

WEST BENGAL ELECTRICITY REGULATORY COMMISSION
NOTIFICATION

No. 58/WBERC

Dated: 03.09.2013

In exercise of the powers conferred by sub-sections (1) and (2) of section 181 read with sections 12, 13, 14, 15, 16, 17, 18, 19, 20, 52, 66 of the Electricity Act, 2003 (36 of 2003) and all powers enabling in this behalf and in supersession of West Bengal Electricity Regulatory Commission (Licensing and Conditions of Licence) Regulations, 2004 issued under notification No. 17/WBERC dated 9th June 2004 and published in the Calcutta Gazette, Extraordinary on 15th June 2004, West Bengal Electricity Regulatory Commission (WBERC) hereby makes the following Regulations:

CHAPTER – I

PRELIMINARY

1.1 Short title:

1.1.1 These Regulations may be called the West Bengal Electricity Regulatory Commission (Licensing and Conditions of Licence) Regulations, 2013.

1.2 Extent of Application and Commencement:

1.2.1 These Regulations extend to the whole of the West Bengal.

1.2.2 They shall come into force on the date of their publication in the Official Gazette.

1.3 Definitions:

1.3.1 In these Regulations, unless the context otherwise requires,-

- (i) The “Act” means the Electricity Act, 2003;
- (ii) “Affiliate” means in relation to a licensee, any holding company or subsidiary of the licensee, or any subsidiary of the holding company of the licensee or any company in which the applicant has majority control directly or indirectly or its franchisee or its employees;

- (iii) "ALDC" means Area Load Despatch Centre as defined in the State Grid Code;
- (iv) "Annexure" means an annexure to these Regulations;
- (v) "Applicant" for the purpose of these Regulations means a person who has made an application to the Commission for grant or amendment or revocation of licence;
- (vi) "Application" for the purpose of these Regulations means the application, as specified under these Regulations along with enclosures, made to the Commission for grant of licence under sub-section (1) of section 15 of the Act or for amendment of the licence under sub-section (1) of Section 18 of the Act or revocation of licence under sub-section (2) of section 19 of the Act;
- (vii) "Auditors" means (a) the licensee's auditors in accordance with the requirement of the Company's Act, 1956 to audit the accounts of the company or the provisions of the statute under which such licensee has been incorporated or, (b) auditors in accordance with the provisions of the Energy Conservation Act, 2001 or, (c) any firm or agency authorized to conduct audit as per Cost Accounting Records (Electricity Industry) Rules, 2001 or, (d) any other authorized agency for conducting any technical audit, or, (e) auditors in accordance with the provisions of the Act or Rules or Regulations made thereunder.
- (viii) "Authorised" in relation to any person, business or any activities means authorized by the licence granted under the provisions of the Act or exemption granted under the provisions of the Act or Regulations;
- (ix) "CEA" means Central Electricity Authority constituted under section 70 of the Act;
- (x) "CERC" means Central Electricity Regulatory Commission constituted under section 76 of the Act;
- (xi) "Commission" means the West Bengal Electricity Regulatory Commission constituted under section 82 of the Act;

- (xii) "Conduct of Business Regulations" means the Conduct of Business Regulations as defined in Tariff Regulations;
- (xiii) "Controlling interest" shall mean (i) majority ownership, and / or (ii) majority control of voting rights and or ability to appoint majority of the directors on the board of directors of a company or to control the management of the company in any effective manner;
- (xiv) "Core Businesses / Activities" means the business(es) / activity(ies) in relation to transmission or distribution or trading of electricity as mentioned in the licence granted to the licensee by the Commission or as specified in these Regulations for a deemed licensee;
- (xv) 'CTU' or "Central Transmission Utility", means any Government Company which the Central Government may notify under sub-section (1) of section 38;
- (xvi) "Deemed Licensee" means the person deemed to be a licensee under section 14 of the Act and considered as any of the types of deemed licensee as mentioned in column no. 3 of Schedule-1 of these Regulations;
- (xvii) "Dispose of" or "Disposal" means transfer by sale, lease, exchange or otherwise of the utility or any part thereof without the prior approval of the Commission;
- (xviii) "Distribution Licence" means the licence granted to a distribution licensee by the Commission under section 14 of the Act to distribute electricity under section 12 of the Act in an area as may be specified in the licence as area of supply;

Provided that all the deemed licensees under the purview of the Commission in pursuance to first, third, fourth and fifth provisos to section 14 of the Act for distributing electricity are deemed to have distribution licence with the terms and conditions as specified in these Regulations.

- (xix) "Distribution Licensee" means and includes a licensee who have been granted a licence by the Commission under section 14 of the Act and the

deemed licensees under the purview of the Commission in pursuance to first, third, fourth and fifth proviso to section 14 of the Act for distributing electricity within the area of supply as stipulated in the licence or the statute under which they were created or established;

- (xx) “Effective date” means the date following the day on which the Roll Out period ends;
- (xxi) “Entity” means the entity as defined in the Tariff Regulations;
- (xxii) “Establishment of Point of Transaction” means the sub-stations where such point of transaction exists within that sub-station or the point of transactions, as the case may be;
- (xxiii) “Existing Act” means any statute in force other than the Electricity Act, 2003;
- (xxiv) “Fees Regulations” means the Fees Regulations as defined in the Tariff Regulations;
- (xxv) “Generating Company” means a generating company as defined in clause (28) of section 2 of the Act and includes a captive generating plant as defined in clause (8) of section 2 of the Act;
- (xxvi) “Grid network” means the high voltage and / or extra high voltage electrical backbone system of inter-connected transmission and / or distribution lines, sub-stations and generating plants;
- (xxvii) “Intra-state trading” means transfer of electricity through trading and where both the point(s) of transaction for purchase of electricity by trader for trading and point(s) of transaction for resale of that power by the trader under such trading are within the territory of the State;
- (xxviii) “Licensee” means a person who has been granted a license by the Commission under section 14 of the Act and includes a deemed licensee under the purview of the Commission;
- (xxix) “Long-Term Customer” means Long-Term Open Access customer as specified in Open Access Regulations;

- (xxx) “Licensed Business” means the activities under the licenses for which license has been granted under these Regulations;
- (xxxi) “Major incident / accident” means an incident or accident associated with the assets of the licensee which results in a significant interruption of services, substantial damage to equipment, or loss of life or significant injury to a human being, and has the technical characteristics of significant interruption, substantial damage, significant injury as has been directed in any Grid Code or any Rules or Regulations made under the Act or as may be directed by the Commission;
- (xxxii) “Map” or “Deposited map” means the plans of area of supply proposed by an applicant or stipulated area of supply which has been deposited to and approved by the Commission and which has been signed for the purpose of identification by the Secretary or any designated officer of the Commission and by the applicant;
- (xxxiii) “Net Worth” means Paid-up capital (including share premium) plus Free Reserves (exclusive of intangible assets and revaluation reserve, if any) minus Deferred Revenue Expenditure;
- (xxxiv) “Non-core Business / Activity” means such business or activity which is not core business of the licensee but is incidental or consequential or necessary part of the core business in order to facilitate and / or ensure the activity of the core business as per licence;
- (xxxv) “Open Access Regulations” means the Open Access Regulations as specified in the Tariff Regulations;
- (xxxvi) “Operational control” means possessing the authority over any asset, undertaking, service lines or equipment to take operational decisions such as Commissioning, up-gradation, operation and or utilization thereof;
- (xxxvii) “Other Business” means any business other than the generation or activities of licensed business(es) and non-core business(es) of the licensee but by utilizing the assets of the licensed business;

- (xxxviii) "Point(s) of Transaction" means the point(s) of electrical location(s) in the Grid network where a seller transfers all the rights , responsibilities and titles of ownership on the delivered quantity of electricity by delivering such electricity actually or notionally i.e. that includes displacement of electricity or both on-line and off-line swapping of electricity through selling process or banking of energy to the purchaser or receiver , as the case may be, of such electricity;
- (xxxix) "Project" means an element or elements of the STS described in the Schedule attached to the licence;
- (xl) "Regulations" means the Regulations specified by the Commission in pursuance of section 181 of the Act;
- (xli) "Regulatory Accounts" means the "Accounts" as defined in the Tariff Regulations;
- (xlii) "RLDC" means RLDC as defined in State Grid Code;
- (xliii) "Roll Out Period" means a period from the date of granting the licence by which the licensee shall start its core activities of the licence by distributing electricity in his area of supply through its own network assets;
- (xliv) "RPC" means Regional Power Committee as defined in clauses (55) of Section 2 of the Act;
- (xlv) "Rules" means the Rules made under the Act;
- (xlvi) "Separate Business" means any business of the licensee other than the functions or activities of Core Business(es), Non-core business(es) and other business;
- (xlvii) "Short-Term Customer" means Short-Term Open Access Customer as defined in the Open Access Regulations;
- (xlviii) "Short Term Transaction" means trading of electricity during a single stretch of a period up to 120 days under any agreement;

- (xlix) "SLDC" means SLDC as defined in Tariff Regulations;
- (l) "Standards" means the technical standards, safety requirements and grid standards specified by the Central Electricity Authority under clauses (b), (c) and (d) of section 73 of the Act;
- (li) "Standard of Performance Regulations" or "SOP Regulations" means the Regulations as specified by the Commission under sub-section (1) of Section 57 and sub-section (1) of Section 59 of the Act;
- (lii) "State" means State of West Bengal;
- (liii) "State Government" means the Government of West Bengal;
- (liv) "State Transmission System" or "STS" means State Transmission System as defined in State Grid Code;
- (lv) "STU" means the State Transmission Utility notified by the State Government under sub-section (1) of Section 39 of the Act;
- (lvi) "Subsidiary" shall have the same meaning as in the Companies Act, 1956;
- (lvii) "Tariff Regulations" means the Regulations framed by the Commission under section 61 of the Act;
- (lviii) "Trading Agreement " means the agreement entered into between two persons for trading of electricity consisting of any of the following type :
 - (a) an electricity trader or a distribution licensee or a generating company in one hand, and an electricity trader or a distribution licensee on the other hand ;
 - (b) An Electricity trader in one hand and any consumer in the other hand;
 - (c) Distribution Licensee in one part and any consumer of any other distribution licensee on the other hand where such sale is not done as a generation company;

- (lix) “Trading Licence” means a licence granted by the Commission under section 14 of the Act to undertake intra-state trading in electricity under section 12 of the Act by an electricity trader in the state;
- (lx) “Trading Licensee” means a person who has been granted a trading licence by the Commission under section 14 of the Act to undertake intra-state trading in electricity under section 12 of the Act as an electricity trader in the state;
- (lxi) “Transmission Agreement” means the agreement, contract or memorandum of Understanding, or any such covenant, entered into between a transmission licensee and a Long-Term Customer;
- (lxii) “Transmission Charges” means annual transmission service charges approved by the Commission under different Tariff Orders in pursuance of the Tariff Regulations;
- (lxiii) “Transmission Licence” means a licence granted by the Commission under section 14 of the Act to establish or operate transmission lines as defined in section 2(72) of the Act, for conveyance of electricity by means of transmission lines in terms of section 2 (74) of the Act and includes the transmission activities of the deemed licensees under the purview of the Commission and also those of the STU in terms of the second proviso to section 14 of the Act, the DVC in terms of the fourth proviso to section 14 of the Act and of any company in terms of the fifth proviso to section 14 of the Act, to transmit electricity under section 12 of the Act for Intra-State transmission in an area as may be specified in the licence;

Provided that the deemed licensees under the purview of the Commission and in pursuance to the second, fourth proviso to section 14 of the Act and licensee created in accordance with fifth proviso to section 14 of the Act for transmitting electricity are deemed to have transmission licences with the terms and conditions as specified in these Regulations;

- (lxiv) “Transmission Licensee” means a licensee who has been granted a licence by the Commission under section 14 of the Act and includes the deemed

licensees under the purview of the Commission in terms of the second and fourth proviso to section 14 of the Act and licensee created in accordance with fifth proviso to section 14 of the Act for transmitting electricity within the area of supply as may be specified in the licence or the statute under which they were created or established;

- (lxv) "WBSEB" means West Bengal State Electricity Board or its successor distribution entity;
- (lxvi) "WBSEDCL" means West Bengal State Electricity Distribution Company Limited;
- (lxvii) "WBSETCL" means West Bengal State Electricity Transmission Company Limited;
- (lxviii) "Year" means a period of twelve months from 1st April of a calendar year to 31st March of the following calendar year.

1.3.2 Words and expressions used and not defined in these Regulations shall have the same meanings respectively assigned to them in the Act or Regulations.

1.4 **Specific Conditions for Deemed Licensees:**

- 1.4.1 Notwithstanding anything to the contrary contained elsewhere in these Regulations, the area of supply for distribution of electricity by deemed licensees considered is specified in Schedule – 1 of these Regulations.
- 1.4.2 Similarly, notwithstanding anything to the contrary contained elsewhere in these Regulations, the asset for intra-state transmission of electricity by deemed licensees considered are as specified in Schedule-1 of these Regulations.
- 1.4.3 For the deemed licensee under section 14 of the Act, the validity of the licence where applicable, will be the date as per their existing licence under the repealed act. Any renewal of licence of such licensee shall be following such procedure and on such terms and conditions as the Commission may consider appropriate.

Provided that notwithstanding anything contained elsewhere in these Regulations, for the deemed licensee – (i) who has no such licence due to its existence as a body created under a repealed or existing Act or (ii) who has a licence without any period

stipulated therein or (iii) who has been granted sanction of the State Government under the Indian Electricity Act, 1910 and the sanction is without any period stipulated therein, shall be deemed to be a licensee for 25 years from date of publication of these Regulations. Any renewal of licence in future of such deemed licensee shall be following such procedure and on such terms and conditions as the Commission may consider appropriate.

- 1.4.4 The terms and conditions of these Regulations have overriding effect on the terms and conditions of the existing licence of the deemed licensee under first proviso of section 14 of the Act, which are inconsistent with these Regulations.
- 1.4.5 In pursuance to section 16 of the Act, all the terms and conditions of these Regulations are *mutatis mutandis* applicable on the deemed licensees under second, fourth and fifth provisos of section 14 of the Act.
- 1.4.6 Within one year from the date of publication of these Regulations, the deemed licensee under first proviso to section 14 of the Act, shall submit to the Commission the following –
 - a) List of assets and their book value under the intra-state transmission system of the licensee within West Bengal in pursuance of clause (37) read with clauses (36) and (72) of section 2 of the Act;
 - b) List of assets and their book value under distribution system of the licensee within West Bengal including the high pressure cables and overhead lines that are being essential part of the said distribution system in pursuance of clause (19) read with clause (72) of section 2 of the Act.

CHAPTER –2

DISTRIBUTION LICENCE

2.1 Form and manner of application for distribution licence:

2.1.1 A person intending to obtain a distribution licence shall submit a written application to the Commission in Form 1 as at Annexure – 1A of these Regulations. The application shall be signed by the applicant or by a duly authorized representative of the applicant and shall be delivered to the Commission. The application shall be accompanied by such fee as may be prescribed by the State Government in this behalf and shall also be accompanied by the following documents:

- a) Six copies, in print, each signed by the applicant, of the draft distribution licence as proposed by the applicant with the name and address of the applicant printed prominently on the first page of the draft. The form of the draft distribution licence shall be in Form – 2 as at Annexure – 1B of these Regulations.
- b) Six copies, each signed by the applicant, of the maps of the proposed area of supply. Such copies are to be so marked in colour as to define any portion of the area and street or road, which are under the administrative control of various local authorities and shall be on a scale,
 - (i) of not less than 10 centimeters to a kilometer, or
 - (ii) if no such map is available, of not less than that of largest scale maps available, or
 - (iii) on such other scales as may be directed by the Commission or acceptable to the Commission.
- c) A list of local authorities vested with the appropriate authority to administer any portion of the area in terms of any law for the time being in force.
- d) A statement describing any land parcels which the applicant proposes to acquire for the purpose of operation and maintenance of a distribution system under the distribution licence sought by him and the proposed means of such acquisition.

- e) The applicant shall submit relevant documents that can clearly establish its capital adequacy, credit worthiness and requirement of code of conduct in pursuance of the Rule made by the Central Government under sub-section (1) and clause (b) of sub-section (2) of section 176 of the Act.
- f) The applicant shall also submit the following documents along with explanatory notes containing appropriate details to establish the competence of the applicant to undertake the business of distribution of electricity,
 - i) Details of source(s) of funding and the cost of such funding commensurate with the capital expenditure programme related to the proposed utility of the applicant after taking into account the need of the regulation 2.7.3. Status of financial closure till date is to be mentioned.
 - ii) Details of technical capability and experience, which shall include at least the activities as specified in regulation 2.8.5.
- g) A declaration stating whether the area of supply for which the distribution licence is applied for includes the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes. In case any such area is included, then the applicant shall also apply for no objection for grant of the distribution licence from the Central Government and shall include the relevant copy of application made therefor.
- h) A copy of the Memorandum and Articles of Association or any other documents of incorporation, Annual Accounts for the last 3 years along with the Director's Report and the Auditor's Report thereon, where applicable.
- i) Short term and long term broad business plans proposed for at least next 10 years in relation to the proposed business for which a licence has been sought by the applicant. This business plan shall include a detailed implementation plan inclusive of phase wise plan(s) for extension and / or integration of distribution network so as to meet the requirement of power of any applicant / intending consumer within the area of supply. The planning programme shall be such that within a reasonable period from the date of obtaining the licence, supply to any

one who would apply for the same can be given in accordance with section 43 of the Act and all Rules and Regulations made thereunder. The total expenditure for such infrastructure development inclusive of funding sources for such capitalization programme shall also be reflected along with the planning programme.

- j) Name(s) and designation(s) of the owners and senior members of the management, if these are separate, and in case of company, the same for all members of the Board of Directors along with the name(s) of the key officials of the applicant along with their respective work experience and qualifications. The experience shall include their role as director in any other companies along with the financial balance sheet of the financial years during which the proposed member was director of companies.
- k) In case of a partnership firm, the name(s) of all the partners along with their respective share patterns and the names of the key officials with their respective work experience and qualifications.
- l) If the applicant is also engaged in any separate business other than distribution business for which he has applied, brief particulars thereof.
- m) If the applicant has any collaboration agreement in the proposed venture, then the relevant details of such an agreement.
- n) A copy of the proposed notice of the application to be published in terms of sub-section (2) of section 15 of the Act which shall contain at least the followings:
 - i) A short descriptive title of the intending distribution licensee together with the full postal address and telephone number as also a description of the applicant. If the applicant is a company, the names of all the directors of the company and in case of partnership firm, the names of all the partners along with other particulars as stated above;
 - ii) Locations of the proposed area of supply including description of the proposed area;

- iii) Names of the establishments specified in clause (ii) of sub-section (2) of section 15 of the Act, location of which calls for no objection from the Central Government;
 - iv) Capital adequacy, creditworthiness and proposed code of conduct as mentioned in regulation 2.1.1(e);
 - v) Collaboration agreement in the venture, if any;
 - vi) Experience in any existing and / or previous business in Generation/Transmission/Distribution/Supply of Electricity in terms of regulation 2.8.5;
 - vii) Place where and timing when the complete application can be seen or copy(ies) purchased by any person who may want to object or give any comments on the application;
 - viii) Such other particulars as the Commission may direct.
- o) The amount of security deposit or an irrevocable Bank Guarantee of the required amount.
 - p) The application made shall be supported by affidavit of the person acquainted with the facts stated in the application.
 - q) Any other information or particulars or documents as may be directed by the Commission from time to time.

2.2 Manner and particulars of application to be published:

2.2.1 On receiving the application, Commission shall give clearance to the draft notice after due rectification of the draft, if any, within three working days.

2.2.2 The applicant shall, within 7 (seven) days from the date of submission of application as per regulation 2.2.1, publish the notice of application in at least two English daily newspapers of the State, including one of those dealing principally with economic or business matters and two newspapers of vernacular language in the State, the language of one of which shall be Bengali, seeking objections, if any, from any

person concerned with the matter. The applicant shall simultaneously post the approved notice along with complete application and all enclosures on his website for at least 30 days so as to facilitate access by any person through internet. The Applicant shall, within 15 days from the date of publication of the approved notice, submit to the Commission an affidavit with details of the notice published, indicating the names of the newspapers in which the notice has been published and the date and place of its publication and shall also file before the Commission relevant copies of the newspapers in which the notice has been published.

2.2.3 The advertisement shall state that every local authority / distribution licensee or any other person desirous of making any objection or suggestion with reference to the application may do so in writing to the Commission in the manner specified in the Conduct of Business Regulations so as to reach the office of the Commission within 30 days of the date of issue of the notice.

2.3 **Objections, suggestions and recommendations:**

2.3.1 Any person intending to object to the grant of distribution licence or make suggestions and recommendations in this behalf, shall file written objections / suggestions / recommendations so as to reach the office of the Commission within the due date and time and in the manner provided for in the Acts and Regulations and as the Commission may direct.

2.3.2 If any objection has been raised by any of the concerned authorities which is / are to be moved by the applicant for a no-objection certificate as per regulation 2.1.1(g), or if any of the authorities decline to give a no objection, then the same shall be brought to the notice of the Commission by the applicant appropriately within 3 days of its receipt. Further, non-reply, if any, by any of those authorities within the period of 30 days from the date of publication, shall also be brought to the notice of the Commission by the applicant on affidavit.

2.3.3 The Commission shall consider all objections, suggestions and recommendations received by the Commission before taking any decision on granting or not granting the licence sought for.

2.4 Rejection of Application for non-compliance:

- 2.4.1 The Commission may, at any point of time after receipt of the application, reject the same for reasons to be recorded in writing if such application does not conform to provisions of the Act or the Rules or the Regulations made thereunder or the provisions of any other law for the time being in force or the assets in respect of which the application for grant of licence has been made, do not form part of the distribution plan or for any other valid reason.

2.5 Notice prior to issue of Distribution Licence:

- 2.5.1 Before granting a licence for distribution of electricity, the Commission shall publish a notice in at least three such daily newspapers, as the Commission may consider necessary, stating the name and address of the person to whom it proposes to issue the licence. Out of these three daily newspapers one shall be in Bengali, one should be in English and another shall be in such local vernacular language which has predominance in the proposed area of supply and also has circulation in that area.

2.6 Forwarding copies of Distribution Licence:

- 2.6.1 The Commission shall, immediately after issue of licence, forward a copy of the distribution licence to the State Government, Central Electricity Authority, local authority, and to such other persons as the Commission considers necessary.

2.7 General Conditions for Distribution Licence:

- 2.7.1 The terms and conditions applicable to a distribution licensee are those as laid down under the regulation 2.7 (covering regulations 2.7.1 to 2.7.13) read with the contents of Chapter 5 of these Regulations. There may, in addition, be other terms and conditions as may be stipulated in the licence where applicable.

Provided that for an existing deemed licensee considered as distribution licensee for its business of distribution of electricity as mentioned in Schedule-1 of the instant Regulations, the regulation 1.4 and regulation 2.9 of these Regulations are also additional applicable terms and conditions along with the existing terms and conditions of their existing license, if any.

Provided further that the deemed licensee that has no such licence due to its coming into existence as a body by virtue of the Act and regulation 1.4.3 of these Regulations, shall have its existing duties and obligations related to its core activities as deemed licensee to the extent those are consistent with the Act and such duties and obligations shall be considered as the terms and conditions applicable on deemed licensee.

Provided that for an existing deemed licensee in distribution who has no licence due to its creation in pursuance of sub-section (2) of section 131 of the Act, there will be no existing terms and conditions except the area of supply which will be the area of supply as successor entity to erstwhile WBSEB in pursuance to the Electricity (Supply) Act, 1948 and will be guided by the terms and conditions of licence as specified in these Regulations;

2.7.2 The Commission may, at any time, direct or specify any general or specific condition to apply to a distribution licensee or a group of distribution licensees to ensure competition on a level playing field, development of market, prevention of abuse of one's dominant position, removal of adverse effect on competition and / or any other factor, which, in the considered opinion of the Commission, is / are necessary in order to carry out provisions of the Act and the Regulation made thereafter.

2.7.3 The distribution licensee's obligation to meet the need of fulfillment of requirement of supply of electricity to any consumer in pursuance of section 43 of the Act shall be in accordance with SOP Regulations.

Provided where there are more than one distribution licensees as a consequence of granting the instant licence, licensee against the instant licence shall discharge its above obligations in such a manner so that its distribution network expansion programme provides access to a consumer mix more or less commensurate with other licensee(s).

2.7.4 The tariff chargeable by / to the distribution licensee shall be determined in accordance with the terms and conditions for determination of tariff specified in the Tariff Regulations in pursuance of the provisions of section 62 and 64 of the Act.

Provided that no determination of tariff under section 62 & 64 of the Act is required where the Commission adopt the tariff, which has been determined through

transparent process of bidding in accordance with the guidelines issued by the Central Government in pursuance of section 63 of the Act.

2.7.5 The distribution licensee does not require any licence to undertake trading in electricity though engaged in trading of electricity by virtue of purchasing power from different sources and resale of that power through supply to different licensees and consumers. In order to protect the interest of the consumers of a distribution licensee the following conditions will be applicable on a distribution licensee:

- a) Normally distribution licensee shall trade its electricity through resale or swap of electricity through electricity trader in accordance with the Act and the Tariff Regulations. Such selling and swapping shall be done through any electricity trader having license for inter-state trading or intra-state trading in the state except for selling through any power exchange.
- b) Where the Commission fixes a trading margin in pursuance of clause (j) of sub-section (1) of section 86 of the Act through any separate order then such margin will also become applicable on the distribution licensee as per terms and conditions, if any, as mentioned in such order.
- c) In case of such sale of electricity by the distribution licensee to its affiliates except in the form of a consumer in its area of supply, such sale shall always take place only through the open and not limited competitive bidding to be undertaken by the distribution licensee or the purchaser of electricity.
- d) The net gain from such trading activity of a distribution licensee shall be shared with the consumers as per provisions in Tariff Regulations.

2.7.6 The Commission may direct the distribution licensee to purchase such electricity from non-conventional sources of energy and at such rates as may be determined or directed by the Commission from time to time and the same shall be complied with by the distribution licensee.

2.7.7 (a) A distribution licensee shall not sell any electricity to consumer of any other licensee or to any other licensee outside its area of supply without first meeting the just and reasonable demands of its own consumers located within its own area of supply, provided however, for the purpose of the instant

regulation, the just and reasonable demands of its own consumers shall include firm supply commitments made by the distribution licensee under any agreement that has been approved by the Commission.

- (b) The quantum of electricity involved in firm supply agreement shall invariably be limited by the positive difference, if any, between the total availability of electricity to the distribution licensee on the one hand, and the projected average hourly demand covering a month as specified in the Tariff Regulations, on the other hand.
- (c) Any such firm supply agreement for trading or electricity selling agreement under section 49 or sub-section (5) of section 64 shall be entered into only on condition of availability of sufficient electricity with the distribution licensee.

2.7.8 The specific activities which require prior consent to be taken by distribution licensee from the Commission are as follows:

- a) The distribution licensee shall not undertake any of the following activities in relation to any business activity under the concerned distribution licence without a prior written consent of the Commission.
 - i) Purchase or import or otherwise acquire electricity under this licence from any person, other than a generating company or any other licensee under the Act. Such purchase or import or acquisition of electricity shall be in an economical and efficient manner under a transparent procurement process or in a manner as provided in the concerned Regulations through a power exchange established and functioning by / under the Electricity Act, 2003 following the guidelines or orders given by the Commission or any other competent authority, subject to provisions of the Act, or Rules or Regulations.
 - ii) Own or hold any beneficial interest in any generating company/ captive generating plant in the area of supply of the licensee except in a manner, which is incidental to or embedded in the supply business of distribution of electricity.

- iii) Delegate of any of its functions to a franchisee or any other person (except its employees in normal course).
 - iv) Show any preference to a consumer in conduct of its core and non-core business other than in accordance with the provisions of the Electricity Act, the Regulations made thereunder or conditions of licence.
- b) The distributions licensee require prior consent of the Commission in line with (a) above if the activity of any of its affiliates has an influence or impact in the business activities of the distribution licensee under the concerned licence.
 - c) Where any prior permission is required, the licensee shall file a suitable application to the Commission disclosing relevant facts on that behalf. The Commission may within 30 (thirty) working days of the filing of application accord the permission subject to such terms and conditions as may be considered appropriate or reject the same for reasons to be recorded in writing in support of the order.

2.7.9 The distribution licence shall be valid for 25 years from the date of granting the licence under section 14 of the Act.

Provided that for deemed licensee, the validity of licence will be as per regulation 1.4.3.

2.7.10 The licensee shall comply with its obligations of terms and conditions of licence related to the programme of distribution network building, which shall be granted with the distribution licence. Such programme shall be subject to annual review by the Commission for which the licensee shall submit an annual report. On the basis of such review the Commission may alter the programme if there are proper reasons but along with fresh terms and conditions for the license if so required as per direction of the Commission.

2.7.11 All disputes or differences between the distribution licensee and any of its consumers shall be resolved as per the applicable Regulations framed under sub-sections (5) and (7) of section 42 of the Act. Nothing contained in these Regulations will deem to

take away the right of the consumer, which he has under section 142 of the Act or any other law for the time being in force in terms of sub-section (8) of section 42 and sections 173 and 175 of the Act.

2.7.12 The distribution licensee shall always maintain its equity capital not below 25% of the capital deployed. Equity capital shall be computed as per explanation given in the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011 or its subsequent replacement, if any. Capital deployed shall be the sum total of equity capital, loan capital and contribution from the consumers, if any, invested in the core and non-core business for capital expenditure.

2.7.13 Notwithstanding anything contrary contained elsewhere in these Regulations or/and any other Regulations of the Commission, the Core Business / Activity of a distribution licensee shall be distribution of electricity to its own consumers within its area of supply and trading of electricity as provided in the Act and/or Regulations made thereunder or as per the order of the Commission or the licence granted by the Commission and the Non-core Business / Activity shall be the activity other than Core activity of the distribution licensee in accordance with the provisions of the Act and / or the Regulations made thereunder, if the distribution licensee has such business / activity.

2.8 **Eligibility Conditions for Granting Distribution Licence:**

2.8.1 No new distribution licence shall be granted under section 14 of the Act to any person unless the area of supply of the proposed new distribution licence covers at least any of the followings:

- (a) At least one revenue district in full subject to specific condition under (b)
- (b) Where the census population of the district has 50% of total population of the district under Municipality or Municipal Corporation as defined in the Article 243(Q) of the constitution of India then in such case the area of supply under the same licence has to cover at least another district in full where the rural population is more than the urban population of that district as per census.

2.8.2 No new distribution licence shall be granted under section 14 of the Act by the Commission unless the applicant for such a licence assures the Commission of the applicant's commitment by making security deposits to the Commission as under:

- a) A security deposit for starting its core activities within the roll out period will be 1% of the estimated capital expenditure programme required for the proposed total distribution network inclusive of the network that may be necessary to abide by the obligations under regulation 2.7.3 of these Regulations. The minimum security deposit for this purpose shall be Rs. 1.5 crore and the maximum shall be Rs. 25 crore.
 - b) A security deposit for completion of the distribution network building activity as per the scheduled programme for such purpose as provided in regulation 2.7.10 of these Regulations and issued with the licence. The security deposit amount for this purpose will be 4% of the estimated capital expenditure programme required for the proposed total distribution network that includes the obligations under regulation 2.7.3 of these Regulations. The minimum amount of security deposit for this purpose shall be Rs. 20.00 crore and the maximum shall be Rs. 200.00 crore.
 - c) Alternatively, the licensee can provide a bank guarantee in favour of the Commission instead of the security deposit as mentioned in (a) and (b) above for same amount from approved banks and in the proforma to the satisfaction of the Commission.
- 2.8.3 No distribution licence shall be granted under section 14 of the Act by the Commission unless the applicant satisfies the requirement as prescribed in the rules in pursuance to sub-section (1) and clause (b) of sub-section (2) of section 176 of the Act.
- 2.8.4 No distribution licence shall be granted under section 14 of the Act by the Commission unless the applicant satisfies all the following conditions:
- a) Commitment of equity funding at a rate of 30% of the total proposed capital investment for distribution network building in accordance with regulation 2.7.10.
 - b) Commitment of providing bank guarantee against equity funding by the promoter within 30 days from the date of issue of the licence. The bank guarantee shall be for an amount equal to 2% of the proposed equity funding of the promoter and

shall be from an approved bank in the subject proforma to the satisfaction of the Commission;

- c) Comfort letter from loan providers including financial institution(s) with agreed draft agreement of financial closures between the applicant and / or its promoters and the loan provider for providing fund for first three years of operation of the licence;

2.8.5 No distribution licence shall be granted under section 14 of the Act by the Commission unless the applicant has technical capabilities in terms of experience at least in two fields out of the following experiences: -

- a) Direct experience in business of distribution / transmission / supply of electricity as licensee or as person exempted under section 13 of the Act or as person under eighth proviso of section 14 of the Act or as franchisee.
- b) Direct experience in generation of electricity along with selling of power to distribution entity.
- c) Credential list of experience along with volume of job as a contractor in the field of operation, maintenance, construction, erection, Commissioning of the utility of generating company or licensees commensurate to the volume of proposed distribution network of the applicant.
- d) Experience of proposed manpower in the above mentioned fields together with requisite professionals in regulatory affairs for conducting the business as proposed in the application for licence.

2.8.6 No distribution licence shall be granted if the applicant, or any of the share-holders of the applicant's entity having equity above 10%, or promoter has / had been in the board of any of the licensees in the country whose performance had failed to meet with the target parameters during last five years under any restructuring programme or as per relevant Commission's target on account of Technical & Distribution loss or Aggregate Technical & Commercial loss and Standard of Performance.

2.8.7 No person shall be granted distribution licence if any licence of the applicant under Electricity Act, 2003 has already been revoked prior to the date of his application in the preceding five years. Beyond the said five years as mentioned above, the person may be granted distribution license only when he is able to establish that the reasons for which his licence was revoked have been duly addressed by him.

2.8.8 Notwithstanding anything contained contrary elsewhere in these Regulations under any existing licence of a distribution licensee or deemed licensee no addition in area of supply will be allowed through amendment of the license. For change in area of supply the concerned licensee shall apply for a new licence as a fresh applicant along with a declaration to agree in replacing of the existing licence through the new license for which applications is being made.

2.9 Specific Additional Conditions for All Existing Deemed Distribution Licensees:

2.9.1 The deemed licensees shall immediately carry out and / or change / modify any arrangement made by them, if the same violates any provision of the Act, or Rules or Regulations.

2.9.2 Notwithstanding anything contained contrary elsewhere in these Regulations or in any other Regulations of the Commission, in pursuance to section 43 of the Act, the deemed licensee under first, third, fourth and fifth proviso to the section 14 of the Act shall supply electricity to any consumer at all voltage levels for any purpose of supply in its area of supply in accordance with SOP Regulations.

Provided that the deemed licensee, who, under the terms and conditions of existing licence or under any existing statute, is supplying electricity above a certain voltage level, shall in first phase make electricity available for all consumers in accordance with SOP Regulations where the infrastructure of the licensee already exists or need minor modifications.

Provided also that the deemed licensee who under the terms and conditions of existing license or any other existing statute are supplying power above or certain voltage level and who have no such supply network to the extent it is required for discharging the obligations under section 43 of the Act in its area of supply for any type of consumer, shall submit a bank guarantee to the Commission within

31.03.2014 as a guarantee for providing appropriate distribution network infrastructure within three years from the date of publication of these Regulations to ensure supply of electricity to any intending consumer in accordance with provisions of SOP Regulations in pursuance to discharge obligation under section 43 of the Act. The amount of bank guarantee shall be 4% of the total capital cost of the distribution licensee for all types of its assets with minimum amount of Rs. 15 crore and maximum amount of Rs. 200.00 crore.

- 2.9.3 The deemed licensee under first, fourth and fifth proviso to section 14 of the Act and any distribution licensee shall maintain separate books of accounts for its activities of transmission business as transmission licensee, distribution and trading business as distribution licensee, generating business as generating company and other business of the licensee.

Provided where such separate book of accounts does not exist, the licensee shall start to maintain separate book of accounts for each such business for different ongoing expenditures, assets and liabilities separately from the next financial year of the financial year in which these Regulations will come into force and old assets and liabilities shall be booked as per any prudent accounting practice that is to be got approved by the Commission and that may include any methodology that has been approved in the court of law.

Provided further that where transmission is an essential part of the distribution system of the licensee in pursuance to clause (72) of the section 2 of the Act, such separations of its assets and also separation of its book of accounts in transmission business may not be required and in such an event the same shall be treated under the single book of accounts of distribution system.

- 2.9.4 The deemed licensee under the first, third, fourth and fifth proviso to section 14 of the Act, shall submit to the Commission within 6 (Six) months from the date of publication of these Regulations a phase wise programme for implementation of regulation 2.9.2 under these Regulations including the phase wise programme for electricity supply under all voltage level, for approval of the Commission. Such programme, on approval from the Commission, shall be deemed to be the schedule of programme of distribution network building in pursuance to regulation 2.7.10. Such programme shall also include the Capital Expenditure details together with the perspective plan commensurating with the above distribution network building.

CHAPTER – 3

TRANSMISSION LICENCE

3.1 Procedure for Grant of Licence for Intra-State Transmission:

- 3.1.1 A person intending to obtain a transmission licence shall submit a written application to the Commission in Form 1 at Annexure – 2A. The application shall be signed by the applicant or by a duly authorized representative of the applicant and shall be delivered to the Commission. The application shall be accompanied by such fee as may be prescribed by the State Government in this behalf.
- 3.1.2 Any other information or particulars or documents as may be directed by the Commission from time to time shall accompany the application.
- 3.1.3 As soon as an application for a transmission licence is submitted to the Commission, the applicant shall serve a copy of the application on each of the long-term customer in STS in the State.
- 3.1.4 The applicant shall simultaneously post the complete application along with enclosures on his own web site, or any other authorized website so as to facilitate access to the application by any person through Internet.
- 3.1.5 The application shall be kept on the website at least for 30 days from the date of publication of the notice of application in accordance with regulation 3.1.8 of these Regulations.
- 3.1.6 While submitting the application, the applicant shall indicate whether copy of the application has been served on each of the long-term customer in STS in the State and whether the application has been posted on the website, indicating the address of the website whereon the application has been posted.
- 3.1.7 While submitting an application for a transmission licence, the applicant shall simultaneously forward a copy of such application to the STU, who in turn shall send the copy of the application to all the persons concerned inclusive to SLDC for their views.

- 3.1.8 The applicant shall within 7 (Seven) days after making such application, publish a notice of his application as per Form – 2 at Annexure – 2B of these Regulations, in at least two English daily newspapers of the State, including one dealing principally with economic or business matters and two newspapers of vernacular language in the State, the language of one of which shall be Bengali, seeking objections, if any, from any person concerned with the matter. The said application form shall include a declaration on whether the area of utility for which the transmission licence is applied for includes the whole or any part of any cantonment, aerodrome, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes. In case any such area is included, then the applicant shall also apply for no-objection for grant of the transmission licence by the Central Government and shall include the relevant copy of application made therefor.
- 3.1.9 The suggestions and objections including those by the long-term customers, if any, on the application, may be filed before the West Bengal Electricity Regulatory Commission, FD-415A Poura Bhawan, 3rd Floor, Sector – III, Bidhannagar, Kolkata 700 106 within 30 days of publication of the notice, with a copy to the authorized person of the applicant. If any objection has been raised by any of the concerned authorities for giving its / their no objection for grant of the transmission licence as per regulation 3.1.8 or if such a no objection has been declined, the same shall be brought to the notice of the Commission by the applicant appropriately within 3 days of the date of receipt of the objection, or refusal to give such no-objection. Non-reply, if any, within 30 days from the date of publication shall also be brought to the notice of the Commission on affidavit.
- 3.1.10 The applicant shall within 15 days from the date of publication of the notice as aforesaid submit to the Commission on affidavit the details of the notice published, indicating the names of the newspapers in which the notice has been published and the date and place of its publication and shall also file before the Commission relevant copies of the newspapers in which the notice has been published.
- 3.1.11 The applicant may file his comments duly supported by an affidavit on the suggestions and objections, if any, received in response to the public notice within 45 days of its publication in the newspapers, with an advance copy to the person who has filed the suggestions and objections on the proposals made in the application.

3.1.12 The STU shall send its recommendations, if any, to the Commission within a period of thirty days from the date of receipt of application along with a report on the following aspects, namely:

- (a) Whether the assets in respect of which the application for grant of licence has been made, forms part of the STS,
- (b) Whether the assets in respect of which the application for grant of licence has been made, forms part of the transmission plan,
- (c) Justifiability of completion schedule envisaged for the assets in respect of which the application for grant of licence has been made,
- (d) Technical viability of the assets in respect of which the application for grant of licence has been made,
- (e) Justifiability or otherwise of the estimated completion cost indicated by the applicant,
- (f) Any other information considered relevant:

Provided that the recommendations, if any, and report by the STU shall be endorsed to the applicant but those shall not be binding on the Commission.

3.1.13 Before granting a licence, the Commission shall –

- (a) Publish a notice in at least three such daily newspapers, as the Commission may consider necessary, stating the name and address of the person to whom it proposes to issue the licence. Out of these three daily newspapers one shall be in Bengali, one should be in English and another shall be in such local vernacular language which has predominance in the proposed area of supply and also has circulation in that area; and
- (b) Consider all suggestions or objections and the recommendations, if any, of the STU, and the report submitted by it.
- (c) The Commission shall consider all objections, suggestions and recommendations received by the Commission before taking any decision on granting or not granting the licence sought for.

- 3.1.14 The Commission may after consideration of the application as aforesaid, in pursuance of sub-section (6) of section 15 of the Act, issue a licence under section 14 of the Act to transmit electricity under section 12 of the Act as per Form-3 at Annexure – 2C attached to these Regulations subject to the provisions of the Act, the Rules and Regulations made thereunder or reject the application for reasons to be recorded in writing if such application is not in accordance with the provisions of the Act, the Rules or Regulations made thereunder or the provisions of any other law for the time being in force or the assets in respect of which the application for grant of licence has been made, do not form part of the transmission plan or for any other valid reason.
- 3.1.15 The Commission shall consider objections, suggestions and recommendations received by the Commission before taking any decision on granting or not granting licence sought for.
- 3.1.16 The Commission shall within 15 days of making the order to grant the licence send a copy of the licence to the State Government, the CEA, the STU, the applicant and the long-term customers.

3.2 **Qualifying Requirements:**

- 3.2.1 Any applicant, in order to be entitled to grant of a transmission licence for the purpose of transmitting electricity, shall fulfill the following technical and financial requirements, namely:

(a) Technical experience: The applicant shall have experience in development, design, construction, operation and maintenance of transmission line (if the assets in respect of which the application for grant of licence has been made, consist of transmission lines only) or sub-stations (if the assets in respect of which the application for grant of licence has been made, consist sub-stations only) or both (if the assets in respect of which the application for grant of licence has been made, consist of transmission lines and sub-stations) at the voltage level at which the assets in respect of which the application for grant of licence has been made, shall be operated.

Provided that the aforesaid qualifying requirement of technical experience shall not be insisted upon if the applicant deploys personnel having requisite

experience for the voltage level at which the assets in respect of which the application for grant of transmission licence has been made, shall be operated.

Provided further that experience in design, construction or maintenance, as the case may be, of transmission system operating at least at 132 kV level shall be construed as relevant experience at voltage levels of 132 kV and above.

- (b) Financial capability: Net worth of the applicant shall not be less than the estimated annual transmission service charges of the assets in respect of which the application for grant of licence has been made.

Note 1: In case of a consortium, the affiliates may meet the qualifying requirements of the financial capability collectively.

Note 2: The applicant shall be required to submit necessary evidence in support of its claim of meeting the qualifying requirements.

- (c) i) No person shall be granted transmission licence if the applicant's any license or deemed license under Electricity Act, 2003 has already been revoked prior to the date of his application in the preceding five years.
- ii) Beyond the said five years as mentioned above, the person will be granted transmission licence only when he will be able to establish that the reasons for which his licence was revoked have been duly addressed by him.

3.3 Transmission Charges / Tariff:

- 3.3.1 Transmission charges / tariff for the project shall be determined in accordance with terms and conditions as specified in Tariff Regulations.

3.4 STU and Dedicated Transmission Line:

- 3.4.1 The entity, declared under section 39 of the Act as STU, is not required to apply separately for grant of a licence for any expansion of its utility except taking of approval against investment plan as specified in Tariff Regulations.

Provided if such entity ceased to be STU, in such an event, it shall require to apply for licence within 30 days from cessation of such STU status.

3.4.2 For the purpose of the instant Regulations, a dedicated transmission line will be treated as an asset of the owner and no licence will be required provided that no electricity shall be transmitted through such asset except for which such asset has been built up with the prior approval of the Commission or as per direction by the Commission under section 23 of the Act. However, such dedicated transmission line shall not be available for open access unless such dedicated transmission line is built as a part of condition of any specific open access purpose with the approval of the Commission.

3.4.3 The asset created by the transmission licensee for intra-state transmission or already in use for intra-state transmission as per Schedule – 1 of these Regulations, can subsequently be also used for transmission of electricity for inter-state supply purpose but shall not be construed as inter-state transmission system in pursuance of clause 36 of section 2 of the Act unless such asset is specially transferred to an inter-state transmission licensee through any agreement of such asset transfer. However in case of tariff determination and inter-state transmission charge recovery purpose such intra-state asset can be considered as a inter-state asset to the extent of proportionate use of inter-state supply of electricity subject to other terms and conditions as per Tariff Regulations and/or concerned tariff order.

3.5 **Obligations / Terms and Conditions of Transmission Licensee:**

3.5.1 The licensee shall be subject to the following obligations, namely:

- (a) The transmission licensee shall build, maintain and operate the project in a time-bound, efficient, co-ordinated and economical manner,
- (b) The transmission licensee shall strictly comply with the orders and directions issued by the Commission and the SLDC, as may be issued by them from time to time.
- (c) The transmission licensee shall provide non-discriminatory open access to its transmission system for use by any other person in accordance with the Open Access Regulations,
- (d) The transmission licensee shall render all assistance to any person authorised by the Commission for inspection of the project.

(e) The Core Business / Activity of a transmission licensee shall be transmission of electricity as per the licence granted by the Commission and the Non-core Business / Activity shall be activities other than core activity of the transmission licensee in accordance with the provisions of the Act and / or the Regulations made thereunder, if the transmission licensee has such business / activity.

3.5.2 The transmission licensee shall not enter into any contract or otherwise engage in the business of trading of electricity.

3.5.3 A transmission licensee shall not engage in any business for optimum utilisation of its assets without prior intimation to the Commission, provided that the transmission licensee shall, if it decides to engage in any business as aforesaid, submit the prior intimation to the Commission at least 30 days before the proposed date of commencement of such business;

Provided further that a proportion of the revenues derived from such business shall, as may be specified by the Commission, be utilized for reducing its charges for transmission.

3.5.4 A licence shall unless revoked earlier, continue to be in force for a period of 25 (twenty five) years from the date of grant of licence.

Provided that after expiry of the initial term of licence, the Commission may grant renewal of licence for such further period or periods and on such terms and conditions as the Commission may consider appropriate on the basis of an application to that effect made by the licensee.

Provided further that the STU shall always be deemed to have a licence for its utility and the validity of such a licence for the STU shall continue as long as the licensee continues as the STU under section 39 of the Act.

Provided also that the validity for transmission licence of deemed licensee under the fourth proviso to section 14 of the Act, shall be governed by regulation 1.4.3 of these Regulations.

3.5.5 All the terms and conditions applicable for a transmission licensee shall be the Regulations as specified in regulations 3.4.3, 3.5 (covering regulations 3.5.1 to 3.5.6)

and regulations under chapter 5 of these Regulations and any other terms and conditions as stipulated in the licence granted.

Provided that for existing deemed licensee, considered as transmission licensee for its business of transmission of electricity, as mentioned in Schedule – 1 of these Regulations, regulation 1.4, regulation 3.4.3, regulation 3.5 and those regulations under Chapter – 5 of these Regulations, shall also be applicable along with the existing terms and conditions of their existing licence, if any, and shall be valid till the validity of the existing licence.

Provided further that the deemed licensee that has no such licence due to its coming into existence as a body established under the Act, shall have its existing duties and obligations related to its core activities of the deemed licence to the extent those are consistent with the Act, and those shall be considered as the terms and conditions of their existing deemed licence.

- 3.5.6 The deemed licensee under first, second, fourth and fifth proviso to section 14 of the Act or any transmission licensee having other business of generation or distribution shall maintain separate books of accounts for its activities of distribution business, generation business, State Load Despatch Centre (SLDC) activity, State Transmission Utility (STU) activity, inter –state transmission and inter – state transmission business as transmission licensee.

Provided where such separate book of accounts does not exist, the licensee shall start to maintain separate book of accounts for each such business for different ongoing expenditures , assets and liabilities separately from the next financial year of the financial year in which these Regulations will come into force and old assets and liabilities shall be booked as per any prudent accounting practice that is to be got approved by the Commission and that may include any methodology that have been approved in the court of law.

Provided further that where transmission is an essential part of the distribution system of the licensee in pursuance to clause (72) of the section 2 of the Act, such separation of its assets and also separation of its book of accounts in transmission business may not be required and in such an event the same shall be treated under the single book of accounts of distribution system.

CHAPTER – 4

TRADING LICENCE

4.1 Procedure for grant of Licence for Intra-State Trading:

- 4.1.1 A person intending to obtain a trading licence shall submit a written application to the Commission in Form 1 at Annexure – 3A of these Regulations. The application shall be signed by the applicant or by a duly authorized representative of the applicant and shall be delivered to the Receiving Officer of the Commission. The application shall be accompanied by such fee as may be prescribed by the State Government in this behalf.
- 4.1.2 The application for grant of Trading Licence shall include a declaration on whether the area of trading for which the licence is applied for includes the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes. In case any such area is included, then the applicant shall also apply for no objection for grant of the trading licence from the Central Government in pursuance to clause (ii) of sub-section 2 of section 15 of the Act and shall include a copy / copies of the relevant application made therefor.
- 4.1.3 The applicant shall simultaneously post the complete application along with enclosures on his own website or any other authorised website, so as to facilitate access to the application by any person through internet. The application shall be kept on the website for at least 30 days from the date of publication of the notice of application in accordance with regulation 4.1.4 of these Regulations.
- 4.1.4 The applicant shall within 7 days after making such application, publish a notice of his application, in at least two English daily newspapers of the State, including one dealing principally with economic or business matters and two newspapers of vernacular language in the State, the language of one of which shall be Bengali, seeking objections, if any, from any person concerned with the matter, 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 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 office address and also 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 for intra-state trading under sub-section (1) of Section 15 of the Act, to the 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 on the website of the applicant or any other authorised website along with the details of the website where the application is made available;
- (j) A statement that objections, if any, be filed before the Secretary, West Bengal Electricity Regulatory Commission, (Poura Bhawan), FD-415A, 3rd Floor, Sector – III, Bidhannagar, Kolkata 700 106 or at the address where office of the Commission is situated, with a copy of the objections to the applicant, within 30 days of publication of the notice;

- 4.1.5 The applicant shall within 15 (fifteen) 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 has been published.
- 4.1.6 The applicant may file his comments on the objections received in response to the notice within 45 days of its publication in the newspapers.
- 4.1.7 If any objection has been raised by any of the concerned authorities for giving its / their no objection for grant of the trading licence as per regulation 4.1.2 or if such a no objection has been declined, the same shall be brought to the notice of the Commission by the applicant appropriately within 3 days of the date of receipt of the objection or refusal to give such no objection. Non-reply, if any, within 30 days from the date of publication shall also be brought to the notice of the Commission on affidavit.
- 4.1.8 The Commission may consider the application for grant of licence for intra-state trading in an appropriate manner.

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

Provided further that before granting a licence for intra-state trading, the Commission shall publish a notice of its proposal to grant a licence for intra-state trading 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 on intra-state trading, with such other details as the Commission considers appropriate.

- 4.1.9 As far as practicable the licence for intra-state trading shall be granted in accordance with the format prescribed in Form 2 at Annexure – 3B appended to these Regulations subject to fulfillment of eligibility criteria.
- 4.1.10 The Commission may, at any point of time after receipt of the application, reject the same for reasons to be recorded in writing if such application does not conform to

provisions of the Act or the Rules or the Regulations made thereunder or the provisions of any other law for the time being in force, or for any other valid reason.

4.2 **Qualifying Requirements of being an Electricity Trader:**

4.2.1 **Technical Staff:**

- a) The applicant shall have at least one full-time professional having experience in each of the following disciplines, namely:-
 - (i) Power System Operations and commercial aspects of power transfer,
 - (ii) Finance, commerce and accounts, and
 - (iii) Regulatory affairs.

- b) The requirement of technical staff shall be properly met before undertaking intra-state trading activities, notwithstanding the fact that the Commission has granted the licence for intra-state trading.

- c) 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 intra-state trading.

4.2.2 **Capital adequacy Requirement and Creditworthiness:**

Considering the volume of intra-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	Up to 100 million	3.00
2	B	100 to 200 million	6.00
3	C	200 to 500 million	15.00
4	D	500 to 700 million	20.00
5	E	700 to 1000 million	30.00
6	F	Above 1000 million	40.00

4.2.3 No person shall be granted trading licence if the applicant's any licence or deemed licence under Electricity Act, 2003 has already been revoked prior to the date of his application in the preceding five years. Beyond the said five years as mentioned above, the person will be granted trading licence only when he will be able to establish that the reasons for which his licence was revoked have been duly addressed by him.

4.3 **Terms and Conditions of the Licence for undertaking Trading in Electricity:**

4.3.1 **Obligations of the Trading Licensee:**

In addition to its obligation to terms and conditions under chapter-5 of these Regulations, the trading licensee shall have following obligations, namely: -

- (a) A trading licensee shall comply with the requirements of laws in force and, in particular, the Act, the Rules and the Regulations, State Grid Code, Grid Code and all orders and directions issued by the Commission from time to time;
- (b) The trading 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 for each year, and of which the trading 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 licensee shall be subject to the trading margins for the intra-state trading if considered necessary by the Commission as and when required for any period;
- (d) The trading licensee shall be governed by the technical requirements, capital adequacy requirements 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 trading licensee shall establish adequate communication facilities like telephone, fax, computer, internet facilities, before undertaking trading;
- (f) The trading licensee shall coordinate with RPC, RLDC, SLDC, ALDC, Central Transmission Utility and STU with regard to all trading related activities;
- (g) The trading licensee shall render all assistances to any person authorised by the Commission for carrying out his duties relating to the trading licence;
- (h) Trading shall be carried out bilaterally between the parties by entering into appropriate trading agreement. Necessary safeguards with regard to supply of electricity through trading, or payment for the electricity traded shall be included in the trading agreements between the parties. All trading arrangements shall be done through the letters of credit or with any other superior instrument;
- (i) The trading licensee shall pay the licence fee as prescribed in West Bengal Electricity (fees for application for grant of licence) Rules, 2005 or any subsequent amendment of it or any subsequent replacement of it as the case may be, in accordance with the time-schedule prescribed therein;
- (j) The trading licensee shall not omit or neglect to undertake trading activity for four consecutive quarters;
- (k) The trading licensee shall not have any other activity as non-core activities in the business of electricity in terms of Electricity Act, 2003;
- (l) The trading licensee shall maintain up-to-date record of his customers and the transactions undertaken by him with other parties;
- (m) The trading licensee shall not engage in the business of transmission of electricity.

4.3.2 **Specific Conditions for Trading Margin:**

- (a) The electricity trader is a distinct trader in pursuance of clause (26) of

section 2 of the Act being granted a licence to undertake trading in electricity.

- (b) In pursuance to the above regulation, the trading activity of the trading licensee shall be subject to trading margin fixation at a value as will become applicable for any period through any order of the Commission.

4.3.3 **Submission of Information:**

- 4.3.3.1 In addition to its obligation to terms and conditions as specified in regulations 4.3.1 and 4.3.2 of these Regulations, the trading licensee shall furnish the information to the Commission on quarterly basis in Form – 3 of Annexure – 3C appended to these Regulations.

Provided that the information in the specified Form shall be furnished to the SLDC and STU with a copy 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 SLDC and the STU, shall be posted on the website of the electricity trader or any other authorised website:

Provided also that the SLDC and STU shall verify the quantum of energy traded, as indicated in the reports and submit a report to the Commission.

- 4.3.3.2 Notwithstanding anything contained for each year in regulation 5.5. of these Regulations the licensee shall furnish the performance details for each year to the Commission on quarterly basis for the quarter ending 31st March, 30th June, 30th September and 31st December in the format specified in Form - 4 at Annexure – 3D appended to these Regulations, by 15th day of the first month of the following quarter.

4.4 **Revocation of Trading Licence:**

4.4.1 Notwithstanding anything contained in regulation 5.17, the Commission may revoke the trading licence of the electricity trader where trading licensee has failed or neglected to undertake trading in electricity covering four consecutive quarters.

4.5 The trading licensee under the Act shall maintain separate books of accounts for its each activities under distribution license, if any, and generation business, if any separately.

Provided where such separate book of accounts does not exist, the licensee shall start to maintain separate book of accounts for each such business for different ongoing expenditures , assets and liabilities separately from the next financial year of the financial year in which these Regulations will come into force and old assets and liabilities shall be booked as per any prudent accounting practice that is to be got approved by the Commission and that may include any methodology that have been approved in the court of law.

CHAPTER – 5

5.1 **Obligation and duties of the licensee:**

5.1.1 The licensee shall be bound to carry out its business and be entitled to undertake all activities necessary for and relating to conduct of its business on the basis of sound commercial principles, economical use of resources, efficient service to consumers and any other factor, which the Act, Rules, Regulations, Codes, Standards made thereunder, terms and conditions of its licence where applicable, and the directions that the Commission may issue from time to time, may require it to abide by.

5.1.2 In conduct of its business, the licensee shall comply with

- a) Any other Rules, Regulations or orders as are applicable and issued by a competent authority.
- b) All other laws for the time being in force and applicable to the licensee.

5.1.3 Without prejudice to the above in regulation 5.1.2,

- (a) The licensee shall follow the methodology, procedures, orders and directions as given in orders / Regulations of the Commission.
- (b) The tariff that licensee is permitted to charge in any financial year shall be the amount which the Commission has determined in accordance with the provisions of the Act, Regulations and other orders of the Commission.
- (c) The surcharge and additional surcharge collected under Section 42 of the Act shall be utilized in the manner specified or directed by the Commission.
- (d) The special allocations and balances under consumer accounts or relating to consumers shall be dealt, invested and utilized as specified or directed by the Commission.
- (e) The licensee on the request of the consumer, and to the extent it is reasonably available to licensee, shall provide:
 - (i) Information on all services provided by the licensee including the information on the charges or optional or alternative schemes of service, which may be available to the consumers;

- (ii) Other information which is permitted or which is required to be disclosed to the consumer as per the Act or Regulations or conditions of this licence;
- (iii) A consumer charter detailing all the rights, entitlement and responsibilities of consumers and obligations of the licensee to consumers relating to supply of electricity including service levels/ parameters and its power relating to consumers and other aspects of their relationship as per the Act and other applicable Laws and the Regulations;
- (iv) The licensee shall plan, operate, maintain and make all arrangements to ensure adequate systems capable of providing an efficient, secure, coordinated and economical system in its area of supply commensurate with the need of its business both existing and projected, in the near future.

Provided the licensee is at liberty to charge reasonable cost of providing the information being requested unless the information requested is of general nature.
- (f) The licensee shall act ethically, fairly and honestly in all its dealing with the consumer.
- (g) The licensee shall provide to SLDC, RLDC and CEA and / or other licensee(s) such information that may reasonably be required to perform their functions and exercise its power under the Act. The licensee shall always comply with the directions of RLDC, SLDC and CEA issued in accordance with the provisions of the Act, Rules and Regulations.
- (h) The licensee shall cooperate with generating companies, other licensees, SLDC, RLDC, NLDC(National Load Despatch Centre), RPC, CEA, STU and CTU for the efficient, secure and coordinated operating power system in the State of West Bengal in most economical manner.
- (i) The licensee shall make an appropriate application before the Commission in accordance with Conduct of Business Regulations wherever prior approval of the Commission is required.

5.2 **Licence Term:**

5.2.1 The Licence of a licensee shall come into force with effect from the date on which licence is issued for a period of 25 years except otherwise specifically mentioned in these Regulations. Deemed licensee who has no such licence due to its existence as a body created under any repealed or existing Act or who has a license without any period stipulated therein, or who has been granted sanction by the State Government under the Indian Electricity Act, 1910 and the sanction is without any period stipulated therein, shall be deemed to have licence for a period as specified in regulations 1.4.3 of these Regulations. These licences of both licensee and deemed licensee shall remain in force alongwith the terms and conditions as specified in these Regulations alongwith amendments that may be made from time to time, unless revoked earlier by the Commission in accordance with the provisions of the Electricity Act and Regulations made thereunder. The Commission shall at the request of the licensee, and subject to the satisfactory performance by the licensee of its obligations under the licence, renew whole or part of this licence for such period, following such procedure and on such terms and conditions, as the Commission may consider appropriate.

5.2.2 The terms and conditions specified in this licence are subject to additions, modifications or amendments as may be made by the Commission in accordance with the Act or Regulations made thereunder.

5.2.3 For any licensee Commission can provide specific terms and conditions for that licensee only and can make additions, modifications or amendments in accordance with the Act or Regulations made thereunder.

5.2.4 The licensee shall comply with such terms and conditions of licence against such commitments and developments at the stage of application that have been considered in the licence in part or full.

5.3. **Accounts of the Licensee:**

5.3.1 Licensee shall -

- (a) Maintain separate information, accounting and other records for the core business / activities which shall be separated from non-core business /

activities and other business, if any, in all respects.

- (b) Maintain all statements of accounts as per Regulatory Accounts or as per specific direction of the Commission.
- (c) The licensee shall keep separate accounts of the surcharge and additional surcharge collected under section 42 of the Act.
- (d) The licensee is also required to maintain separate records for each financial year on 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 on 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) Get 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.
- (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.

5.3.2 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.

5.4. **Payment of Licence Fee:**

5.4.1 The licensee shall pay to the Commission the annual fee of the amount and in a manner as specified in the Rules of Government of West Bengal framed under sub-

section (1) and clauses (a) and (o) of sub-section (2) of section 180 read with sub-section (1) of section 15 of the Act:

5.4.2 In case the licensee fails to pay the Commission the fee as specified in regulation 5.4.1, the licensee shall be liable to pay late payment surcharge on the outstanding amount at a simple rate of 1.5% on the fee payable per month, for the period the fee remains unpaid.

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

5.5 Information and Reporting to the Commission:

5.5.1 The licensee shall supply such information as may be called for by the Commission from time to time.

5.5.2 The licensee shall furnish such 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.

5.5.3 The licensee shall provide all the necessary and required information, report, notice, etc. to the Commission and other authorities in time and the manner as may be required under the Act, Rules, Regulations and Order of the Commission in order to enable it to monitor the licensee's compliance with the conditions of the licence or fulfillment of the provisions of the Act, or Regulations, Codes, Standards etc. made thereunder.

5.5.4 The Commission may, after obtaining the views of the licensees and after considering such views specify the standards of performance of a licensee or a class of licensees.

5.6 Prudential Reporting:

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

(a) Any significant change in its circumstances which may affect the licensee's

ability to meet its obligations under the Act, Rules and Regulations framed pursuant to the Act, directions and orders issued by the Commission or SLDC or CEA.

- (b) Any material breach of the provisions of the Act, the Rules and the Regulations framed pursuant to the Act, directions and orders issued by the Commission or SLDC.
- (c) Any major change in shareholding pattern, ownership or management of the licensee; and

5.7 Independent Audit:

The licensee shall, if so desired by the Commission, appoint with the approval of the Commission, an independent auditor from among various firms of Chartered Accountants or any other agencies authorized to audit the accounts as per Companies Act to conduct audit of its accounts or as per Cost Accounting Records (Electricity Industry) Rules, 2001;

- a) And / or to audit its compliance with obligations including obligations to comply with applicable codes, standards and guidelines,
- b) And / or to audit the reliability and quality of information reported by the licensee to the Commission and the consistency of that information with the directions,
- c) And / or audit any other matter which in the considered opinion of the Commission needs to be looked into by an independent auditor.

The scope of the audit shall be approved by the Commission.

5.8 Appointment of Officers/Staff by Licensee:

- 5.8.1 The licensee shall employ for the purpose of looking into engineering aspects of the utility suitable Electrical Engineers possessing recognized degree or diploma in Electrical Engineering from a recognized university or college or qualifications equivalent to such degree or diploma and having sufficient practical experience. Similarly the licensee shall employ suitable professional and other staff as appropriate. The Commission may direct the employment of suitable Engineers and

other professionals with such qualifications and experience, which it may consider appropriate.

5.9 Disposal of Assets:

5.9.1 The licensee shall not, in a single transaction, dispose or relinquish the operational control over any land, building or assets of its licensed business whose book value at the time of disposal exceeds Rs. 40 lakh or estimated market value of Rs. 60 lakh whichever is higher, without complying with the following conditions.

5.9.2 The licensee shall give to the Commission for its approval, prior written notice of not less than one month of its intention to dispose of or relinquish the operational control over any asset pertaining to its licensed business. The notice shall include all the relevant information regarding such disposal or the relinquishment and absence of all the relevant information in the notice shall make the same void. The licensee shall not divide, partition or split the assets or the costs thereof in order to circumvent the provisions of this clause.

The licensee may dispose of or relinquish operational control of the assets of its licensed business as indicated in the above notice only if

a) the Commission confirms in writing its approval to such a disposal subject to such conditions as the Commission may impose or

b) the transfer is effected by transparent and competitive bidding process in the absence of any information from the Commission to the licensee in writing or any objection to such disposal or relinquishment of operational control in the notice period referred to above.

5.9.3 Notwithstanding anything contained in the foregoing regulations 5.9.1 and 5.9.2, the Commission may give a general consent for disposal or relinquishment of operational control over any asset of the licensee's core activities as may be considered appropriate by the Commission with such direction as it may consider necessary.

Provided that the licensee shall not make any change, without obtaining the approval of the Commission on the assets, which has been created out of the funds provided

by the purchaser of electricity, consumer or from power purchaser's fund or special allocations or development fund.

Provided also that approval of such disposal or relinquishment of operational control or subsequent change shall be based on payment at market rate to the licensed business of the licensee.

5.10 Investments in Capital Expenditure of Licensed Business:

5.10.1 The licensee shall not make any investment in its core business except in an economical and efficient manner and in accordance with the approved investment plan subject to the Regulations.

5.10.2 The Commission may require the licensee to submit a perspective plan in pursuance to Tariff Regulations with details of investment schemes to be undertaken during the relevant period for the approval of the Commission along with its break up in yearly investment schemes.

5.10.3 The licensee shall invite and finalize tenders for procurement of equipments, materials and all services relating to major investments in capital items of its licensed business based on the procedure and limits as specified in the Tariff Regulations.

5.11 Activities Prohibited without Prior Approval:

5.11.1 The licensee shall not undertake any of the following activities, without prior approval of the Commission:

- (a) acquire by purchase or take over or otherwise the utility of any other licensee; or
- (b) merge its utility with the utility of any other licensee.

5.11.2 Every licensee shall, before obtaining approval under regulation 5.11.1 give not less than one month's notice to every other licensee which transmits or distributes electricity in the area of the licensee which has applied for such approval.

5.11.3 The licensee shall not assign its licence or transfer its utility, or part thereof to any person by sale, lease, merger, exchange or part with the management control or otherwise stake without prior approval of the Commission.

Provided that in case of default by the licensee in debt repayment, the Commission may, on an application from the lenders, assign the licence/ licensed business to the nominee of the lenders subject to fulfillment by such nominee of the qualifying requirements as specified in these Regulations.

5.11.4 Any agreement relating to any transaction of the nature described in regulation 5.11.1 or regulation 5.11.3 unless made with the prior approval of the Commission, shall be void and shall constitute violation of terms and conditions of the licence.

5.11.5 A licensee shall not own or hold any beneficial interest in any supplier of services or men or materials in respect of its core activities and non-core activities, other than in the business of own fuel source and / or in a establishment who supplies electricity pursuant to a general exemption granted by the Commission or in any facilities used for supply in the area of supply other than for the purpose of supply business.

5.12. **Activities of the Licensee for which prior intimation to be given to the Commission:**

5.12.1 The licensee shall render services to third parties for the transmission / wheeling of electricity through its distribution system, only in accordance with applicable Regulations. However, the Commission may relax period of notice in emergent circumstances requiring remedial action in the interest of the operations or the system.

5.12.2 The licensee may engage in any non-core activities or other business or separate business subject to the provisions of the Act and Regulations made thereunder, only so long such activity is likely to result in the optimally gainful employment of the assets, infrastructure and business process under core business of the licensee and subject to the following conditions:

a) The business and the conduct thereof by the licensee is not prejudiced and / or adversely affected in any manner.

b) The licensee shall prepare and keep, in respect of non-core activity or other business, separate accounting records as would be required to be kept in respect of such activity, as if it were carried on by a separate company, so that the revenues, cost, assets, liabilities, reserves and provisions or any expense, or

reasonably attributed to, each such activity is separately identifiable in the books of licensee from those of any other business in which the licensee is engaged. The expenses, revenue etc. of such non-core activities shall also be got separately audited.

5.12.3 The licensee may also undertake certain activities on a common / shared basis involving sharing of infrastructure, facilities, personnel and costs provided that-

- a) the costs shall be suitably allocated in a reasonable manner between the licensee and the separate business and separate accounts shall be maintained for such allocable cost by each of them, and
- b) such activities shall be undertaken for the efficient and economical conduct of the licensed business, and
- c) the activities so undertaken are in the interest of the consumers and do not collude with the separate business of the licensees and the licensee shall not collude with any other licensee or any other party or for any of its other business in any way which is detrimental to the interests of the consumers.

5.12.4 The licensee shall also comply with such guidelines and directions as the Commission may give in this regard.

5.12.5 Where non-core activities do not involve utilization of the assets or infrastructure or due to any outcome of the business process of the core business of the licensee, the licensee shall not subsidize its non-core activities through the core business. Such non-core activities shall not be treated as utilisation of other assets as per section 41 or 51 of the Act.

However, gain from such non-core activities may be shared with the consumers if such specific activities are considered for sharing as specified in Tariff Regulations.

5.13 **Prior consent for certain actions:**

5.13.1 The licensee shall obtain prior written consent from the Commission, if it undertakes the following activities as mentioned from regulation 5.13.2 to 5.13.5 which are in addition to the other activities for which the licensee is required to obtain the prior approval of the Commission in terms of the provisions of the Act / Regulations made

by the Commission thereunder and /or terms and conditions of the licensee.

5.13.2 The licensee shall obtain prior written consent from the Commission in making any loans to, or issuing any guarantee for any obligation of any person which is beyond the normal area of business activities of the licensee in respect of its core activities. Loan to the employees pursuant to the terms of services and advances to the suppliers etc. in the ordinary course of business are excluded from the requirement to seek such approval. If any affiliates of the licensee undertake any loan for which the licensee's business may be effected directly or indirectly then in such case licensee is required to obtain such written consent from the Commission in a manner as already specified.

5.13.3 In case an affiliate is to provide any goods or services to the licensee in connection with its normal core activities then prior approval will be required. However such transaction is required to be done under the following conditions to the satisfaction of the Commission.

- a) The transaction is on an arms-length basis;
- b) The price and quality of the goods are reasonably determined keeping in view the market conditions; and
- c) The normal business requirement of the licensee.

Notwithstanding anything contained contrary here in above under this clause, nothing will be applicable if the purchase has been made through normal open competitive bidding in a transparent manner.

Provided in such bidding, there shall be at least two bidders in whose business none of the board members of the licensee or owner of the licence has any business interest. In case of non-availability of such bidders, formal approval from the Commission is to be taken through written application along with justification.

5.13.4 The licensee or its affiliates shall obtain prior written consent from the Commission in acquiring a licence or the undertaking of, or acquire controlling interest in the business of transmission, distribution or trading of electricity of any other licensee or

persons, where such business or undertaking is situated in the State.

5.13.5 Where such prior permission is required, the licensee shall file a suitable application to the Commission disclosing relevant facts on that behalf. The Commission shall within 30 days of the filing of application allow the arrangement subject to such terms and conditions as is considered appropriate or reject the same for reasons recorded in writing in support of the order.

5.14 Competition:

5.14.1 The Commission may grant licence to any person(s) for the same business as of the licensee including distribution of power in the same area of supply subject to the provisions of the Act. The licensee shall extend necessary cooperation as required to such person.

5.14.2 The licensee in any circumstances shall not enter into any agreement by virtue of which the licensee may abuse its dominant position or enter into a combination, which is likely to cause or causes an adverse effect on competition in electrical industry in the State.

5.14.3 The licensee shall be bound to comply with such directions in a manner as directed by the Commission in case of any violation of regulation 5.14.2 according to the Commission.

5.14.4 The licensee shall arrange systems and other resources necessary for complying with conditions under these Regulations as per the directions of the Commission.

5.15 Dispute Resolution:

5.15.1 The licensee shall refer all disputes under the licence relating to interpretation of the licence and the terms and conditions thereof to the Commission for their determination.

5.15.2 All disputes or differences arising between the licensee and others and falling under

Sections 86(f) and 158 of the Act shall be adjudicated by the Commission or its nominee agency in accordance with the provisions of the Act.

5.16 Amendment of Licence:

5.16.1 The Commission may amend or alter terms and conditions applicable in a licence in public interest, with the consent of the licensee or on an application from the licensee upon such terms and conditions, as it thinks fit after giving suitable and reasonable opportunities to all interested parties for submission of written objection/ suggestion and comments.

Provided that no such amendment or alteration shall be made except with the consent of the licensee unless such consent has not been received within 30 days of the communication of the notice containing the proposed amendment or alteration in the terms and conditions along with reasons for the same.

5.16.2 Where the licensee has made an application proposing alteration or amendment to the licence, the procedure specified under these Regulations shall apply *mutatis mutandis* in such manner that the application for grant of licence shall be construed as the application for alteration or amendment of licence.

5.16.3 Where any amendment to the licence is proposed to be made in public interest and otherwise than on the application of the licensee, the Commission shall publish a notice of the proposed amendment to the licence in two such daily newspapers, as the Commission may consider necessary, stating the name of the licensee with such other details as the Commission considers appropriate and seeking written suggestions and / or objections from all concerned on the proposed amendments.

5.16.4 The Commission shall not make any amendment to the licence unless all suggestions or objections received within 30 days from the date of publication of the notice have been considered.

5.16.5 Where the required amendment or alteration of terms and conditions require the amendment of any Regulations of the Commission, the procedure is to be adopted

as required for an amendment of a regulation or making a new regulation and in such case the procedure of regulations 5.16.2 and 5.16.3 does not apply.

5.17 Revocation / Suspension of Licence:

5.17.1 The Commission may revoke the licence in accordance with Section 19 of the Act, in the manner and circumstances as provided in that section.

5.17.2 Subject to the provisions of the Act and the Regulations made thereunder, the Commission may revoke the licence if the licensee requests in writing to the Commission that this licence may be revoked for the whole or any part of the area of supply.

5.17.3 On the occurrence of an event envisaged in section 19 of the Act, the Commission shall give not less than 90 days prior notice in writing to the licensee stating the grounds on which the licence is proposed to be revoked. During such period of 90 days, the licensee shall consult with the Commission and the licensee shall take steps required for curing the default, which led to the issue of the notice by the Commission. The Commission shall duly consider any reasonable cause shown by the licensee within the above period of 90 days. The Commission shall revoke the licence after expiry of the 90 days period by an order in writing if the licensee continues to be in default, not having taken reasonable steps for remedy of the default. The Commission shall record in the order, reasons for the revocation of the licence. The Commission shall fix a date on which the revocation shall take effect.

5.17.4 If the Commission appoints an administrator to the licensee's business under the provisions of the Act, the administrator shall exercise its functions and powers in such a manner as may be directed by the Commission in the instrument of appointment.

5.17.5 The Commission shall not revoke the licence where the licensee shows to the satisfaction of the Commission, that it is in a position fully and efficiently to discharge the duties and obligations imposed on the licensee by its licence and if required by the Commission, makes the deposit or furnish the security, as may be

required.

- 5.17.6 The revocation of licence will be without prejudice to any penalty, which may be imposed, or prosecution proceedings, which may be initiated under the Act.
- 5.17.7 The suspension of licence and transfer / sale of the utility after the revocation of the licence shall be in accordance with the provisions of Sections 19 to 22 and section 24 of the Act.
- 5.17.8 Where the Commission has given notice of revocation of licence under these Regulations, the licensee may, after prior approval of the Commission, sell its utility in accordance with the provisions of the Act, if any, to a person found eligible by the Commission for grant of licence or to the STU.
- 5.17.9 If the Commission is satisfied that the utility or any part of it has been abandoned by the licensee, thereby affecting construction or operation and maintenance of the same, the Commission may direct any person found eligible by the Commission, to immediately take over operation and maintenance of the utility as administrator even before the licence is revoked.
- 5.17.10 In case of revocation of the licence, the sale of the utilities of the licensee shall take place in accordance with sub-section (6) of section 19 read with section 17 or section 20 of the Act.

5.18 Communication:

- 5.18.1 All communications relating to the licence shall be in writing and shall be in English or Bengali. Such communication shall be delivered either in person to the addressee or his authorized agent, or sent by registered or speed post or any other means to be directed by the Commission at the place of business of the addressee.
- 5.18.2 All communications shall be regarded to have been given by the sender and received by the addressee: –
- a) When delivered in person to the addressee or to his authorised agent;
 - b) On expiry of 15 days from the date of sending by registered or speed post at the address of the addressee.

5.19 Penalty for Contravention:

5.19.1 The licensee shall be liable for action under the provisions of the Act, Rules, Regulations, Codes, Standards and Condition of licence in appropriate cases for contravening any one or more of the provisions of the licence including but not limiting to investigation, penalty, prosecution, revocation of licence, amendment of licence, appointment of administrator, sales of assets and or any other measure in accordance with the provisions of the Act, Rules, Regulations, Codes, Standards, etc. as the Commission may deem fit.

5.20 Powers of the Licensee:

Subject to the provisions of the Act, Regulations and the conditions of the licence, the licensee shall be vested with all powers and rights which are or can be made available by the Commission to a licensee under the Electricity Act, 2003 or Regulations made thereunder and every other relevant and applicable law if it is not inconsistent with the provisions of the Act or Regulations made thereunder or terms of this licence.

5.21 Directions of the Commission:

5.21.1 The licensee shall always comply with the directions issued by the Commission from time to time and shall act in accordance with the terms and conditions applicable to it except where the licensee obtains the prior approval of the Commission for any deviation of such directions and terms.

5.21.2 If any clause / condition applicable on a licensee becomes inapplicable or otherwise ceases to be effective for a particular period that clause / condition shall be deemed to be deleted for that period only and the remaining portion of the applicable terms and conditions of the licensee and these Regulations shall continue in full force and effect.

5.22 Confidentiality:

5.22.1 The information provided to the Commission by the licensee shall be considered public unless upon specific request by the licensee, the Commission decides that certain information is of a proprietary nature and that the public interest served by disclosure may harm the commercial interest of the licensee.

5.23 Force Majeure, Fortuitous Events and Emergencies:

5.23.1 The licensee shall not be liable for its total or partial failure to perform its duties and obligations and to the extent that such failure is a consequence of an event of Force Majeure and / or Fortuitous Event of such magnitude that with all reasonable efforts, the licensee cannot or is not allowed to start its operations either fully or partially.

Explanation:

An event to “Force Majeure” and “Fortuitous Event” means any event or circumstance or combination of events or circumstances beyond the reasonable control of the licensee, which materially, adversely and substantially affect the performance of the licensee of its obligation pursuant to this licence.

- a) In the case of Force Majeure this will mean events / circumstances which could not have reasonably been prevented by the licensee, such as civil disturbances, armed conflict, act of foreign enemy, wars, terrorist activities, uprisings, insurrections, revolution.
- b) In case of a Fortuitous Event, results from unforeseeable occurrences in nature such as earthquakes, typhoon and other natural disasters.

5.23.2 Licensee’s obligations shall be suspended to the extent and during the time that such Force Majeure and / or Fortuitous Event and / or its impairing impact on the licensee’s ability to perform continues provided that the licensee has taken all reasonable steps to enable it to continue its obligation but has failed. Provided, further, that as a condition precedent for the suspension of the obligations, the licensee shall inform the Commission, with confirmation in writing, as soon as possible about the occurrence of any such event and the likely period during which the effect and occurrence of the event and the period during which the licensee’s obligation will remain suspended partially and or fully.

CHAPTER – 6

6.1 **Power to Relax:**

6.1.1 If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may for reasons to be recorded in writing direct any licensee or a generating company or consumer by general or special order, for taking suitable action not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty.

6.1.2 Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for meeting the ends of justice or to prevent the abuse of the process of the Commission.

6.2 **Repeal and Saving:**

6.2.1 Save as otherwise provided in these Regulations, West Bengal Electricity Regulatory Commission (Licensing and Condition of Licence) Regulations, 2004 are hereby repealed.

6.2.2 Notwithstanding such repeal, anything done or purported to have been done or any action taken or purported to have been taken under the repealed Regulations, shall be deemed to have been done or purported to have been done or taken or purported to have been taken under these Regulations.

6.3 **Power to amend:**

6.3.1 The Commission may, at any time at its sole discretion vary, alter, modify, add or amend any provision of these Regulations.

6.4 **Power to Change Schedule:**

6.4.1 The Commission may from time to time change the ceiling of trading margin in pursuance to different regulations under these Regulations through orders and that shall be applicable from the date as will be mentioned in those orders.

6.5 Removal of Uncertainty & Regulatory Risk:

6.5.1 To remove any regulatory risk and uncertainty the licensee can submit any applications on certain issues related to these Regulations before proceeding for any activities where there is no specific guideline under these Regulations.

Schedule – 1

Name of Licensees those are deemed licensee under section 14 of the Act	Relevant Provisions under the Act by virtue of which the deemed licensee has been considered.	Type of Licensee under WBERC	Core Activity	Area of supply for deemed licensee engaged in distribution of electricity / assets of deemed licensees engaged in business of transmission of electricity	Reference under these Regulations for Terms and Conditions applicable for the deemed licensee
CESC Limited	First proviso to section 14 of the Act	Distribution Licensee	Distribution of Electricity	As provided in the licence under repealed Act namely Indian Electricity Act, 1910.	First proviso to regulation 2.7.1
The Durgapur Projects Limited (DPL)	First proviso to section 14 of the Act	Distribution Licensee	Distribution of Electricity	As provided in permission as sanction holder under repealed Act namely Indian Electricity Act, 1910.	First proviso to regulation 2.7.1
DPSC Limited	First proviso to section 14 of the Act	Distribution Licensee	Distribution of Electricity	As provided in the licence under repealed Act namely Indian Electricity Act, 1910.	First proviso to regulation 2.7.1
Damodar Valley Corporation	Fourth proviso to section 14 of the Act	Transmission Licensee for Intra-State Transmission	Transmission of Electricity	Intra-State transmission system of DVC in West Bengal under the Act including transmission system beyond the area of operation and built with permission of State Government under clause (iii) of section 18 of DVC Act, 1948.	regulation 3.5.5
	Fourth proviso to Section 14 of the Act	Distribution Licensee	Distribution of Electricity	DVC Valley along with Area of Operation (Please see note – 1)	First and second proviso to regulation 2.7.1

Schedule – 1

Name of Licensees those are deemed licensee under section 14 of the Act	Relevant Provisions under the Act by virtue of which the deemed licensee has been considered.	Type of Licensee under WBERC	Core Activity	Area of supply for deemed licensee engaged in distribution of electricity / assets of deemed licensees engaged in business of transmission of electricity	Reference under these Regulations for Terms and Conditions applicable for the deemed licensee
West Bengal State Electricity Distribution Company	Fifth proviso to Section 14 of the Act	Distribution Licensee	Distribution of Electricity	As described under the repealed Electricity (Supply) Act 1948.	First and third proviso to regulation 2.7.1
West Bengal State Electricity Transmission Company as STU & Transmission Licensee	Fifth proviso to section 14 of the Act as per Notification by Govt. of West Bengal under sub-section (1) of section 39 of the Act	Transmission Licensee for Intra-State Transmission	Transmission of Electricity	Whole of West Bengal or as may be stipulated in transfer scheme under section 131 of the Act.	regulation 3.5.5

Note 1:

- (a) 'Area of Operation' for Damodar Valley Corporation means such areas specified in the Notification of Central Government in Official Gazette in pursuance to sub-section 3 of section 11 of the DVC Act, 1948 and limited to such 'Area of Operation' only for which that Notification for 'Area of Operation' under sub-section (3) of section 11 includes function of electricity distribution specifically to undertake in such 'Area of Operation'.
- (b) 'DVC Valley' means the area as specified in pursuance of sub-section 1 of section 11 of DVC Act, 1948.

FORM - 1

General headings

Before the West Bengal Electricity Regulatory Commission, Kolkata

Application for Distribution Licence

[See regulation 2.1.1]

Sir,

We hereby apply for Distribution Licence, with details as under:

A. Particulars:

1. Name of the Applicant
2. Address of Registered Office
3. Company / Firm / Association / Individual
4. Year of formation
5. List of partners / directors
6. Address for communication
7. Authorised person to whom communication is to be addressed

B. Details of Licence Application:

1. Draft Licence for distribution of electricity under section 12 of the Act along with the changes proposed from the standard terms and conditions and reasons therefor.
2. Proposed area of supply of distribution licence applied for:

The area is bounded as follows:

North – By

East – By

South – By

West – By

the boundaries whereto are delineated in the deposited maps.

3. Deposited map of area (In case map as per standard scale required as per Regulation is not available the justification for different parameters adopted).
5. List of local authorities vested with administration of any portion of the area applied for.
6. Land parcels proposed to be acquired by applicant, if any, and proposed means of acquisition.
7. Declaration on area applied for:

Whether area includes any part of the area covered by the Section 15(2)(ii) of the Act, if yes, area details thereof and copy of the application made for approval of the Central Government.
8. Detailed plan of distribution network building inclusive of phase wise planning programme for meeting the need of fulfillment of the requirement of supplying power to any applicant / intending consumer / consumer within the area of supply.

C. Financial and technical fulfillment of requirements:

1. Financial capability of the applicant along with statement of capital proposed to be expended, source of funding, cost of funding and expenditure on major items with other relevant information.

Annexure – 1A

2. The documents relating to creditworthiness, capital adequacy, code of conduct in case of licence falling under sixth proviso of section 14 of the Act.
3. Short term and long term broad business plans for at least next 10 years.
4. Technical competence and experience of the applicant in the field for which distribution licence has been applied.
5. Brief details of collaboration agreement in the venture, if any.
6. If the applicant is also engaged in any other business, brief particulars thereof.
7. Names, experience and educational qualification of key management personnel.
8. The amount of security deposit / bank guarantee proposed to be deposited in accordance with these Regulations.

D. Others:

1. Summarized particulars of application for publication.
2. Details of fees and other charges paid.

We request for grant of distribution licence as detailed hereinabove.

Yours faithfully,

Signature with designation

Enclosures:

1. Draft distribution licence.
2. Memorandum and Articles of Association / Partnership Deed.
3. Audited Accounts for last 3 years including Director's Report and Auditor's Report.
4. Map of area of supply.
5. Documents relating to financial capability, creditworthiness, proposed capital expenditure, source of funding, cost of funding etc.
6. Documents relating to technical competence and experience.
7. Other documents as per these Regulations and this application.
8. Drafted detailed plan including phase wise planning programme of distribution network building programme within the proposed area of supply in pursuance to discharge of its obligations under regulation 2.7.3 and which shall be the schedule of the licence granted, if any, after due revision in the process of granting licence.

FORM – 2

WEST BENGAL ELECTRICITY REGULATORY COMMISSION

Draft of Licence to distribute electricity under section 12.

[See regulation 2.1.1 (a)]

Licence No: ____WBERC/D/

Licence is hereby granted by the West Bengal Electricity Regulatory Commission under section 14 of the Electricity Act, 2003 to to distribute electricity in the area specified hereunder with the powers, duties and obligations and the terms and conditions specified hereunder subject to the Act, rules and the terms and conditions specified under the West Bengal Electricity Regulatory Commission (Licensing and Conditions of License) Regulations, 2013 or any subsequent replacement of it which shall be read as part and parcel of this licence.

Short Title

1. Licence Term & Nature of Supply

- (a) This licence may be cited as Distribution Licence No..... dated
- (b) The Commission hereby grants to(The Licensee) this licence for undertaking the distribution of electricity under section 12 of the Act during the period from to and subject to the terms and conditions contained in this licence as amended from time to time.

2. Security Deposit

- (a) The licensee shall within 30 days of the date of issue of licence deposit Rs..... Lakh or bank guarantee as security deposit to fulfill its duties and obligations under the licence in pursuance to regulation 2.8.2 of these Regulations.
- (b) 50% of the security deposit shall be released within 15 days of satisfactory completion date of roll out period and the balance will remain as security deposit to be released as per the direction of the Commission but 25% not later than one year from satisfactory completion of roll out period and rest amount within two years from the date of roll out.

3. Area of Supply

Area of supply means the area within which the licensee will operate and is authorized by the licence in the whole of the area bounded as follows:

North – By

East – By

South – By

West – By

the boundaries whereto are delineated in the deposited maps.

4. Roll Out Period

The Roll Out period for this licensee will end on _____ and may be extended further as deemed appropriate by the Commission on the basis of reasonable ground upon an application to this effect made by the licensee sufficient in advance. If the licensee is not able to start the Roll Out within the period stipulated in the licence in a satisfactory manner, the Commission may by order direct that the whole or any part of the sum so deposited as security shall be forfeited to it irrespective of the fact that the Commission has extended the Roll Out period.

5. Distribution Network Building Programme:

Scheduled programme of distribution Network Building Programme in pursuance to regulation 2.7.10 of these Regulations.

6. Interpretation

In this licence, unless the context otherwise requires:

- a) Headings are for convenience only and do not affect the interpretation of this licence;
- b) Words importing the singular include the plural and vice versa;
- c) Words importing a gender includes any gender;
- d) A reference to terms of an offer or agreement is to all terms, conditions and provisions of the offer or agreement;
- e) A reference to any statute, regulation, order, ordinance or by-law includes all statutes, Regulations, orders, ordinances or by-laws varying, consolidating, re-enacting, extending or replacing them and a reference to a statute includes all Regulations, rules, orders, ordinances or by-laws issued under that statute;
- f) A reference to a document or a provision of a document includes an amendment or supplement to, or replacement or innovation of, that document or that provision of that document;
- g) An event, which is required under this licence to occur on or by a stipulated day, which is not a business day of the Commission, may occur on or by the next business day;
- h) A period of time:
 - (i) Which dates from a given day or the day of the act or event is to be calculated exclusive of that day; or
 - (ii) Which commences on a given day or the day of the act or event is to be calculated inclusive of that day.

Annexure – 1B

7. This licence is not transferable except in accordance with the provisions of the Act, the Rules and West Bengal Electricity Regulatory Commission (Licensing and Conditions of License) Regulations, 2013.
8. The grant of 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 the distribution system. The licensee shall not claim any exclusivity.
9. The licence shall, unless revoked earlier, continue to be in force for a period of 25 (twenty five) years from the date of issue.
10. The licensee shall pay annual fee as will be prescribed by the Government of West Bengal.

FORM-1

Before the West Bengal Electricity Regulatory Commission, Kolkata**Application for Grant of licence to transmit electricity under section 12****(See regulation 3.1.1)**

Sir,

We hereby apply for Transmission Licence, with details as under:

1. Particulars of the Applicant:

- i) Name of the Applicant :
- ii) Status :
Individual/ Partnership Firm/Private
Limited Company/ Public Limited
Company
- iii) Address :
- iv) Name, Designation & :
Address of the Contact
Person
- v) Contact Tel. No. :
- vi) Fax No. :
- vii) Email ID :
- viii) Place of Incorporation/Registration:
- ix) Year of Incorporation/Registration:
- x) Following documents are enclosed:
 - (a) Certificate of registration
 - (b) Original Power of Attorney of the signatory to commit the Applicant or its promoter

2. Particulars of the Project for which licence is being sought:

- (a) Transmission Lines:

(h) Any other relevant information

3. Past experience of the applicant, if applicable

[To be filled in by the applicant or by each participant separately in case of Joint Venture Company/ consortium (As applicable)]

Attach a detailed note.

4. Details of Financial Data of Applicant

[To be filled in by applicant or by each participant separately in case of JVC/ consortium (As applicable)]

(i) 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)

	<u>YYYY to YYYY</u>	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.

(ii) 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)

	<u>YYYY to YYYY</u>	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) Average of above 5 years =

- g) Copies of Annual Reports or certified audited results to be enclosed in support of above.
- (iii) List of documents in support of above: **Name of document**
- a) _____
 - b) _____
 - c) _____
 - d) _____
- (iv) (A) Whether Applicant himself shall be financing the said: Yes/No
Transmission Line fully on its own balance sheet
- (B) If Yes, Proposed Equity from the Applicant/its promoter
- a) Amount (approx.) :
 - b) Percentage of total equity (approx.) : _____ %
- (v) In case the Applicant proposes to tie up with some other Agency then name & address of each such Financing Agency
- A) Name, designation & Address of reference person of the other Agency
 - B) Contact Tel. No. : Fax No.
 - C) Email/address :
 - D) Proposed Equity from the other Agency
 - a) Amount (approx.) :
 - b) Percentage of total equity (approx.) : _____ %
 - c) Currency in which the equity is proposed :
 - E) Consent letter of the other Agency to associate with the Applicant for the above to be enclosed.
- (vi) Nature of proposed tie-up between Applicant and the other agency:

(vii) Details of debt proposed for the Project:

- (a) Details of Lenders:
- (b) Details of Loan packages indicating the loan amount, currency, Term of loan, interest rate, up-front fees, Commitment charges etc.
- (c) Whether any guarantees are being sought for the loans from any agency.

(Necessary approvals of concerned department of any Government where applicable will be obtained at an appropriate time and forwarded to State Transmission Utility / Commission)

(Applicant is required to enclose proof of their Organizational & Managerial Capability in form of proposed organizational structure & curricula vitae of various Executing Personnel proposed for this Project.)

(Signature of Applicant)

Dated:

Place:

Form 2

(Form of Public Notice)

Monogram, if any, of the applicant

Name of the applicant (In bold letters)

Address of the applicant (In bold letters)

NOTICE (In bold letters)

(Under sub-section (2) of Section 15 of the Electricity Act, 2003)
(In bold letters)

[As per regulation 3.1.8]

1. (Give here name of the applicant in BOLD LETTERS), having its Registered Office at(Give the address in BOLD LETTERS), which is incorporated under the Companies Act, 1956, has made an application before the West Bengal Electricity Regulatory Commission, Kolkata under sub-section (1) of Section 15 of the Electricity Act, 2003 for grant of transmission licence in respect of the transmission lines, sub-stations and other assets, the details of which are given below:

Sl. No.	Name of the line/Sub-station (location)	Line length ¹ Capacity ²	Estimated Completion Cost ³	Commissioning Schedule	Remarks ⁴
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Notes below are explanatory notes and not to be included in the public notice.

1. In case of a transmission line.
2. In case of a sub-station.
3. The estimated cost should be indicated in INR and foreign currency/ currencies, if any, separately, along with the base month and year of the estimated cost.
4. In the remarks column, in addition to any other details that may be considered necessary, it should be clearly mentioned whether any of the assets will traverse or will be located, wholly are partly, in any cantonment, aerodrome, fortress, arsenal, dockyard or camp or any of the buildings or place in occupation of the Government for Defence purposes or at a distance of 2 kms for these establishments or reserve forest.

2. Details of Capital of the company are as under:

- (a) Authorised capital
- (b) Issued capital
- (c) Subscribed capital
- (d) Paid up capital

3. Shareholding pattern of the Company is as under:

(Give details of shareholders who have been allotted shares of value of 10% or more of the subscribed capital)

Sl. No.	Name of the Shareholder	Number of shares allotted	Face value per share	Total paid-up value	Remarks
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4. The names of the Directors on the Board of the company and their other details are given below:

Sl. No.	Name	Type of Directorship (Full time or part-time)	Directorship of any other Company. If so, give details of such company	Remarks, if any
---------	------	---	--	-----------------

5. Name(s) of the long-term customers of the proposed transmission lines, sub-stations and other assets for which the license is being sought for are as under:

6. Complete application and other documents filed before the Commission are available on the web site (Give web site address) for access by any person. The application can also be inspected at the office of the Company at..... (Give address or reference to address, if given in the monogram) with (Give name of the person authorised to allow inspection) or at the office of the Commission.

7. Objections or suggestions, if any, be filed at the office of the Commission with a copy of the objection(s)/suggestion(s) to the authorised person of the applicant, within 30 days of the publication of the notice in the newspaper.

Place :
Date :

Name and Designation of the
Authorised signatory

Form-3

**WEST BENGAL ELECTRICITY REGULATORY COMMISSION
KOLKATA**

DRAFT OF TRANSMISSION LICENCE

(See regulation 3.1.14)

1. The West Bengal Electricity Regulatory Commission (hereinafter referred to as “Commission”), in exercise of the powers conferred under Section 14 of the Electricity Act, 2003 (hereinafter referred to as “Act”), hereby grants the licence to M/s (hereinafter referred to as the licensee) to construct, maintain and operate..... (Name of the Project), more specifically described in the schedule attached to this licence, which shall be read as a part and parcel of this licence, subject to the Act, the rules and the terms and conditions specified under the West Bengal Electricity Regulatory Commission (Licensing and Conditions of Licence) Regulations, 2013 or any subsequent replacement of it which shall be read as part and parcel of this licence.
2. Wherever there is a contradiction between the terms and conditions contained in this licence and the Agreements, the provisions of this licence, as amended from time to time, shall apply.
3. This licence is not transferable, except in accordance with the provisions of the Act, the Rules and West Bengal Electricity Regulatory Commission(Licensing and Conditions of License) Regulations, 2013
4. The grant of 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 the transmission system other than the Project described in the schedule attached to this licence. The licensee shall not claim any exclusivity.
5. The licence shall, unless revoked earlier, continue to be in force for a period of 25 (twenty five) years from the date of issue.
6. The licensee shall pay annual fee as will be prescribed by the Government of West Bengal.

SCHEDULE

(See Paragraph 4 of draft of Transmission Licence in Form (3))

1.0 Project Related Details:

The Project comprises of following elements of the Intra-State Transmission System:

S.No.	Name of the Transmission Element	Scheduled date of Commissioning

FORM – 1

Before the West Bengal Electricity Regulatory Commission, Kolkata

Application for grant of Intra-State Trading Licence

(See regulation 4.1.1)

Sir,

We hereby apply for Intra-State Trading Licence, with details as under:

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 enclosed
 - a) Certificate of registration :
 - b) Certificate for commencement :
of business
 - c) Memorandum of Association and Articles of Association :

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

e) Details of Income tax Registration :

Details of Financial Data of Applicant

10. Net worth (in Pequivalent 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)

<u>YYYY to YYYY</u>	<i>In Home Currency</i>	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)

<u>YYYY to YYYY</u>	In Home Currency	Exchange rate used	In equivalent Indian
(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)

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, the following particulars may be given:

(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 the 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. Organizational & Managerial Capability of the applicant:

(The applicant is required to enclose proof of their Organizational & Managerial Capability, in terms of these Regulations, in form of proposed organizational structure & curricula vitae of various executives, proposed office and communication facilities, etc.)

17. Approach & Methodology:

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

(Signature of the Applicant)

Dated:

FORM 2

WEST BENGAL ELECTRICITY REGULATORY COMMISSION

**DRAFT LICENSE TO UNDERTAKE TRADING IN ELECTRICITY
AS AN ELECTRICITY TRADER FOR INTRA-STATE TRADING**

(See regulation 4.1.9)

1. The West Bengal 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 _____ Electricity Trader (hereinafter referred to as “the licensee”) to undertake Intra-State electricity trading under section 12 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 West Bengal Government (hereinafter referred to as “the Rules”) and the Regulations specified by the Commission (herein after referred to as “the Regulations”), including statutory amendments, alterations, modifications, reenactments thereof, which shall be read as part and parcel of this licence. In accordance with this license the licensee is to undertake intra-state trading of electricity hereunder with the powers, duties and obligations and the terms and conditions specified hereunder subject to the Act, rules and the terms and conditions specified under the West Bengal Electricity Regulatory Commission (Licensing and Conditions of License) Regulations, 2013 or any subsequent replacement of it which shall be read as part and parcel of this license.
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 within West Bengal; or
 - (b) merge its utility with utility of any other licensee within West Bengal;
- 3.2 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.
- 3.3 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 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.
- For the purpose of this clause, the "year" means a period of twelve months from 1st April of a calendar year to 31st March of the following calendar year
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. The licensee shall pay annual fee as will be prescribed by the Government of West Bengal.
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.

FORM - 3

Proforma for submission of information for the Quarter (say January to March, 2004)**(See regulation 4.3.3.1)**

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**	Transmissi on losses borne by Seller/ Trader/ Buyer**	UI Charges borne by Seller/ Buyer**	Trading margin charged	Remarks

Note: All the transactions shall be reported transaction-wise on real time basis and 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 - 4

**Proforma for submission of Standards of Performance of Electricity Trader
(to be submitted to the Commission and SLDC)
(See regulation 4.3.3.2)**

Name of the Trader:

License details (No. & date):

Sl. No.	Volume of trading during the quarter	Cumulative trading up to the present quarter	Whether there is any change in the category of trader (Yes / No)	Whether Net worth 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

Note: i) A separate copy of duly filled Form IV shall also be submitted to the Commission directly.
ii) SLDC shall verify the volume of trading & pass on the Form IV to the Commission.

Place: Kolkata

Date: 03.09.2013

By Order of the Commission

Sd/-
(K. P. Bhar)
Secretary