

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**NOTIFICATION**

No. L-7/25(6)/2004-CERC

New Delhi the 3<sup>rd</sup> April 2006

In exercise of powers conferred under section 178 of the Electricity Act, 2003 (36 of 2003), and all other powers enabling it in this behalf, and after previous publication, the Central Electricity Regulatory Commission hereby makes the following regulations to amend the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Trading Licence and other related matters) Regulations, 2004, namely: --

1. **Short title and commencement:** (1) These regulations may be called the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Trading Licence and other related matters) (Amendment) Regulations, 2006.

(2) These regulations shall come into force on and from the date of their publication in the Official Gazette.

2. **Amendment of Regulation 2:** (1) After sub-clause (c) of regulation 2 of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Trading Licence and other related matters) Regulations, 2004 (hereinafter referred to as the principal regulations), the following shall be inserted, namely:-

(ca) "Associate", in relation to the applicant, includes a person –

(i) who, directly or indirectly, by himself, or in combination with relatives, owns or controls shares carrying not less than twenty percent of the voting rights of the applicant; or

(ii) in respect of whom the applicant, directly or indirectly, by himself, or in combination with other persons, owns or controls shares carrying not less than twenty percent of the voting rights; or

(iii) majority of the directors of which, own or control shares carrying not less than twenty percent of the voting rights of the applicant; or

(iv) whose director, officer or employee is also a director, officer or employee of the applicant ;

(2) After clause (e) of regulation 2 to the principal regulations, the following shall be inserted, namely:-

“(ea) "Economic offence" means an offence to which the Economic Offences (Inapplicability of Limitation) Act, 1974 (12 of 1974), is applicable for the time being;

(eb) "Fraud" has the same meaning as is assigned to it by section 17 of the Indian Contract Act, 1872 (9 of 1872);”

(3) After Clause (i) of regulation 2 of the principal regulations, the following shall be inserted, namely:-

“(ia) Net worth” means net worth as defined in the Companies Act, 1956 (1 of 1956) as amended from time to time, including re-enactment thereof.”

(4) After Clause (j) of regulation 2 of the principal regulations, the following shall be inserted, namely:-

“(ja) "Relative" means a relative as defined in section 6 of the Companies Act, 1956 (1 of 1956);”

3. **Amendment of Regulation 4:** For clause (4) of regulation 4 of the principal regulations, the following shall be substituted, namely:-

“(4) The applicant shall within 7 days after making the application publish a notice of his application in all editions of at least two national daily newspapers including one economic daily newspaper in Form IA, with the following particulars, namely:-

(a) Name of the applicant (in bold) at the top clearly bringing out whether the applicant is an individual/sole proprietor, a partnership firm registered under the Indian Partnership Act, 1932 (9 of 1932), a private limited company or a public limited company, incorporated under the Companies Act, 1956, (1 of 1956), giving full particulars of its registered office address in case of a company incorporated under the Companies Act, 1956 (1 of 1956) and the address for correspondence and web site address in all cases;

- (b) A statement that the applicant has made an application for grant of licence for 'A' or 'B' or 'C' or 'D' or 'E' or 'F' category, as the case may be, for inter-state trading under sub-section (1) of Section 15 of the Act, to the Central Electricity Regulatory Commission;
- (c) Authorised, issued, subscribed and paid up share capital;
- (d) Share holding pattern (List of details of shareholders holding 5% or more shares directly or with relatives, number of shares held by each of them and %age of shares of the total paid up capital) financial and technical strength and management profile of the applicant;
- (e) Volume of electricity intended to be traded during the first year after grant of licence and the future plans for trading during the next 5 years;
- (f) Details of past experience of the applicant or the persons on its management in same or similar activity;
- (g) Geographical areas within which the applicant will undertake trading in electricity as stated in the application made to the Commission;
- (h) Net worth of the applicant as on 1<sup>st</sup> April of the financial year in which the application is made and on the date of making application;
- (i) A statement whether the applicant or any of his partners or promoters or Directors or Associates has been declared insolvent and has not been discharged, and if so, the details thereof;
- (j) A statement giving details of cases resulting in conviction of fraud or economic offences of the applicant, or any of his partners, promoters or

Directors or Associates during the three years preceding the year of making application;

(k) A statement giving details of all pending cases involving the applicant, or any of his partners or promoters or Directors or Associates, which shall include nature of the dispute, whether civil or criminal, name of the other party or parties, the court before whom pending and the latest status;

(l) A statement whether the applicant or any of his partners or promoters or Directors or Associates was ever refused licence, and if so, the details of date of making application, date of order refusing licence and reasons for refusal;

(m) A statement to the effect that the application and other documents filed before the Commission from time to time, are available for inspection with the applicant, by any person;

(n) Name and address and other relevant details of the person under the control of the applicant with whom the application and other documents can be inspected by any person;

(o) A statement to the effect that complete application is available on the web site of the applicant or any other authorised web site alongwith the details of the web site where the application is made available;

(p) A statement that objections, if any, be filed before the Secretary, Central Electricity Regulatory Commission, 7<sup>th</sup> Floor, Core-3, Scope Complex, Lodhi Road, New Delhi - 110 003 or such other address where

office of the Commission is situate, with a copy of the objections to the applicant, within 30 days of publication of the notice;

**Explanation:** For the purpose of this regulation, the national newspaper means a daily newspaper published simultaneously at New Delhi and in more than three other States or Union Territories.”

4. **Amendment of Regulation 6:** For regulation 6 of the principal regulations, the following shall be substituted, namely:-

“6. **Capital adequacy requirement and credit worthiness-** Considering the volume of inter-state trading proposed to be undertaken, the net worth of the electricity trader at the time of application shall not be less than the amounts specified hereunder:

Sl. No.	Category of the Trading Licence	Volume of Electricity proposed to be traded (in Kilo - Watt Hours) in a year	Net worth (Rs. in crore)
1	A	Upto 100 million	1.50
2	B	100 to 200 million	3.0
3	C	200 to 500 million	7.5
4	D	500 to 700 million	10.0
5	E	700 to 1000 million	15.00
6	F	Above 1000 million	20.00

5. **Insertion of Regulation 6A:** After regulation 6 of the principal regulations, the following shall be inserted, namely:-

“6A. **Disqualifications:** The applicant shall not be qualified for grant of licence for inter-state trading if:

- (a) The applicant, or any of his partners, or promoters, or Directors or Associates is declared insolvent and has not been discharged; or

- (b) The applicant, or any of his partners, or promoters, or Directors or Associates is involved in any legal proceedings, and in the opinion of the Commission grant of licence in the circumstances, may adversely affect the interest of the electricity sector of the consumers; or
- (c) The applicant, or any of his partners, or promoters, or Directors or Associates has at any time in the past been convicted of an offence involving moral turpitude or any economic offence; or
- (d) An order canceling the licence of the applicant, or any of his partners, or promoters, or Directors or Associates, has been passed by the Commission on the ground of his indulging in fraudulent and unfair trade practices or market manipulation or activities involving moral turpitude; or
- (e) The applicant, has in the past been –
- (i) refused a licence on the grounds which continue to remain valid; or
  - (ii) subjected to any proceedings for contravention of any of the provisions of the Act or the rules or the regulations made thereunder;
- or
- (f) The applicant is not considered a fit and proper person for the grant of licence for any other reason to be recorded in writing;

**Explanation:** For the purpose of determining as to whether the applicant is a 'fit and proper person', the Commission may take account of any consideration, as it deems fit, including but not limited to the following, namely:–

- (i) financial integrity of the applicant;
- (ii) his competence;
- (iii) his reputation and character; and
- (iv) his efficiency and honesty.”

6. **Amendment of Regulation 7:** (1) After clause (b) of regulation 7 of the principal regulations, the following proviso shall be added, namely:-

“Provided that in case the licensee proposes to increase the volume of electricity to be traded in a year, he may increase his net worth in keeping with his proposal, obtain prior approval of the Commission to his proposal and pay the licence fee as applicable for the higher category.”

(2) After clause (d) of regulation 7 of the principal regulations, the following shall be inserted, namely:-

“(da) If the licensee moves from a higher category to a lower category based on the volume of electricity traded, the technical and capital adequacy requirement shall be applicable accordingly.”

7. **Amendment of Regulation 11:** After the third proviso to clause (b) of regulation 11 of the principal regulations, the following shall be inserted, namely:-

“(c) Submit to the Commission copies of the Annual Report including Directors' report, Auditors' report, Balance Sheet and Profit & Loss Account pertaining to inter-state trading segment of the business along with all the schedules and notes



to the accounts, not later than nine months after the close of the year to which they relate;

(d) Submit to the Commission the following details as and when occurring:

- (i) when the applicant or any of his partners, or promoters, or Directors or Associates is declared insolvent and has not been discharged;
- (ii) when the applicant or any of his partners, or promoters, or Directors or Associates is involved in any legal proceedings, civil and criminal;
- (iii) when the applicant, or any of his partners, or promoters, or Directors or Associates has at any time been convicted of an offence involving moral turpitude or any economic offence.”

8. **Amendment of Regulation 12:** For clause (2) of regulation 12 of the principal regulations, the following shall be substituted, namely:-

“(2) The licensee shall furnish the performance details for each year to the Commission in the format prescribed in Form IV, appended to these regulations by 30<sup>th</sup> April immediately following the year ending on 31<sup>st</sup> March.”

9. **Amendment of Regulation 14:** (1) After clause (1) of regulation 14 of the principal Regulations, the following proviso shall be inserted, namely:-

“Provided that before ordering any alteration and modifications in the licence, proposed to be made otherwise than on the application of the licensee, the

Commission shall publish a notice in two such daily newspapers as it considers necessary with the following particulars, namely:-

- (a) name and address of the licensee;
- (b) alterations and modifications proposed to be made;
- (c) grounds for such alteration and modifications; and
- (d) inviting suggestions, if any, on the proposal for consideration of the Commission within the time specified in the notice.”

(2) After clause (2) of the regulation 14 of the principal regulations, the following proviso shall be inserted, namely:-

“Provided that where the licensee has made an application under sub-section (1) of Section 18 of the Act, proposing any alteration and modifications in his licence, he shall publish a notice of such application in all editions of two national daily newspapers, including one economic newspaper, in Form V, with the following particulars, namely:-

- (a) name of the applicant;
- (b) category of the licence granted to him;
- (c) that an application for alterations and modifications has been made before the Commission;
- (d) details of alterations and modifications proposed in the application;
- (e) reasons for seeking such alterations and modifications;

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(f) a statement that the application made before the Commission has been posted on the web site and can also be inspected in the office of the applicant;

(g) a statement that any suggestion to the proposal for alterations and modifications made in the application may be submitted to the Secretary of the Commission within one month of publication of the notice;

**Explanation :** For the purpose of this regulation, 'national newspaper' has the same meaning as assigned under regulation 4 of these regulations.

10. **Insertion of Regulation 14A:** After regulation 14 of the principal regulations, the following shall be inserted, namely:-

**“14A. Procedure for securing compliance of terms and conditions of licence-**

(1) Where the Commission, on the basis of material in its possession is satisfied that the licensee is contravening, or is likely to contravene, the terms and conditions of licence, it shall serve a notice to the licensee narrating the terms and conditions of licence contravened or likely to be contravened by him to invite his objections.

(2) The notice may be served on him by delivering the same at the registered office or at the usual or his last known place of residence or business, either through registered post/speed post or by hand delivery through a messenger or publication in the newspaper where the Commission is satisfied that it is not

reasonably practicable to serve the notice on the licensee through registered post/speed post or by hand delivery or in any other manner as considered appropriate by the Commission in the facts and circumstances of the case.

(3) The Commission shall publish a notice in two newspapers specifying the terms and conditions contravened or likely to be contravened by the licensee to bring the matters to the attention of persons affected or likely to be affected by such contraventions, to invite suggestions from such persons.

(4) The licensee or the persons affected or likely to be affected by the contravention of the terms and conditions of the licence by the licensee may file their objections or suggestions within 30 days from the date of receipt of notice under clause (1) or publication of notice in the newspapers under clause (3), as he case may be.

(5) The Commission shall on consideration of the objections and suggestions received as aforesaid, pass such order or give such directions as may be necessary to secure compliance of the terms and conditions of license.”

11. **Amendment of Regulation 15:** After second proviso to clause (v) of regulation 15 of the principal regulations, the following shall be inserted, namely:-

“(vi) Where the licensee fails to meet the eligibility criteria in accordance with these regulations;

(vii) Where the licensee fails to submit the information as required in accordance with the regulation 11.”

12. **Substitution of Form I, Form III and Form IV:** Form I, Form III and Form IV annexed to the principal regulations shall be substituted by the respective form annexed to these Regulations.

Sd/-  
(A.K.Sachan)  
Secretary

**Note**

The principal regulations were published vide No.L-7/25(6)/2004 dated 30<sup>th</sup> January, 2004 in Part III, Section 4 of the Gazette of India (Extraordinary) dated 6<sup>th</sup> February, 2004.

The consolidated regulations, after incorporating the amendments to the principal regulations are annexed.

**Application form for grant of Licence for Inter-State Trading**

**Particulars of the Applicant**

1. Name of the applicant :
2. Address :
  - (a) Registered office address
  - (b) Address for correspondence
  - (c) Web site address
3. Name, Designation and Address of the contact person :
4. Contact Tel. Nos. :
5. Fax No. :
6. E-mail ID :
7. Status of the applicant :

(Whether a company incorporated under the Companies Act, 1956 (1 of 1956) partnership firm, individual or any other. If listed, name of Stock Exchanges on which listed and latest share price to be given)
8. Place of Incorporation/Registration :
9. Year of Incorporation/Registration :

10. Authorised, issued, subscribed and paid up share capital

Note : Copies of the following documents shall be enclosed

- (a) Certificate of incorporation/registration :
- (b) Certificate for commencement of business, where applicable :

(c) Memorandum of Association and Articles of Association :

(d) Original power of attorney of the signatory to commit the Applicant or its promoter :

11. Category of licence applied for :

**12. Volume of Trading:**

Volume of power intended to be traded during the first year after grant of licence and the future plans for trading during the next 5 years;

**13. Area of Trading:**

Geographical areas within which the applicant will undertake trading in electricity

**Details of Financial Data of Applicant**

14. (i) Net worth as per the audited accounts for the preceding five years (in equivalent Indian Rupees-conversion to be done at the rate of exchange prevailing at the end of each year) for immediate past 3 (three) financial years. (Specify financial year as applicable)

(ii) Net worth as on the date of making application.

(DD/MM/YY) to (DD/MM/YY)

	<b>In Home Currency</b>	<b>Exchange rate used</b>	<b>In equivalent Indian Rs.</b>
(a) Year 1( ) to ( )	-----	-----	-----
(b) Year 2( ) to ( )	-----	-----	-----
(c) Year 3( ) to ( )	-----	-----	-----

Note: Copies of Annual Reports or certified audited accounts for the preceding five years to be enclosed in support of above.

**15. Details of shareholding as on the date of making application**

(Give details of each of the shareholders holding 5% and above of the shares of the applicant directly or indirectly, or with relatives)

(a) Name of the shareholder

(b) Citizenship

(c) Residential status

(d) No. of shares held

(e) %age holding of total paid up capital of the company

16. **Annual turnover (in equivalent Indian Rupees - conversion to be done at the rate of exchange prevailing at the end of each year) for immediate past 5 (five) financial years. (Specify financial year as applicable)**

(DD/MM/YY) to (DD/MM/YY)

	<b>In Home Currency</b>	<b>Exchange rate used</b>	<b>In equivalent Indian Rs.</b>
(a) Year 1(     ) to (     )	-----	-----	-----
(b) Year 2(     ) to (     )	-----	-----	-----
(c) Year 3(     ) to (     )	-----	-----	-----
(d) Year 4(     ) to (     )	-----	-----	-----
(e) Year 5(     ) to (     )	-----	-----	-----

Copies of Annual Reports or certified audited results to be enclosed in support of above.

17. **Organisational and Managerial Capability of the applicant:**

(The applicant is required to enclose proof of its Organisational & Managerial Capability, in terms of these regulations, in form of proposed organisational structure and curriculum vitatae of various executives, proposed office and communication facilities, etc.)



18. **Approach and Methodology:**

(The applicant is required to describe approach and methodology for establishment of the trading arrangements as proposed by him.)

19. **Other Information**

(a) Whether the applicant or any of his partners or promoters or Directors or Associates has been declared insolvent and has not been discharged. If so, the details thereof.

(b) Details of cases resulting in conviction of fraud or economic offences of the applicant, any of his partners, promoters or Directors or Associates during the three years preceding the year of making application.

(c) Details of all pending cases involving the applicant, any of his partners or promoters or Directors or Associates, which shall include nature of the dispute, whether civil or criminal, name of the other party or parties, the court before whom pending and the latest status.

(d) Whether the applicant or any of his partners, or promoters or Directors or Associates was ever refused licence. If so, give the details of date of making application, date of refusal and reasons for refusal.

20. **List of documents enclosed:**

	<b><u>Name of the document</u></b>
(a)	_____
(b)	_____
(c)	_____
(d)	_____

Place:  
Date :

(Signature of the Applicant)  
or the authorised person

Name of the Applicant (in Bold letters)

Registered Office/Corporate Office Address (in Bold letters)

Notice under sub-section (2) of Section 15 of the Electricity Act,2003 (in Bold letters)

1.	<p>The person above-named, a company incorporated under the Companies Act, 1956/a partnership or sole proprietorship firm/an individual (strike out whichever is not applicable) (the applicant) has made an application under sub-section (1) of Section 15 of the Electricity Act, 2003 for grant of Category ____ licence for inter-state trading in electricity within _____ (indicate the geographical area within which the applicant proposes to undertake trading) before the Central Electricity Regulatory Commission, New Delhi. The necessary details in respect of the applicant are given hereunder:</p> <ul style="list-style-type: none"> <li>(i) Authorised, issued, subscribed and paid up capital</li> <li>(ii) Shareholding pattern (indicate the details of the shareholders holding 5% or more shares)</li> </ul> <table border="0" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><u>Name of the shareholder</u></th> <th style="text-align: left;"><u>citizenship</u></th> <th style="text-align: left;"><u>Residential status</u></th> <th style="text-align: left;"><u>No. of shares</u></th> <th style="text-align: left;"><u>Percentage of holding of the paid up capital</u></th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table> <ul style="list-style-type: none"> <li>(iii) Volume of electricity intended to be traded during the first year after grant of licence and future plans of the applicant to expand volume of trading</li> <li>(iv) Financial and technical strength</li> <li>(v) Management profile</li> <li>(vi) Net worth as on the date on which the application is made</li> <li>(vii) Past experience of the applicant and/or the persons on the management of</li> </ul>	<u>Name of the shareholder</u>	<u>citizenship</u>	<u>Residential status</u>	<u>No. of shares</u>	<u>Percentage of holding of the paid up capital</u>					
<u>Name of the shareholder</u>	<u>citizenship</u>	<u>Residential status</u>	<u>No. of shares</u>	<u>Percentage of holding of the paid up capital</u>							

the applicant in generation, transmission, distribution and trading of electricity or similar activity

(viii) Year-wise current ratio and liquidity ratio of the applicant for three years preceding the year in which the application is mad.

(ix) (a) A statement whether applicant is authorized to undertake trading in electricity under the Memorandum of Association or any other document

(b) If so, reproduce the specific provision of Memorandum of Association or any other document so authorizing trading in electricity

(x) Details of the cases, if any, in which the applicant or any of his partners or promoters or Directors or Associates has been convicted of an offence involving moral turpitude or any economic offence during the previous three years preceding the year of making the application:

Name of the person Relationship with the applicant Nature of offence Date of conviction

(xi) Details of pending legal proceedings (civil and criminal), if any, involving the applicant or any of his partners or promoters or Directors or Associates:

Name of the person Relationship with the applicant Court before which pending Nature of proceedings Other party involved Present status

(xii) Details of cases, if any, where the applicant or any of his partners or promoters or Directors or Associates has been declared insolvent and has not been discharged.

2.	The application made and other documents filed before the Commission are available for inspection by any person with ..... (Give here name, designation, address and telephone number of the person with whom the application can be inspected)
3.	The application made and other documents filed before the Commission have been posted on _____ (Give address of the web site on which the application is posted).
4.	Objections, if any, on the application made before the Commission may be sent to the Secretary, Central Electricity Regulatory Commission, Core-3, Scope Complex, Lodi Road, New Delhi-110 003 (or give other address where office of the Commission is situated) within 30 days of publication of this notice, with a copy to the applicant.
5.	No objection shall be considered by the Commission if received after expiry of 30 days of publication of this notice.

Place:

Name and Designation of the  
Authorised Signatory

Date :

**FORM - III**

Proforma for submission of information for the Quarter ending  
(To be submitted to the Commission, Regional Load Despatch Centre and Regional Power Committee)

Name of the Trader:

License details (No & date):

S. No.	Date and time of transaction	Volume of electricity Traded (in million kWhs)	Purchased from*	Sold to*	Point of purchase	Purchase price	Point of sale	Sale price	Transmission/ wheeling charges paid, and whether the charges borne by Seller/ Trader/Buyer**	Transmission losses paid, and whether the charges borne by Seller/ Trader/ Buyer**	UI charges paid, and the charges whether borne by Seller/ Trader/ Buyer**	Trading margin recovered	Remarks
Total													

Note : All the transactions shall be reported on real time basis whether during peak period, off peak period or round the clock should not be aggregated.

\* Besides the name of the seller/buyer, indicate the category of the seller/buyer namely generator, captive power plant, distribution licensee, Government, consumer (when applicable) etc.

\*\* Strike out whichever is not applicable.

**FORM - IV**

Proforma for submission of Standards of Performance by Electricity Trader for the year ending 31<sup>st</sup> March

(To be submitted to the Commission)

Name of the Trader:

Licence details (No. & date):

S.No.	Volume of electricity traded during the year	Cumulative trading up to the present year since grant of licence	Whether there is any change in the category of electricity trader after grant of licence. If yes, give the necessary details	Whether net worth is increased for reason of change to higher category. If yes, give the necessary details	Whether additional license fee, due to change to higher category deposited with the Commission. If yes, give the necessary details	Whether any violation to the licence conditions pointed out by any agency or observed by the licensee himself. If so, give details thereof	Payment track record for electricity purchased for trading	Remarks
			(Yes / No)	(Yes / No)	(Yes / No)			

Name and address of the Applicant (in Bold letters)

Notice under Clause (b) of sub-section (2) of Section 18 of the Electricity Act,2003

1.	<p>The person above-named, who has been granted a Category _____ licence by the Central Electricity Regulatory Commission (the Commission) for inter-state trading of _____ Million Units in a year, has made an application before the Commission under clause (b) of sub-section (2) of Section 18 of the Electricity Act, 2003 for alterations and modifications in the licence as given hereunder:</p> <p>.....</p> <p>(Give here the details of alterations and modifications in the licence given in the application)</p>
2.	<p>The grounds for seeking alteration and modification are that:</p> <p>.....</p> <p>(Give here the grounds for alterations and modifications in the licence given in the application)</p>
3.	<p>The application made before the Commission is posted on _____ (Give here details of web site address ) and can be inspected by any person with</p> <p>.....</p> <p>(Give here the name of the person authorised as given in the application)</p>
4.	<p>The suggestions, if any, on the above-noted proposals for alteration and modifications in the licence, in the application made before the Commission, may</p>

	be sent to the Secretary, Central Electricity Regulatory Commission, 7 <sup>th</sup> Floor, Core-3, Scope Complex, Lodhi Road, New Delhi – 110003 (Or give other address where the Office of the Commission is situate) within 30 days of publication of this notice, with a copy to the applicant.
5.	No suggestions shall be considered by the Commission, if received after expiry of period of 30 days.

Place:

Name and Designation of the  
Authorised Signatory

Date :