

MAHARASHTRA WATER RESOURCES REGULATORY AUTHORITY, MUMBAI

9th Floor, Centre-1, World Trade Centre, Cuffe Parade,
Mumbai 400 005 dated the 13th August 2013.

NOTIFICATION

Maharashtra Water Resources Regulatory Authority (Fixing Criteria for and Issuance of Tariff Orders for Bulk Water) Regulations, 2013

No. MWRRRA 2010/CBR/(54).—In exercise of the powers conferred by Section 31 read with Section 11 sub-sections (d) and (u) of the Maharashtra Water Resources Regulatory Authority Act, 2005 (Mah. XVIII of 2005), the Maharashtra Water Resources Regulatory Authority hereby makes the following Regulations.

1. *Short Title, Object, Commencement and Application.*—(1) These Regulations may be called the "Maharashtra Water Resources Regulatory Authority (Fixing Criteria for and Issuance of Tariff Orders for Bulk Water) Regulations, 2013."

(2) The object of these Regulations is to set out a procedure for fixing Criteria for Bulk Water Tariff ("CBWT") and issuance of tariff orders thereto.

(3) These Regulations shall come into force from the date of publication in the *Official Gazette*.

(4) These Regulations are applicable to the State of Maharashtra and to all matters within the jurisdiction of the Authority.

2. *Definitions.*—(1) In these Regulations, unless the context otherwise requires,—

(a) " Act " means the Maharashtra Water Resources Regulatory Authority Act, 2005 (Mah. XVIII of 2005) as amended from time to time;

(b) " Agricultural User " means any Water User Association, where formed, at minor level, distributary level, canal level or project level, which is supplied bulk water for distribution among its members, or an individual farmer, where Water User Association has not been formed or formed but not become operational, who is supplied water directly by the project authority, primarily for growing crops ;

(c) " Approach Paper " means the paper prepared for, *interalia*, indicating the methodology for fixing the Criteria for Bulk Water Tariff pursuant to Section 11 sub-section (d) of the Act;

(d) " Authority " means the Maharashtra Water Resources Regulatory Authority established under Section 3 of the Act;

(e) " Bulk Water " means any water supplied by flow or lift to Agricultural/ Domestic/ Industrial Users from reservoirs/canal systems in the State constructed and operated by the Water Resources Department (WRD) or Irrigation Development Corporation (IDC) or made available to these users by WRD / IDC by flow or lift from regulated rivers and their tributaries flowing in the State or from natural bodies or lakes . It also includes supplies drawn by water utilities / entities/ for its / their own use from dams / storages constructed and operated by them or obtained for its / their own use by flow or lift from natural bodies or lakes through structures constructed and operated by them ;

(f) " Bulk Water Tariff " means the tariff levied on bulk water users by the Water Resources Department on volumetric basis, as per the tariff order issued and in force on the date of levy ;

(g) " Bulk Water Users " means Agricultural Users, Domestic Users and Industrial Users that are supplied Bulk Water ;

(h) " Conduct of Business Regulations " means such regulations as may be notified pursuant to Section 31 of the Act ;

(i) " Control Period " for the purposes of the applicability of tariffs shall be the three consecutive water years starting from 1st July 2010 to 30th June 2011, 1st July 2011 to 30th June 2012 and 1st July 2012 to 30th June 2013.

(j) “ Consultant ” includes any person not in the employment of the Authority who may be appointed as such, following the procedure adopted by the State Government, to assist the Authority on any matter required to be dealt by the Authority under the Act;

(k) “ Criteria for Bulk Water Tariff ” means the parameter based methodology determined by the Authority for apportionment of O&M cost among the various category of Bulk Water Users ;

(l) “ Domestic User ” means any public body or organisation (Gram Panchayat, Urban Local Body, Municipal Corporation, Maharashtra Jeevan Pradhikaran, Maharashtra Industrial Development Corporation) to whom bulk water is made available by the Water Resources Department / IDC for distribution to domestic and other users, as identified by the Authority from time to time, with or without treatment ;

(m) “ Entitlement Holder ” means the holder of any authorization issued by any River Basin Agency to use water for the purposes of the Act ;

(n) “ Experts ” means experts in the field of water management, water use economics as identified by the Authority ;

(o) “ Industrial User ” means any industry (including Industrial Development Corporations) to whom bulk Water is made available by the WRD or IDC for industrial use or in process ;

(p) “ Operation & Maintenance (O&M) Cost ” means the sum of establishment cost and the cost of maintenance and repairs (M&R) of the irrigation system of water resources projects worked out as per norms ;

(q) “ Stakeholder ” means any bulk water user or Entitlement holder or any registered organisation representing officially the interests of either of them ;

(r) “ State ” means the State of Maharashtra ;

(s) “ Water Resource Department ” means the Department of the Government of Maharashtra dealing with water resources in the State ;

(t) “ Water Years ” means the year starting from 1st July and ending on 30th June on the following year.

(2) Terms not defined in these Regulations will have the same meaning as assigned to them under the Act or under the Maharashtra Management of Irrigation System by Farmers Act, 2005 (Mah. XXIII of 2005) or under the Maharashtra Irrigation Act, 1976 (Mah. XXXVIII of 1976).

3. *Procedure for Fixing Criteria for Bulk Water Tariff.*—(i) The Authority shall, either by itself or through duly appointed Consultants or Committee of Experts, prepare a draft Approach Paper for fixing the Criteria for Bulk Water Tariff.

(ii) The terms of reference to the Consultant/Committee of Experts shall be hosted by the Authority in its web site for inviting comments/suggestions within a period of atleast 30 (thirty) days.

(iii) The draft Approach Paper, both in English and Marathi, shall be hosted on the Authority’s web site for a period of 3 (three) months for inviting comments/suggestions from the beneficiary public and any association/group/forum/corporate body, Bulk Water User/Users. The draft Approach Paper shall also be circulated by the Authority to line departments of the State Government, concerned Non-Governmental Organizations in the water sector, public utilities dealing with distribution of water and Experts in the field of water. The Authority shall also make available copies of the paper at all taluka headquarters (irrigation sub division or Panchayat Samiti office) in the State with due publicity of this fact in one prominent district newspaper.

(iv) The Authority will, at the end of the 3 (three) months from the date the draft Approach Paper is made available at all taluka headquarters, take into consideration the comments/ suggestions received in writing on the draft Approach Paper and will prepare a list of important and common points worth considering relating to Bulk Water Tariff and host it on the Authority’s web-side within 15 (fifteen) days.

(v) The Authority will prepare after taking into consideration comments/suggestions on the draft Approach Paper, draft of the Criteria for Fixing Bulk Water Tariff (CBWT) within 2 (two) months, unless extended by the Authority. The draft CBWT, in English and Marathi, shall be hosted on the web-site of the Authority with due publicity of this fact in one prominent district news paper and also circulated to line departments, water utilities, concerned NGOs and Experts inviting comments / suggestions. The Authority shall also make available copies of the draft Criteria in English and Marathi at all taluka headquarters (irrigation sub-division or Panchayat Samiti office).

(vi) The Authority shall hold public hearings at all the Revenue Divisional headquarters of the State to ascertain the views of the beneficiary public on the draft Criteria.

(vii) At least two members of the Authority shall be present for public hearing.

(viii) The Authority shall fix the dates and venue for the public hearings and publish this information prominently in atleast 1 (one) daily newspaper in English language, 1 (one) prominent daily newspapers in Marathi language having circulation in each district of the area and in 2 (two) daily newspapers in Marathi language having highest State-wide circulation atleast 15 (fifteen) day prior to the date of public hearing.

(ix) The Authority shall complete the public consultation process with 3 (three) months from the date of making copies of the draft Criteria available at taluka headquarters.

(x) At the end of the period mentioned in (ix) above, the Authority will prepare a list of common points relating to the CBWT and host it on its web site within 15 (fifteen) days. The Authority will take into consideration such of the comments / suggestions received on the draft CBWT, and shall finalize the CBWT within 30 (thirty) days thereof and forward the Water Resources Department (WRD) for submission of the draft tariff proposal.

(xi) The CBWT finalized by the Authority shall be final and binding till a review is taken up as per procedure prescribed in these Regulations for such review.

4. *Submission of Bulk Water Tariff Proposal.*—(i) The WRD shall, within 3 (three) months of the receipt of the CBWT from the Authority, or as may be extended by the Authority, prepare on the basis of the CBWT, a draft of the Bulk Water Tariff and submit to the Authority a draft of the Bulk Water Tariff proposal for the relevant Control Period. The Authority may prescribe a format for draft Bulk Water Tariff proposal.

(ii) The WRD shall submit the draft Bulk Water Tariff proposal to the Authority complete in all respects accompanied by all requisite information, particulars and documents with all the requirements mentioned in the CBWT.

(iii) The proposal shall contain volumetric rates for industry and domestic and both volumetric and area based rates for agriculture to be derived adopting the procedure laid down in the CBWT.

(iv) The Authority, while undertaking a technical scrutiny of the Draft Bulk Water Tariff proposal with reference to its conformity with the CBWT and validity of the data used, if deemed necessary, call for such additional data, information, documents or clarification from the WRD which shall be furnished to Authority within 15 (fifteen) days from the date of such demand.

(v) Upon receipt of the complete draft Bulk Water Tariff proposal accompanied by all requisite information, particulars and documents with all the requirements to the satisfaction of the Authority, the proposal shall be deemed to be in order. The Authority shall thereafter intimate to WRD that the proposal is ready for publication in such abridged form and manner as may be specified.

(vi) The WRD shall within 15 (fifteen) days of such intimation under Regulation 4 (v), publish a notice in Marathi language in one leading local newspapers in each district and in English language in atleast 2 (two) English newspapers in the State outlining the Bulk Water Tariff proposal and inviting comments/suggestions from the public. The WRD shall also make available copies of the draft Bulk Water Tariff proposal in English and Marathi in all its Irrigation Circle Offices in the districts and sub divisional officers in the taluka head quarters or in Panchayat Samiti office

in talukas where sub-divisional office is not there and also host it on web site of WRD and 30 (thirty) days time shall be given from the date of making copies available in the taluka headquarters for receiving comments/suggestions.

(vii) The WRD shall compile all suggestions/comments received from public and with WRD’s views on each comment/suggestion forward them to Authority within 30 (thirty) days. WRD shall also host the same on its web-site.

(viii) The Authority shall, within 60 (sixty) days of the date of publication of notice in newspapers and considering all suggestions and comments received from the public, issue a tariff order both in English and Marathi effective from first (1st) July of the first year of the Control Period, or such date as may be decided by the Authority, accepting the draft tariff proposal of the WRD with such modifications or such conditions, as may be specified in the order. The tariff order shall be hosted on the web site of the Authority.

(ix) The Tariff Order will be for the volumetric rates for supply of bulk water to agriculture, domestic and industry. The Tariff Order for the area based rates for agriculture will be issued by WRD.

(x) The WRD shall publish the Tariff Orders as specified in Regulation 4 (viii) in one leading daily newspapers in Marathi language having wide circulation in each districts of the State. WRD shall also host the Tariff Orders on its web site and make the same available to public in booklet form for sale.

5. *Procedure for Review of the CBWT.*—(i) The validity of the CBWT will be for the Control Period for which the tariff orders are issued.

(ii) Before taking up review and revision of the water charges for subsequent Control Periods, the Authority shall take up the review and revision of the CBWT.

(iii) The procedure detailed in Regulation 3 will be followed for issue of a fresh CBWT.

(iv) The Authority will initiate all required activities for issue of tariff order for the next control period atleast 15 (fifteen) months prior to the start of the control period.

6. *Application for Review of Tariff Orders.*—(1) The following categories of Bulk Water Users only are eligible, if aggrieved by the Tariff Order passed by the Authority, to apply to the Authority for a review of tariff orders.—

(a) Water User Associations (flow/lift) at minor level, distributary level, canal level, project level, natural flow storage system;

(b) Domestic Water User Utilities such as the Maharashtra Jeevan Pradhikaran, Maharashtra Industrial Development Corporation, Municipal Corporations, Urban & Rural Local Bodies, Gram Panchayats;

(c) Industrial Users such as the Maharashtra Industrial Development Corporation, privately owned industrial estates ;

(d) Other individual Bulk Water users having an agreement with the Water Resource Department ;

(e) Any registered organisation representing officially the interests of any of the above.

(2) The application shall be filed within 45 (forty-five) days from hosting of Tariff Order on the Authority’s website and in the form as specified in the MWRRA (Conduct of Business) Regulations 2010.

(3) The Authority shall consider only the following issues in the Tariff Order as qualifying for filing an application :—

(a) any discrepancy in figures in the Tariff Order;

(b) any provision in the Tariff Order which is not in conformity with the CBWT;

(c) upon discovery of any new and important matter or evidence which, after the exercise of the diligence, was not with the knowledge of the Petitioner or could not be produced by him at the time of the consultation process on the draft Tariff Order.

7. *Saving of inherent power of the Authority.*—(1) Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Authority to make such orders as may be necessary for meeting the ends of justice or to prevent the abuse of the process of the Authority.

(2) Nothing in these Regulations shall deem to limit or otherwise bar the Authority from adopting in conformity with the provisions of the Act, a procedure, which is at variance with any of the provisions of these Regulations, in view of special circumstances of a matter or class of matters and for reasons to be recorded in writing, the Authority deems necessary or expedient.

(3) Nothing in these Regulations shall, expressly or impliedly, bar the Authority to deal with any matter or exercise any power under the Act for which no Regulations have been framed, and the Authority may deal with such matters, powers and functions in a manner it thinks fit.

8. *Interpretation.*—The Authority shall be the final authority for interpretation of these Regulations.

9. *General power to amend/rectify.*—The Authority may, at any time and on such terms as to costs or otherwise, as it may think fit, amend any defect or error in any Proceedings before it (including any clerical or arithmetical error in any order passed by the Authority), and all necessary amendments, rectifications shall be made for the purpose of determining the real question or issue arising in the Proceedings.

Provided that if the Authority desires to make amendments or rectifications in order to determine the real question or issue arising, the Authority shall provide an opportunity to the parties affected by such amendment or rectification, touching the real question or issue, to make representations and submissions with respect to the proposed amendment or rectification.

10. *Power to remove difficulties.*—If any difficulty arises in giving effect to any of the provisions of these Regulations, the Authority may, by general or special order, do anything not being inconsistent with the provisions of the Act, which appears to be necessary or expedient for the purpose of removing the difficulties.

11. *Extension or abridgement of time prescribed.*—Subject to the provisions of the Act, the time prescribed by these Regulations or by order of the Authority for doing any act may be extended (whether it has already expired or not) or abridged for sufficient reason by an order of the Authority.

12. *Enforcement of orders passed by the Authority.*—The Secretary of the Authority shall ensure proper enforcement and compliance of the orders passed by the Authority, by the persons concerned in accordance with the provisions of the Act and regulations and if necessary, may seek the orders of the Authority for directions.

13. *Implementation of Regulation.*— Subject to the provisions of the Act and these Regulations, the Authority may, from time to time, issue orders and practise directions with regard to the implementation of these regulations and procedures to be followed.

S. V. SODAL,

Secretary,

Maharashtra Water Resources
Regulatory Authority, Mumbai.

Mumbai,

Dated the 13th August 2013.