMENT -

1.1 These regulations shall be called the Karnataka Electricity Regulatory Commission (Compliance Audit) Regulations, 2016.

1.2 These regulations shall be applicable in the State of Karnataka.

1.3 These regulations shall come into force from the date of their publication in the Official Gazette.

2. DEFINITIONS- 

2.1 In these regulations, unless the context otherwise requires-

(a) ‘Act’ means the Electricity Act, 2003 (Central Act No.36 of 2003);

(b) “Commission” means the Karnataka Electricity Regulatory Commission;

(c) “Regulated Entities” means, the Generation Companies, Transmission licensees, Distribution licensees, Electricity Traders, and State Load Dispatch Centre;

(d) Words and expressions used and not defined in these regulations but defined in the Act shall have the meaning assigned to them in the Act.

3. COMPLIANCE AUDITS -

3.1 The Commission may, at any time, conduct audit of regulated entities for verifying their compliance with the Act, Rules, Regulations made thereunder, orders, and directions issued by the Commission, from time to time.

3.2 The Commission may, by order, empanel such consultants / auditors as may be required to assist the Commission in the discharge of these functions on the terms and conditions as deemed fit.

3.3 The Commission may either appoint consultants/ auditors empanelled with it for an audit or go through the process of fresh selection, if required for a specific need.

3.4 The Commission may also consider the single source selection of consultants/ auditors in exceptional cases where it is appropriate.

3.5 The Commission before initiating an audit shall frame the terms of reference which will detail out the specific outputs that are to be provided by the Consultant / Auditor in relation to the task, the timeframe in which the task has to be completed and the other terms relevant to the task.
3.6 The Commission shall assign, through an Order, the specific task of audit to the consultant/auditor based on the terms of reference framed by it, before the audit of the regulated entity is taken up.

4. REQUIREMENTS OF CONSULTANTS/AUDITORS:

Consultants/auditors shall provide professional, objective, and impartial advice and at all times hold the Commission's interests paramount, without any consideration for future work, and in providing advice, they shall avoid conflicts with other assignments and their own corporate interests. The Consultants/Auditors shall not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of being unable to carry out the assignment in the best interest of the Commission. Without limitation on the generality of the foregoing, Consultants/Auditors shall be engaged keeping in view the circumstances set forth below:

(i) A consultant or an auditor engaged for a particular audit shall not hold office or have a commercial or any other interest in the regulated entity for a period of five (5) years preceding the engagement by the Commission.

(ii) While conducting an audit, the consultant or auditor would be expected to do so honestly, fairly, professionally, independently and objectively and exercise a standard of skill, care and diligence that is reasonably expected from a person who is skilled, and substantially experienced, in the provision of the services.

(iii) The selected consultant or the auditor would be required to provide a written declaration to the Commission that he has no conflict of interest nor with the Regulated Entity while performing the tasks and functions assigned to him under these regulations nor by its nature, may be in conflict with another assignment of the consultant or auditor.

5. EXPENSES:

1) All expenses of, and incidentals to, any consultancy or audit made under these regulations shall be paid by the Commission and thereafter, such expenses shall be defrayed by the regulated entity in favour of the Commission.

2) The regulated entity shall be permitted to claim the said expenses as follows-
   a) Distribution licensees or transmission licensees may claim the said expenses as a pass through in annual revenue requirement (ARR).
   b) Generating Companies may claim the said expenses while filing application for determination of tariff.
   c) Electricity Traders may claim the said expenses as increase in trading margin with the approval of the Commission.
   d) State Load Despatch Centre may claim the said expenses as pass through in its annual budget approval.

6. METHODOLOGY:

6.1 The consultant/auditor may, at any time shall on being directed so to do by the Commission, cause an inspection to be made, by one or more of his personnel, of any regulated entity and its books of account, registers and other documents in its custody, and to investigate into the affairs of the regulated entity in a manner as deemed fit by the Commission.

Provided that the Regulated Entity shall be given a reasonable advance notice in writing of such inspections/auditing.

6.2 It shall be the duty of every Regulated Entity, to produce before the consultant/auditor, all such books of account, registers and other documents and to furnish him with any statement and information relating to the affairs of the regulated entity, as the said consultant/auditor may require of it within such time as the said consultant/auditor may intimate in writing in this behalf.

6.3 The consultant/auditor shall collect sufficient amount of evidence to document the work performed to serve as the basis for the conclusions reached during the course of the audit. The information gathered will be generally through:

a) Data Requests - The primary method of obtaining data shall be through data requests to the concerned Regulated Entity. The data obtained through data requests could include financial and operational information, procedures manuals, organisation charts, reports, email and voice mail records, and studies. The data may be obtained either electronically or as Hard Copy of document (depending upon the requirement).

b) Site Visits – The consultant/auditor shall conduct Site visits to ensure accurate interpretation of the information provided by the concerned Regulated Entity. The consultant/auditor shall inter alia collect materials on-site, observe processes, and offer an opportunity to conduct face-to-face interviews, which are relevant to the audit.

c) Interviews – The consultant/auditor may conduct interviews in person or over the phone.

d) As the data is collected from the Regulated Entity under audit, the consultant/auditor shall compile and analyze the data. The consultant/auditor shall analyze information gathered from multiple sources, including filing made before the Commission by such Regulated Entity, as well as from the public records. Advanced analysis may require the creation of complex spreadsheets and databases, and the use of sampling to test for potential non-compliance of the Act, Rules, Regulations made thereunder, orders and directions, issued by the Commission from time to time.

e) Third party complaints - Areas of non-compliance may also be identified through third-party complaints, for example, customer complaints.

6.4 The consultant/auditor will be required to provide full reports to the Commission, which shall at least contain:
   a) a description of the reporting scope and methodology, which shall include all matters specified in the terms of reference.
b) a description of the systems and procedures that have been established by the Regulated Entity to comply with regulatory obligations, including the identification of relevant documentation and responsible positions;

c) a discussion of how compliance is managed, generic compliance issues addressed and any specific issues identified for that report;

d) details of any non-compliance identified and the actions being undertaken by the Regulated Entity to rectify them, and an assessment of the adequacy of the actions.

6.5 The report shall include a statement, signed by the consultant/auditor, which states that:
   a) the terms of reference have been complied with by the consultant / auditor in preparing the findings and the report; and,
   b) the report reflects the professional opinion of the consultant or auditor.

6.6 The consultant/auditor shall supply to the Regulated Entity a copy of audit report.

7. Order on report-

On receipt of the report under these Regulations, the Commission, on being satisfied about non-compliance or contravention of the Act, Rules, Regulations or Orders or directions of the Commission, may pass an order, in writing, after giving such opportunity to the Regulated Entity, as may be deemed necessary.

8. 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, take suitable action, not being inconsistent with the Act, which appears to the Commission to be necessary or expedient for the purpose of removing the difficulties.

9. POWER TO AMEND-

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

10. ORDERS AND PRACTICE DIRECTIONS:

Subject to the provisions of the Act, the Commission may from time to time issue orders, and practice directions, in regard to the implementation of these Regulations.

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By Order of the Commission
Dr. Siddaramaiah
Secretary
For Karnataka Electricity Regulatory Commission