

CENTRAL ELECTRICITY REGULATORY COMMISSION
7th Floor, Core-3, Scope Complex, Lodi Road, New Delhi 110 003

PUBLIC NOTICE

Subject: Draft Regulations on grant of licence for inter-state trading

In exercise of powers conferred under Electricity Act, 2003 (the Act), the Commission has made draft regulations on procedure, terms and conditions, for grant of licence for inter-state trading. The draft regulations are available on the Commission's website www.cercind.org and can be downloaded.

2. Notice is hereby given under sub-section (3) of Section 178 of the Act read with Section 23 of the General Clauses Act, 1897, that objections/suggestions/comments on the draft regulations may be sent to the undersigned latest by 31.12.2003.

3. The objections/suggestions/comments received after that in the Commission's office shall not be considered by the Commission while finalising these regulations.

(A.K. SACHAN)
SECRETARY

Date: 09-12-2003.

CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi

NOTIFICATION

No.

Dated

In exercise of powers conferred under Section 178 of the Electricity Act, 2003 and of all other powers enabling in this behalf, and after previous publications, the Central Electricity Regulatory Commission hereby makes the following regulations, namely: -

CHAPTER- I: PRELIMINARY

1. Short Title and Commencement

- (a) These regulations shall be called the Central Electricity Regulatory Commission (Procedure, Terms & Conditions for grant of Trading Licence and other related matters) Regulations, 2003.
- (b) These regulations shall come into force from the date of their publication in the Official Gazette.

2. Definitions and Interpretation

- (1) In these regulations unless the context or subject-matter otherwise requires:
 - (a) "Act" means the Electricity Act, 2003;
 - (b) "Applicant" means a person who has made an application to the Commission for grant of licence for inter-state trading;

(c) "Agreement" means the agreement entered into between the electricity trader and the seller of electricity on the one hand and the electricity trader and the buyer of electricity on the other;

(d) "Commission" means the Central Electricity Regulatory Commission established under Section 76 of the Act;

(e) "Conduct of Business Regulations" means the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, as amended from time to time and includes any statutory re-enactment thereof;

(f) "Grid Code" means the Grid Code specified by the Commission under clause (h) of sub-section (1) of section 79 of the Act and includes the Indian Electricity Grid Code applicable on the date on which these regulations have come into force;

(g) "Inter-state trading" means transfer of electricity from the territory of one State to the territory of another State by an electricity trader;

(h) "Licence" means a licence granted under Section 14 of the Act to undertake inter-state trading in electricity as an electricity trader;

(i) "Licensee" means a person who has been granted a licence under Section 14 of the Act to undertake inter-state trading in electricity as an electricity trader;

(j) "Other Business" means any business of the licensee other than the licensed business of inter-state trading;

(2) Save as aforesaid and unless repugnant to the context or the subject-matter otherwise requires, words and expressions used in these regulations and not defined, but defined in the Act, and the Grid Code shall have the meanings assigned to them respectively in the Act or the Grid Code.

(3) The General Clauses Act, 1897 (10 of 1897) as amended from time to time shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

(4) These regulations shall be applicable to trading carried out bilaterally between generators & traders on the one hand and the traders and licensees on the other. The Commission has recently introduced open access in Transmission. The State Electricity Regulatory Commissions are expected to formulate their regulations for open access in distribution in due course. The Central Commission is also preparing for introduction of power exchange/market. These regulations shall be reviewed and modified, from time to time, to keep pace with these developments.

CHAPTER- II : PROCEDURE FOR GRANT OF LICENCE FOR INTER-STATE TRADING

3. All proceedings under these regulations shall be governed by the Conduct of Business Regulations.

4. (1) The application for grant of licence for inter-state trading shall be made to the Commission in the manner specified under these regulations, in Form-I appended to these regulations and shall be accompanied by such fee as may be prescribed by the Central Government.

Provided that till such time the fee is prescribed by the Central Government, the application for grant of licence for inter-state trading shall be accompanied by a fee of Rs.1.00 lakh (Rupees one lakh only) payable through Bank Draft/Pay Order drawn in favour of Assistant Secretary, Central Electricity Regulatory Commission, New Delhi, and the fee so paid shall be subject to adjustment as and when the fee is prescribed by the Central Government.

(2) The application for grant of licence for inter-state trading, along with annexures and enclosures shall be submitted to the Commission on compact disc (CD).

(3) The applicant shall post complete application along with annexures and enclosures on his own website, so as to facilitate access to the application by any person through Internet.

(4) The applicant shall within 7 days after making such application, publish a notice of his application, in at least two national English daily newspapers including one economic newspaper and two local newspapers falling within the area or areas of trading, one of which shall be in vernacular, with the following particulars, namely:

(a) Name of the applicant in bold at the top clearly bringing out whether the applicant is an individual, a partnership firm, private limited company or a public limited company, incorporated under the Companies Act, 1956, giving full particulars of its office address and the registered office address in case of a Company incorporated under the Companies Act, 1956.

(b) A statement that the applicant has made an application for grant of licence in inter-state trading under sub-section (1) of Section 15 of the Act, to the Central Electricity Regulatory Commission.

(c) Share holding pattern, financial and technical strength and management profile of the applicant.

(d) 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.

(e) Details of past experience of the applicant or the persons on its management in same or similar activity.

- (f) Geographical areas within which the applicant will undertake trading in electricity as stated in the application made to the Commission.
 - (g) 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.
 - (h) 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.
 - (i) A statement to the effect that complete application is available in the website of the applicant.
 - (j) A statement that objections, if any, be filed before the Secretary, Central Electricity Regulatory Commission, 7th Floor, Core-3, Scope Complex, Lodhi Road, New Delhi - 110 003 or at the 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.
- (5) The applicant shall within 7 days from the date of publication of the notice as aforesaid submit to the Commission on affidavit the details of the notice published and shall also file relevant copies of the newspapers in which the notice is published.
- (6) The applicant may file his comments on the objections or suggestions received in response to the notice within 45 days of its publication in the newspapers.
- (7) The Commission may consider the application for grant of licence for inter-state trading through a hearing or without any hearing, as considered appropriate.

Provided that the Commission may issue a licence for inter-state trading on being satisfied that the applicant qualifies for issue of such licence under the provisions of the Act and the Rules and the Regulations.

Provided further that before granting the licence, the Commission shall publish a notice of its proposal to grant the licence in two daily newspapers, as the Commission may consider necessary, stating the name and address of the person to whom it proposes to issue the licence, with such other details as the Commission considers appropriate.

(8) As far as possible the licence shall be granted in accordance with format prescribed in Form 2 appended to these regulations.

CHAPTER III – REQUIREMENTS OF BEING AN ELECTRICITY TRADER

5. Technical Requirements

(1) The applicant shall have at least one full-time professional having, experience in each of the following disciplines, namely:

- (i) Power system operations,
- (ii) Finance, commerce and accounts .

(2) The technical requirement of staff shall be complied with before undertaking trading activities, notwithstanding the fact that the Commission has granted the licence for inter-state trading.

(3) The applicant shall furnish to the Commission the details of the professional and the supporting staff engaged by him on full-time basis before undertaking inter-state trading.

6. Capital adequacy Requirement and Creditworthiness:

(1) 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)	Net worth (Rs. in crore)
1	A	Upto 100 million	2.00
2	B	100 to 200 million	4.00
3	C	200 to 500 million	10.00
4	D	500 to 700 million	15.00
5	E	700 to 1000 million	20.00
6	F	Above 1000 million	25.00

CHAPTER - IV : TERMS AND CONDITIONS OF THE LICENCE

7. Obligations of the Licensee

The licensee shall be subject to the following obligations:

- (a) The licensee shall comply with the requirements of laws in force and, in particular, the Act, the Rules and the Regulations, Grid Code, orders and directions issued by the Commission from time to time.
- (b) The licensee shall increase his net worth if the volume of trade moves from a lower category to a higher category and the change of category shall be decided based on the volume of electricity traded as on 31st March of each year of which the licensee shall keep the Commission informed of his moving from one category to the other and subsequent changes in the net worth.

- (c) The trading margin for the inter-state trading fixed by the Commission, from time to time, shall be applicable to the licensee.
- (d) The licensee shall be governed by the technical requirements, capital adequacy requirement and creditworthiness specified by the Commission in these regulations, for being an electricity trader and shall upgrade these technical and capital adequacy requirements including staff, when the volume of trading increases.
- (e) The licensee shall establish adequate communication facilities like telephone, fax, computer, internet facilities, before undertaking the trading.
- (f) The licensee shall render all assistance to any person authorised by the Commission for carrying out his duties relating to the licence.
- (g) The trading shall be carried out bilaterally between the parties by entering into appropriate contracts. Necessary safeguards with regard to supply of electricity through trading, or payment for the electricity traded shall be included in the agreements between the parties. All trading arrangements shall be done through the letters of credit or with any other superior instrument.
- (h) The licensee shall pay the licence fee specified under these regulations in accordance with the time-schedule specified hereunder.
- (i) The Commission may issue such directions as it considers appropriate to a trading licensee if such licensee enters into any agreement leading to abuses of its dominant position or enters into a combination which is likely to cause or causes an adverse effect on competition in electricity industry, and the licensee shall comply with such directions.

8. Prohibited Activities

(1) The licensee shall not, without prior approval of the Commission:

(i) Acquire by purchase or take over or otherwise the utility of any other licensee, or

(ii) Merge his utility with the utility of any other licensee, or

(iii) Assign or transfer his licence to any person, by sale, lease, exchange or otherwise.

(2) The licensee shall not engage in the business of transmission of electricity.

(3) Wherever prior approval of the Commission is required, the licensee shall file an appropriate application before the Commission, in accordance with the Conduct of Business Regulations.

9. Payment of Licence Fee

(1) The licensee shall pay to the Commission the annual licence fee of the amount specified hereunder, payable by means of a demand draft/pay order drawn in favour of the Assistant Secretary, Central Electricity Regulatory Commission, New Delhi:

Sl. No.	Category	Licence fee (Rs. in lakh)
1	A	1.00
2	B	2.00
3	C	5.00
4	D	7.00
5	E	10.00
6	F	15.00

Provided that for a part of the year the licence fee shall be payable pro rata on number of days basis.

(2) The licence fee shall be paid by 15th April of each year, and in case the trader has moved from a lower category to a higher category, the balance of licence fee shall be paid before 30th April of each year.

Provided that the first installment of the licence fee shall be paid within one month of issue of licence.

Provided further that in case the licensee fails to pay the licence fee or a part thereof, the licensee shall be liable to pay late payment surcharge on the outstanding amount at the rate of 1% of the licence fee payable per month or a part of the month, for the period the licence fee or any part thereof remains unpaid.

(3) Notwithstanding the liability of the licensee to pay the late payment surcharge as aforesaid, the delay in payment licence fee or a part thereof, shall be construed as breach of the terms and conditions of the licence and the licence shall be liable to be revoked.

10. Accounts of the Licensee

(1) The licensee shall -

- (a) Maintain separate information and statement of accounts for the business of inter-state trading covered by the licence.
- (b) Maintain the statement of accounts in such form and contain such particulars as may be specified by the Commission and till such time these are specified by the Commission, the accounts shall be maintained in accordance with the Companies Act, 1956, as amended from time to time.
- (c) Keep the accounts of the business of inter-state trading separate from other business, whether licensed or otherwise.
- (d) Prepare on a consistent basis from such records accounting statements for each financial year comprising a profit and loss account, a balance sheet and a statement of source and application of funds together with notes thereto and showing

separately the amounts of any revenue, cost, asset, liability, reserve, or provision which has been either:

- (i) Charged from or to any other business together with a description of the basis of that charge ; or
 - (ii) Determined by apportionment or allocation between the various business activities together with a description on the basis of the apportionment or allocation,
- (e) Provide in respect of the accounting statements prepared in accordance with foregoing clauses, a report by the Auditors in respect of each Financial Year, stating whether in their opinion the statements have been properly prepared and give a true and fair view of the revenue, costs, assets, liabilities, reserves reasonably attributable to the business to which the statements relate, and
- (f) Submit to the Commission copies of the accounting statements and Auditor's report not later than six months after the close of the financial year to which they relate.

(2) Any person authorised by the Commission shall be entitled to inspect and verify the accounts of the licensee and the licensee shall render all necessary assistance to such person.

11. Submission of Information

The licensee shall

- (a) Supply such information, as may be called for by the Commission from time to time.
- (b) Furnish the information as may be required from time to time to monitor the licensee's performance and compliance of the terms and conditions of the licence and any other legislative or regulatory

requirement in Form III appended to these regulations for submission of information.

Provided that the information in the prescribed Form shall be furnished to the Regional Load Despatch Centre and Regional Electricity Board or Regional Power Committee, as the case may be, on a quarterly basis on 10th day of April, July, October and January for the quarters January to March, April to June, July to September and October to December respectively. and the format for submission of information shall be filled up complete in all respects and no column shall be left blank.

Provided further that the Regional Load Despatch Centre and Regional Electricity Board or Regional Power Committee, as the case may be, shall verify the quantum of energy traded, as indicated in the reports and submit a report to the Commission.

12. Standards of performance

- (1) The Commission may, after consultation with the licensee specify the standards of performance of the licensee or class of licensees.
- (2) Notwithstanding the above, the licensee shall furnish the performance details on a monthly basis to the Commission in the format prescribed in Form - IV appended to these regulations, by 15th day of every month.

13. Prudential Reporting

The licensee, shall, as soon as practicable report to the Commission:

- (a) Any significant changes in its circumstances which may affect the licensee's ability to meet its obligations under the Act, rules and regulations directions/orders issued by the Commission, the Grid Code, agreement or the licence.

- (b) Any material breach of the provisions of the Act, the rules and the regulations, directives/orders issued by the Commission, the Grid Code, agreement or the licence.

- (c) Any major change in shareholding pattern, ownership or management of the licensee.

14. Amendment of Licence

(1) The terms and conditions of the licence may be modified by the Commission in public interest or on an application made by the licensee.

(2) The procedure specified in Regulation 4 herein above shall *mutatis mutandis* be applicable in case the licensee makes an application for alternations or modifications to the terms and conditions of the licence.

15. Revocation of Licence

(1) The Commission, may revoke the licence if it is satisfied that public interest so requires, in any of the following circumstances, namely:

- (i) Where the licensee in the opinion of the Commission, makes willful and prolonged default in doing anything required of him by or under the Act, or the rules or the regulations.
- (ii) Where the licensee breaks any of the terms and conditions of his licence the breach of which is expressly declared by such licence to render it liable to revocation.
- (iii) Where the licensee fails, within the period fixed in this behalf by his licence, or any longer period allowed by the Commission –

(a) to show, to the satisfaction of the Commission, that he is in a position fully and efficiently to discharge the duties and obligations imposed on him by his licence; or

(b) to make the deposit or furnish the security, or pay the fees or other charges as required by his licence.

(iv) Where in the opinion of the Commission the financial position of the licensee is such that he is unable to fully and efficiently discharge the duties and obligations imposed on him by his licence.

Provided that the licence shall not be revoked except after an enquiry by the adjudicating officer appointed under Section 143 of the Act in the manner prescribed by the Central Government.

(2) When the licensee makes an application for revocation of the licence and the Commission is satisfied that public interest so requires, the Commission may revoke his licence, with such other terms and conditions as it thinks fit.

Provided that the Commission may, instead of revoking a licence under clause (1) above may permit the licence to remain in force subject to such further terms and conditions as it thinks fit and, any further terms and conditions so imposed shall be binding upon and be observed by the licensee and shall be of like force and effect as if they were contained in the licence.

(3) The Commission shall serve a notice of revocation upon the licensee and fix a date on which the revocation shall take effect.

16. Communication

(1) All communications relating to the licence shall be in writing and shall be delivered either in person to the addressee or his authorized agent, or sent by registered/speed post at the place of business of the addressee.

(2) All communications shall be regarded to have been given by the sender and received by the addressee –

- (i) when delivered in person to the addressee or to his authorised agent;
- (ii) on expiry of 15 days from the date of sending by registered/speed post at the address of the addressee.

17. Power to relax

The Commission may in appropriate cases and for reasons to be recorded in writing relax any of the provisions of these regulations.

CERC (Procedure Terms & Conditions for grant of Trading Licence and other related matters) Regulation, 2003.

Application form for grant of Trading Licence

Particulars of the Applicant

1. Name of the applicant :
2. Address :
3. Name, Designation & Address of the contact person :
4. Contact Tel. Nos. :
5. Fax No. :
6. E-mail ID :
7. Place of Incorporation/Registration :
8. Year of Incorporation/Registration :
9. Following documents are to be enclosed
 - a) Certificate of registration :
 - b) Certificate for commencement of business :
 - c) Original power of attorney of the signatory to the Applicant or its promoter :
 - d) Details of Income tax Registration :

Details of Financial Data of Applicant

10. Net worth (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)

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

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

11. 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)

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

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

12. List of documents enclosed in support of Sl. Nos. (10) and (11) above:

Name of the document

- a) _____
 b) _____
 c) _____
 d) _____

13. a) Whether applicant himself shall be financing the proposed trading fully on its own balance sheet Yes/No

- b) If, Yes, proposed equity from

the applicant

- i) Amount :
- ii) Percentage :

14. In case the applicant proposes to tie up with some other Agency for equity, then name & address of such agency:

a) Name, designation & Address of reference person of the other Agency :

b) Contact Tel. No. :

c) Fax No. :

d) E-mail ID :

e) Proposed equity from the other Agency

i) Amount :

ii) Percentage of total equity :

iii) Currency in which the equity is proposed :

f) Consent letter of the other Agency to associate with the Applicant for equity participation to be enclosed.

g) Nature of proposed tie-up between Applicant and the other agency.

15. Details of debt proposed for the Trading activity:

a) Details of Lenders :

b) Amount to be sourced from Various lenders :

c) Letters from the lenders in support of the above to be enclosed. :

16. Organisational & Managerial Capability of Applicant:

(Applicant is required to enclose proof of their Organisational & Managerial Capability, in terms of these Regulations, in form of proposed organisational structure & curricula vitae of various Executives, proposed office and communication facilities etc.)

17. Approach & Methodology:

(Applicant is required to describe Approach & Methodology for establishment of the Trading arrangements as proposed by the applicant.)

(Signature of Applicant)

Dated :

CENTRAL ELECTRICITY REGULATORY COMMISSION

LICENSE TO TRADE IN ELECTRICITY AS AN ELECTRICITY TRADER

1. The Central Electricity Regulatory Commission (hereinafter referred to as “the Commission”), in exercise of the powers conferred under Section 14 of the Electricity Act, 2003 (hereinafter referred to as “the Act”), hereby grants this licence to _____, (hereinafter referred to as “the licensee”) to trade in electricity as an electricity trader in the area _____ subject to the terms & conditions contained in the Act, (in particular, Sections 17 to 22 thereof, both inclusive), the Rules made by the Central Government (hereinafter referred to as “the Rules”) and the Regulations specified by the Commission (herein after referred to as “the Regulations”), including statutory amendments, modifications, reenactments thereof, which shall be read as part and parcel of this licence.
2. This licence is not transferable, except in accordance with the provisions of the Act, the Rules and the Regulations.
3. (1) The licensee shall not without prior approval of the Commission—
 - (a) undertake any transaction to acquire by purchase or take over or otherwise, the utility of any other licensee; or
 - (b) merge its utility with utility of any other licensee;(2) The licensee shall not at any time assign its licence, or transfer its utility, or any part thereof, by sale, lease or otherwise without the prior approval of the Commission

(3) Any agreement relating to any transaction referred to in sub-clause (1) unless made with the approval of the Commission, shall be void.

4. The grant of this licence to the licensee shall not in any way hinder or restrict the right of the Commission to grant a licence to any other person within the same area for trading in electricity as an electricity trader. The licensee shall not claim any exclusivity.
5. This licence shall commence on the date of its issue and unless revoked earlier, shall continue to be in force for a period of 25 (twenty five) years.
6. The licensee may with prior intimation to the Commission, engage in any business for optimum utilisation of its assets.

Provided that the licensee shall not engage in the business of transmission of electricity.

7. Unless otherwise specified by the Commission, the licensee shall pay annual license fee of Rs. ___lakh, and license fee for a part of the year shall be paid on pro-rata basis.

The year for the purpose of this clause means a period of twelve months from 1st April of a year to 31st March of the following year.

8. The provisions contained in Sections 19 to 22, both inclusive, of the Act shall apply to the licensee with regard to revocation of licence and sale of utility of the licensee.

SECRETARY

Place: New Delhi.

Date:

CERC (Procedure, Terms & Conditions for grant of Trading License and other related matters) Regulation, 2003

Proforma for submission of information for the Quarter (say January to March, 2004)

Name of the Trader:

License details (No & date):

S.No.	Volume of Trading in million Kwhs	Purchased from	Sold to	Point of purchase	Purchase price	Point of sale	Sale price	Transmission /wheeling charges borne by Seller/Trader/Buyer*	Transmission losses borne by Seller/Trader/Buyer*	UI charges borne by Seller/Trader/Buyer*	Remarks

* Strike out whichever is not applicable.

CERC (Procedure, Terms & Conditions for grant of Trading License and other related matters) Regulation, 2003Proforma for submission of Standards of Performance of Electricity Trader

(to be submitted through RLDC)

Name of the Trader:

License details (No. & date):

S.No.	Volume of trading during the quarter	Cumulative trading upto the present quarter	Whether there is any change in the category of trader (Yes / No)	Whether networth is increased, due to change of category (Yes / No)	Whether additional license fee, due to change in category deposited with the Commission (Yes / No)	Whether any violation to the license conditions pointed out by any agency or observed by the licensee himself	Payment track record for energy purchased for trading	Remarks