

CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi

NOTIFICATION (DRAFT)

No.L-7/143/158/2008-CERC

Dated the 2008

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

CHAPTER- I : PRELIMINARY

1. Short Title and Commencement

(a) These regulations may be called the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2008.

(b) These regulations shall come into force on and 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, (36 of 2003);

(b) "applicant" means a person who has made an application to the Commission for grant of licence;

(c) "associate", in relation to a person, includes such other person –

(i) who owns or controls shares carrying not less than twenty percent of the voting rights of that person; or

(ii) in respect of whom that person, 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 that person; or

(iv) whose director, officer or employee is also a director, officer or employee of that person; or

(v) who is a member of the group of companies under the same management of which that person is a member;

Explanation: For the purpose of this sub-clause, two bodies shall be deemed to be under the same management:

(i) if the managing director or manager of one company is the managing director or manager of the other company; or

- (ii) if a majority of the directors of one company constitute or any time within the six months immediately preceding constituted a majority of the directors of the other company; or
- (iii) if not less than one third of the total voting power with respect to any matter relating to each of the two companies is exercised or controlled by the same individual or body corporate; or
- (iv) if the holding company of one company is under the same management as the other company within the meaning of clause (i) or clause (ii) or clause (iii) of this explanation; or
- (v) if one or more directors of one company while holding whether by themselves or otherwise the majority of shares in that company also hold whether by themselves or otherwise the majority of shares in the other company.

(d) “Commission” means the Central Electricity Regulatory Commission referred to in 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) "current ratio" means ratio between the current assets and current liabilities, where

(i) current assets include cash or cash equivalent of money, accounts receivables, inventory, marketable securities, and pre-paid expenses, and

(ii) current liabilities include sundry creditors provisions and other liabilities to be discharged within a period of one year;

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

(h) "existing licensees" means the persons holding licence on the date of commencement of these regulations;

(i) "fraud" has the same meaning as is assigned to it by Section 17 of the Indian Contract Act, 1872 (9 of 1872);

(j) "Grid Code" means the Grid Code specified by the Commission under clause (h) of sub-section (1) of Section 79 of the Act from time to time;

(k) "inter-State trading" means transfer of electricity by an electricity trader from the territory of one State for re-sale to the territory of another State and includes electricity imported from or exported to any other country for re-sale;

- (l) "licence" means a licence granted to any person by the Commission to undertake inter-State trading in electricity as an electricity trader;
- (m) "licensee" means a person who has been granted licence;
- (n) "liquidity ratio" means the ratio between the liquid assets and current liabilities, where
- (i) liquid assets include the current assets less inventory, and
 - (ii) current liabilities include sundry creditors, provisions and other liabilities to be discharged within a period of one year;
- (o) "net worth" means aggregate value of the paid up equity capital and free reserves (excluding reserves created out of revaluation) reduced by the aggregate value of accumulated losses, deferred expenditure (including miscellaneous expenses) not written off and loans and advances to the associates;
- (p) "other business" means any business of the licensee other than the licensed business of inter-State trading;
- (q) "promoter" with reference to a company means a person who has promoted and is actively associated with the management of the company or holds not less than 20% of the share capital of such company;

(r) "year" means a period of twelve months from 1st April of a calendar year to 31st March of the following calendar year.

(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, or the Grid Code shall have the meanings assigned to them respectively in the Act or the Grid Code.

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

CHAPTER- II : REQUIREMENTS OF BEING AN ELECTRICITY TRADER

3. Qualifications

(1) Qualification of Domicile.

The applicant shall be a citizen of India, or a partnership firm registered under the Indian Partnership Act, 1932 (9 of 1932) or a company incorporated under the Companies Act, 1956 (1 of 1956) or an association or body of individuals who are citizens of India whether incorporated or not or an artificial juridical person recognised under the Indian Laws.

(2) Technical Qualifications.

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

(a) power system operations and commercial aspects of power transfer; and

(b) finance, commerce and accounts.

(3) **Capital adequacy and Liquidity Requirements**

(a) Considering the volume of inter-State trading proposed to be undertaken, the net worth of the applicant for three years immediately preceding the year in which the application is made or such lesser period during which the applicant may have been incorporated, registered or formed and on the date of special balance sheet accompanying the application, shall not be less than the amount specified hereunder or any other amounts that may be specified by the Commission from time to time:

Sr No.	Category of the Trading Licence	Volume of Electricity proposed to be traded in a year	Net Worth (Rs.in crore)
1	Category I	No limit	50.00
2	Category II	Not more than 500 Million units	25.00
3	Category III	Not more than 100 Million units	5.00

(b) The applicant shall have minimum current ratio of 1.5:1 and liquidity ratio of 1:1 consistently for three years immediately preceding the year in which the application is made or such lesser period as may be applicable, and on the date of special balance sheet accompanying the application.

4. **Disqualifications.** The applicant shall not be qualified for grant of licence if:

- (a) The applicant, or any of his associates, partners, or promoters, or Directors is an undischarged insolvent; or
- (b) The applicant, or any of his associates or partners, or promoters, or Directors 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 or the consumers; or
- (c) The applicant, or any of his associates or partners, or promoters, or Directors has been convicted of an offence involving moral turpitude, fraud, or any economic offence during the year of making the application or three years immediately preceding that year ; or
- (d) An order canceling the licence of the applicant, or any of his associates or partners, or promoters, or Directors, has been passed by the Commission; or
- (e) The applicant or any of its Directors holds a licence for transmission of electricity; or
- (f) The applicant, or any of his associates or partners, or promoters, or Directors has in the past been –

- (i) refused a licence on the grounds which continue to remain valid,
or
- (ii) found guilty in any proceedings for non-compliance of any of the provisions of the Act or the rules or the regulations made thereunder during the year of making the application or five years immediately preceding that year; or
- (g) 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.

CHAPTER- III : PROCEDURE FOR GRANT OF LICENCE

5. Proceedings before the Commission

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

6. **Procedure for grant of licence**

(1) Any person desirous of undertaking inter-State trading in electricity shall make an application to the Commission for grant of licence in the manner specified in Form-I appended to these regulations and such application shall be accompanied by

(a) such fee as may be prescribed by the Central Government from time to time payable through Bank Draft or Pay Order drawn in favour of Assistant Secretary, Central Electricity Regulatory Commission, New Delhi.

(b) Copies of the annual reports in case of the persons incorporated under the Companies Act, 1956 (1 of 1956) and audited accounts along with the Directors' Report, Auditors' Report, the Schedules and notes on accounts for three years immediately preceding the year in which the application has been made and the special balance sheet as on any date not more than 30 days immediately preceding the date of making the application:

Provided that where the applicant has not been incorporated, registered or formed during the period of three years immediately preceding the year in which the application is made, the application shall be accompanied by the copies of the annual reports and audited accounts for such lesser period for which the applicant has been in existence.

(2) The application for grant of licence, along with annexures and enclosures shall also 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 or any other authorised website, so as to facilitate access to the application by any person through internet and shall keep them on the website till the disposal of his application.

(4) The applicant shall within 7 days after making such application, publish a notice of his application, in two daily newspapers having circulation in each of the five regions in addition to those published from Delhi, including one economic daily newspaper in Form II, 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, an association or body of individuals, 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 address for correspondence;

(b) A statement that the applicant has made an application for grant of licence for Category I or Category II or Category III, as the case may be, under sub-section (1) of Section 15 of the Act, to the Central Electricity Regulatory Commission;

(c) Share capital

(Rs. In lakh)

(i) Authorised:

(ii) Issued:

(iii) Subscribed:

(iv) Paid up:

(d) Shareholding pattern (List of details of shareholders holding 5% or more shares, number of shares held by each of them and percentage of shares of the total paid-up capital) of the applicant;

(e) Financial and technical strength of the applicant;

(f) Volume of electricity intended to be traded per year;

(g) Management profile of the applicant including details of past experience of the applicant or the persons on its management in same or similar activity;

(h) Geographical areas within which the applicant will undertake trading in electricity;

(i) Net worth of the applicant as on 31st March of three consecutive years immediately preceding the year of application or for such lesser period as may be applicable and on the date of the special balance sheet accompanying the application;

(j) A statement whether the applicant or any of his associates or partners or promoters or Directors has been declared insolvent, if so, the details thereof and whether or not they have been discharged;

(k) A statement giving details of cases resulting in conviction of an offence involving moral turpitude or fraud or economic offence of the applicant, or any of his associates or partners or promoters or Directors during the year of making the application or three years immediately preceding that year;

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

are pending, the case number and the latest status of each such case;

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

(n) A statement whether the applicant or any of his Directors is in possession of a licence for transmission of electricity and if so, the details thereof;

(o) A statement whether an order canceling the licence of the applicant or any of his associates, partners, promoters, Directors has been made by the Commission and if so the details thereof;

(p) A statement whether the applicant or any of his associates, partners, promoters, Directors has been found guilty for non-compliance of any of the provisions of the Act or the rules or the regulations made thereunder and if so the details thereof;

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

(r) 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;

(s) Address of the website where the complete application along with annexures, enclosures, has been posted;

(t) A statement that objections, if any, be filed before the Secretary, Central Electricity Regulatory Commission, _____ (Give here address where the office of the Commission is situate), New Delhi 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 the original complete page of the newspaper in which the notice has been published.

(6) The applicant may file his reply to the objections or suggestions received in response to the notice within 45 days of its publication in the newspapers.

(7) The Commission after consideration of the objections received in response to the notice published by the applicant and his reply may propose to grant licence.

(8) When the Commission proposes to grant licence, it shall publish a notice of its proposal in two daily newspapers, as the Commission may consider appropriate, 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, to invite further objections or suggestions to its proposal.

(9) On consideration of further objections or suggestions received and the reply of the applicant thereto, if any, the Commission may grant the licence or reject the application, for reasons to be recorded in writing if the application does not conform to the provisions of the Act, the rules or the regulations or provisions of any other law for the time being in force:

Provided that no application shall be rejected, unless the applicant has been given an opportunity of being heard.

(10) As far as practicable the licence shall be granted in accordance with format prescribed in Form III appended to these regulations.

CHAPTER - IV : TERMS AND CONDITIONS OF THE LICENCE

7. Obligations of the Licensee

The licensee shall be subject to the following obligations; namely:-

(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 from time to time by the Commission and any of the State Electricity Regulatory Commissions in accordance with law.

(b) The licensee shall not exceed the volume of trading authorized under the licence, but may, in exceptional circumstances, undertake trading in electricity up to the maximum of 120 per cent of the volume of trade authorized under the licence granted to him:

Provided that the licensee, on exceeding the volume of trading authorized in a year under the licence granted to him shall pay licence fee applicable to the higher category for that year:

Provided further that the licensee may with the prior approval of the Commission and on such terms and conditions as the Commission may decide, exceed the specified limit of 120%.

(c) The licensee shall not charge any amount exceeding the trading margin for the inter-State trading in electricity, fixed by the Commission from time to time.

(d) The licensee shall continue to be governed by the qualifications or disqualifications specified in these regulations for making an application for licence throughout the period of licence.

(e) The licensee shall establish adequate communication facilities like telephone, fax, computer, internet facilities, before undertaking trading.

(f) The licensee may coordinate with Regional Power Committees, the Central Transmission Utility, State Transmission Utilities, the Regional Load Despatch Centres, and the State Load Despatch Centres with regard to his trading- related activities, to the extent authorized by the concerned buyer and seller.

(g) The licensee shall render all assistance to any person authorised by the Commission for carrying out his duties relating to the licence.

(h) The licensee shall carry out trading in accordance with the agreed terms and conditions, and the licensee may take such safeguards as he may consider necessary with regard to payment security mechanism from the buyers, but shall always ensure timely payment of dues to the seller for purchase of the agreed quantum of electricity either through a letter of credit or any other appropriate instrument or as may be mutually agreed between the seller and the licensee.

(i) The licensee shall ensure that proper agreement for purchase and sale of electricity are entered into by him with the sellers and the buyers prior to scheduling a transaction, and that the agreement shall specify the following, namely-

- (i) the boundaries, that is to say, upper and lower MW limits of electricity to be purchased or sold,
- (ii) modalities for scheduling,
- (iii) persons authorized to specify the schedule, or to modify a schedule after it has been intimated to the Regional Load Despatch Centre or the State Load Despatch Centre,

(iv) whether the buyer or the seller can unilaterally advise modification of the schedule, or whether the modification can only be advised jointly by the seller and the buyer,

(v) the liabilities of the parties (seller, buyer and licensee) in case the scheduled quantum (MW) and time of scheduling differs from the agreed terms, or in case of modification in schedule, and in the latter case, the party that will bear non-refundable part of short-term open access charges.

(j) The licensee shall ensure that there is no discrepancy or scope for dispute in the scheduling advised to the Regional Load Despatch Centre and in case of any discrepancy or ambiguity in the scheduling advice, the decision of the Regional Load Despatch Centre on the acceptance or otherwise of such advice shall be binding.

(k) The licensee shall ensure that the buyer and the seller are, either grid connected entities or represent such entities, with special energy meters on their periphery and that the mechanism for Unscheduled Interchange accounting by the appropriate authority is in place.

(l) The licensee shall ascertain that MW quantum of a buyer does not exceed the maximum deficit that the buyer can have, that is to say, maximum consumer load minus minimum generation and that, MW quantum of a seller does not exceed the maximum possible surplus of the seller, that is to say, maximum generation minus estimated consumer load.

Note: For the purpose of this clause, 'generation' shall include entitlements under power purchase agreements entered into for catering to the consumer demand in utility's system.

(m) The licensee shall not purchase electricity from the entities and the associates of such entities, defaulting in payment of Unscheduled Interchange charges, transmission charges and fee and charges for National Load Despatch Centre or Regional load Despatch Centre or the Unified Load Despatch and Communication Scheme, when so advised by the Commission.

(n) The licensee shall regularly pay the licence fee specified by the Commission from time to time.

(o) The licensee shall not omit or neglect to undertake trading activity.

(p) The licensee shall not enter into any agreement for purchase or sale of electricity that may lead to abuse of his dominant position or enter into a combination which causes or is likely to cause an adverse effect on competition in electricity industry.

(q) The licensee shall maintain up-to-date record of all the trading transactions undertaken by him, separately for bilateral transactions and those through the power exchange.

(r) The licensee shall make an appropriate application before the Commission for prior approval of the Commission whenever so required, in accordance with the Conduct of Business Regulations.

8. **Accounts of the Licensee**

(1) The licensee shall -

(a) maintain separate information and statement of accounts for the business 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, (1 of 1956) as amended from time to time;

(c) keep the accounts of the business covered by the licence separate from any other business, whether licensed or otherwise;

(d) prepare on a consistent basis from such records, accounting statements for each 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 of 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 year, stating whether in their opinion the statements

have been properly prepared and give a true and fair view of the revenue, costs, assets, and 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 nine months after the close of the year to which they relate and shall keep them posted in its website or any other authorized website for a period of at least two years thereafter.

(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.

9. **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 he may be asked 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 IV appended to these regulations, separately for

submission of information for inter-State trading and intra-State trading, bilateral trading and trading through power exchange:

Provided that the information in Form IV shall be furnished to the Commission, 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 report sent to the Commission shall be posted on the website of the licensee or any other authorised website, and the report posted on the website shall be available therein at least for two years.

(c) submit to the Commission copies of the Annual Reports including Directors' report, Auditors' report, Balance Sheet and Profit & Loss Account pertaining to inter-State trading segment of the business alongwith all the schedules and notes to the accounts, not later than nine months after the close of the year to which they relate and shall keep them posted in its website or in any authorized website for a period of at least two years thereafter.

(d) report to the Commission the following events as soon as possible:

(i) when the applicant or any of his associates, partners, promoters, Directors has declared insolvent;

(ii) when the applicant, or any of his associates, partners, promoters, Directors has been involved in any legal proceedings, civil and criminal;

(iii) when the applicant, or any of his associates, partners, promoters, Directors has been convicted of an offence involving moral turpitude, fraud, or any economic offence.

(iv) When the licence of any of the associates, partners, promoters, Directors has been cancelled by the Commission.

(v) When the applicant, or any of his associates, partners, promoters, Directors has been found guilty for non-compliance of any of the provisions of the Act or the rules or the regulations made thereunder.

10. **Standards of performance**

(1) The Commission may, after consultation with the licensee specify the standards of performance of a licensee or a class of licensees.

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

11. **Prudential Reporting**

The licensee shall, as soon as possible, report to the Commission -

(a) any significant change in his circumstances which may affect the licensee's ability to meet his obligations under the Act, the Rules and the Regulations, directions and 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 and orders issued by the Commission, the Grid Code, agreement or the licence; and

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

12. **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:

Provided that before ordering any substantive alteration or modification 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 alterations and modifications; and
- (d) inviting suggestions, if any, on the proposal for consideration of the Commission within the time specified in the notice.

(2) The procedure specified in Regulation 6 shall *mutatis mutandis* be applicable in case the licensee makes an application for any substantive alteration of or modification to the terms and conditions of the licence:

Provided that where the licensee has made an application under sub-section (1) of Section 18 of the Act, proposing any substantive alteration and modifications in his licence, he shall publish a notice of such application in two daily newspapers having circulation in all the five regions, in addition to those

published from Delhi, including one economic newspaper, in Form VI, with the following particulars, namely:-

- (a) name of the applicant;
- (b) category of the licence granted to him;
- (c) that an application for alteration and modifications has been made before the Commission;
- (d) details of alteration and modifications proposed in the application,
- (e) reasons for seeking such alterations and modifications;
- (f) a statement that the application made before the Commission has been posted on the website and can also be inspected in the office of the applicant;
- (g) a statement that any suggestion to the proposal for alteration and modifications made in the application may be submitted to the Secretary of the Commission within one month of publication of the notice.

13. **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 or speed post or by hand delivery through a messenger or publication in a newspaper where the Commission is satisfied that it is not reasonably practicable to serve the notice on the licensee through registered post or 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 the 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.

CHAPTER- V : REVOCATION OF LICENCE

14. Revocation of Licence

(1) The Commission may revoke the licence, in any of the following circumstances, namely:-

(a) 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;

(b) Where the licensee breaches 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;

(c) Where the licensee fails, within the period fixed in this behalf by his licence, or any longer period which the Commission may allow therefor, 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;

(d) 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;

(e) Where the licensee has neglected to undertake trading in electricity for four or more consecutive quarters;

(f) Where the licensee fails to meet the qualifications specified for making an application or incurs any of the disqualifications under these regulations;

(g) Where the licensee fails to submit the information as required in accordance with the regulation 11:

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

Provided further that the Commission may, instead of revoking a licence under clause (1) above, permit the licence to remain in force subject to such further terms and conditions as it thinks fit to impose, 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.

(2) When the licensee makes an application for revocation of the licence and the Commission is satisfied that such revocation of licence shall not prejudicially affect the public interest, the Commission may revoke his licence, on such terms and conditions as it thinks fit.

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

CHAPTER-VI : MISCELLANEOUS

15. **Existing Licensees.**

(1) The existing licensees shall be re-classified as under, namely -

Existing Category	Proposed Category
Category `A`	Category III
Category `B`, `C`, `D` and `E`	Category II
Category `F`	Category I

(2) The existing licensees shall meet the net worth, current ratio and liquidity ratio criteria specified in these regulations within a period up to 31.3.2010.

(3) The existing licensees shall pay the licence fee as may be specified by the Commission from time to time:

Provided that the licence fee when revised, shall be payable by the existing licensees on pro rata basis from the date of such revision to the end of the year.

16. **Communication**

(1) Unless otherwise specified in these regulations, 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 or 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 or 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.

18. **Repeal and Saving**

(1) Save as otherwise provided in these regulations, the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2004 shall stand repealed from the date of commencement of these regulations.

(2) Notwithstanding such repeal, anything done or purported to have been done under the repealed regulations shall be deemed to have been done or purported to have been done under these regulations.

(Alok Kumar)
Secretary

FORM - I

Application form for grant of Licence for Inter-State Trading

1. Name of the applicant :
2. Address :
 - (a) Registered office address
 - (b) Address for correspondence
 - (c) Website 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, registered under the Indian Partnership Act, 1932 (9 of 1932), an individual or sole proprietor, or any other person. If a listed company, 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. Clause of the Memorandum of Association which authorizes undertaking inter-State trading in electricity (Extract the relevant portion)
11. Whether the Memorandum of Association authorizes undertaking transmission of electricity. If so, the extract of the relevant portion.
12.
 - (a) Authorised share capital
 - (b) Issued share capital
 - (c) Subscribed share capital
 - (d) 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 in favour of the signatory to commit the applicant :

13. Category of licence applied for :

14. Volume of power intended to be traded :

15. Area of Trading:

State the geographical areas within which the applicant proposes to undertake inter-State trading in electricity

16. (i) Net worth as per the audited accounts for immediate past 3 (three) years or such shorter period as may be applicable, (Specify financial year as applicable)

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

	In Rs.
(a) Year 1() to ()	-----
(b) Year 2() to ()	-----
(c) Year 3() to ()	-----

(ii) Net worth on the date of preparation of the special balance sheet accompanying the application.

Note: Copies of Annual Reports or certified audited accounts to be enclosed in support of above.

17. (i) Current Ratio as per the audited accounts for immediate past 3 (three) financial years or such shorter period as may be applicable. (Specify financial year as applicable)

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

- (a) Year 1() to () -----
- (b) Year 2() to () -----
- (c) Year 3() to () -----

(ii) Current ratio on the date of preparation of the special balance sheet accompanying the application.

18. (i) Liquidity Ratio as per the audited accounts for immediate past 3 (three) financial years or such shorter period as may be applicable. (Specify financial year as applicable)

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

- (a) Year 1() to () -----
- (b) Year 2() to () -----
- (c) Year 3() to () -----

(ii) Liquidity ratio on the date of preparation of the special balance sheet accompanying the application.

19. 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 with relatives)

(a) Name of the shareholder

(a) Citizenship

(b) Residential status

(c) No. of shares held

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

20. Annual turnover for immediate past 3 (three) financial years or such shorter period as may be applicable. (Specify financial year as applicable)

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

	In Rs.
(a) Year 1() to ()	-----
(b) Year 2() to ()	-----
(c) Year 3() to ()	-----

21. Organisational and Managerial capability of the applicant:

(The applicant is required to enclose proof of his Organisational and Managerial capability, in terms of these regulations, in form of his organisational structure and curricula vitae of various executives, proposed office and communication facilities, etc.)

22. Approach and Methodology:

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

23. Other Information

(a) Whether the applicant or any of his associates, partners, promoters, Directors has been declared insolvent? If so, the details thereof and whether they have been discharged for not;

(b) Details of cases resulting in conviction for moral turpitude, fraud or economic offences of the applicant, any of his associates, partners, promoters, Directors during the year of making the application and three years immediately preceding the year of making application;

(c) Details of all pending cases involving the applicant, any of his associates, partners, promoters, Directors, which shall include Case number,

nature of the dispute, whether civil or criminal, name of the other party or parties, the court before which pending and the latest status;

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

(e) Whether the applicant or any of his Directors holds a transmission licence. If so, give the details thereof;

(f) Whether an order canceling the licence of the applicant or any of his associates, partners, promoter, Directors was ever passed by the Commission;

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

(h) Whether the applicant or any of his associates, partners, promoter, Directors was ever found guilty of contravention of any of the provisions of the Act or the rules or the regulations made thereunder in any proceedings. If so, give the details thereof.

24. List of documents enclosed:

	Name of the document
(a)	_____
(b)	_____
(c)	_____
(d)	_____

Place :
Date :

(Signature of the Applicant)
or the authorised person

FORM II

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 firm or sole proprietorship firm/an individual/an association or body of individuals/an artificial juridical person (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 in _____ (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">(i) Authorised, issued, subscribed and paid up capital.(ii) Shareholding pattern (indicate the details of the shareholders holding 5% or more shares) <table border="0" style="width: 100%;"><tr><td style="text-align: left;"><u>Name of the shareholder</u></td><td style="text-align: left;"><u>citizenship</u></td><td style="text-align: left;"><u>Residential status</u></td><td style="text-align: left;"><u>No. of shares</u></td><td style="text-align: left;"><u>Percentage of holding of the paid up capital</u></td></tr></table> <ul style="list-style-type: none">(iii) Financial and technical strength(iv) Management profile of the applicant including details of past experience of the applicant and/or the persons on the management of the applicant in generation, transmission, distribution and trading of electricity or similar activity.	<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>		

- (v) 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
- (vi) Geographical areas within which the applicant will undertake trading in electricity;
- (vii) Net worth as on 31st March of three consecutive years immediately preceding the year of application or for such lesser period as may be applicable and on the date of the special balance sheet accompanying the application;
- (viii) Year-wise current ratio and liquidity ratio of the applicant for three years preceding the year in which the application is made. or for such lesser period as may be applicable and on the date of the special balance sheet accompanying the application;
- (ix) (a) A statement whether the 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 cases, if any, where the applicant or any of his associates or partners or promoters or Directors has been declared insolvent and has not been discharged.
- (xi) Details of the cases, if any, in which the applicant or any of his associates or partners or promoters or Directors has been convicted of an offence involving moral turpitude, fraud or any economic offence during the previous three years preceding the year of making the application and the year of making of applicant.

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

	<p>(xii) Details of pending legal proceedings (civil and criminal), if any, involving the applicant or any of his associates or partners or promoters or Directors.</p> <table border="1"> <thead> <tr> <th data-bbox="337 317 464 369"><u>Name of the person</u></th> <th data-bbox="477 317 651 369"><u>Relationship with the applicant</u></th> <th data-bbox="695 317 883 369"><u>Court before which pending</u></th> <th data-bbox="896 317 1021 369"><u>Nature of proceedings</u></th> <th data-bbox="1034 317 1078 369"><u>Case No.</u></th> <th data-bbox="1091 317 1216 369"><u>Other party involved</u></th> <th data-bbox="1229 317 1317 369"><u>Present status</u></th> </tr> </thead> </table> <p>(xiii) Whether the applicant or any of his associates, partners, promoters, Directors was ever refused licence, and if so, the details particulars of the application, date of making application, date of order refusing licence and reasons for such refusal.</p> <p>(xiv) whether the applicant or any of its Directors has been granted a licence for transmission of electricity;.</p> <p>(xv) Whether an order canceling the licence of the applicant, or any of his associates, partners, promoters, Directors has been passed by the Commission.</p> <p>(xvi) Whether the applicant or any of his associates, partners, promoters, Directors was ever refused a licence; if so details thereof.</p> <p>(xvii) Whether the applicant or any of his associates, partners, promoters, Directors was ever found guilty in any proceedings for contravention non-compliance of any of the provisions of the Act or the rules or the regulations made thereunder.</p>	<u>Name of the person</u>	<u>Relationship with the applicant</u>	<u>Court before which pending</u>	<u>Nature of proceedings</u>	<u>Case No.</u>	<u>Other party involved</u>	<u>Present status</u>
<u>Name of the person</u>	<u>Relationship with the applicant</u>	<u>Court before which pending</u>	<u>Nature of proceedings</u>	<u>Case No.</u>	<u>Other party involved</u>	<u>Present status</u>		
2.	<p>The application made and other documents filed before the Commission are available for inspection by any person with</p> <p>(Give here name, designation, address and telephone number of the person with whom the application can be inspected).</p>							
3.	<p>The application made and other documents filed before the Commission have been posted on _____ (Give address of the website on which the</p>							

	application is posted).
4.	Objections, if any, on the application made before the Commission may be sent to the Secretary, Central Electricity Regulatory Commission, (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 :

CENTRAL ELECTRICITY REGULATORY COMMISSION
LICENCE FOR INTER-STATE TRADING IN ELECTRICITY

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 as a Category _____ trader to _____, (hereinafter referred to as “the licensee”) to undertake inter-State trade in electricity as an electricity trader in the area _____ subject to the terms and 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 (hereinafter referred to as “the Regulations”), including statutory amendments, alterations, modifications, re-enactments 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, exchange or otherwise without the prior approval of the Commission;

(3) Any agreement relating to any transaction referred to in sub-clause (1) and sub-clause (2) 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 inter-State 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 or any of its Directors 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 rounded off to the nearest hundred rupees.
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 his utility.

SECRETARY

FORM - IV

Proforma for submission of information for the quarter ending _____
(To be submitted to the Commission)

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, generating company, captive power plant, distribution licensee, Government, consumer (when applicable) etc.

** Strike out whichever is not applicable.

Proforma for submission of Standards of Performance by Electricity Trader for the year ending 31st March 20.....

(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 year of report, since grant of licence	Whether there is any change in the category of the electricity trader after grant of licence. If so, give the necessary details	Whether net worth has increased/ decreased for change of category. If yes, give the necessary details	Details of current ratio and liquidity ratio as on 31 st March	Whether additional licence fee, because of change of category deposited with the Commission. If so, give the necessary details thereof	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	Whether the applicant or any of his associates, partners, promoters, Directors has been declared insolvent during the year, if so, give details thereof	Whether the applicant or any of his associates, partners, promoters, Directors has been involved in any legal proceedings, civil and criminal during the year, if so, give details thereof	Whether the applicant or any of his associates, partners, promoters, Directors has been convicted of an offence involving moral turpitude, fraud, or any economic offence during the year, if so, give details thereof	Whether the licence of the associates, partners, promoters, Directors has been cancelled during the year, if so, give details thereof	Whether the applicant or any of his associates, partners, promoters, Directors has been found guilty for non-compliance of any of the provisions of the Act or the rules or the regulations made thereunder during the year, if so, give details thereof	Remarks

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

<p>1.</p>	<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>
<p>2.</p>	<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>
<p>3.</p>	<p>The application made before the Commission is posted on _____ (Give here details of website 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>
<p>4.</p>	<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 be sent to the Secretary, Central Electricity Regulatory Commission, 7th Floor,</p>

	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 :