



TAMIL NADU
GOVERNMENT GAZETTE

PUBLISHED BY AUTHORITY

No.13A] CHENNAI WEDNESDAY, APRIL 13,2011
Panguni 30, Thiruvalluvar Aandu-2042

Part VI --- Section 2
(Supplement)

NOTIFICATIONS BY HEADS OF DEPARTMENTS, ETC.



TAMIL NADU ELECTRICITY REGULATORY COMMISSION

Tamil Nadu Electricity Regulatory Commission (Licensing) Regulations, 2005 (As amended up to 31.12.2009)

Notification No. TNERC/LR/12/3 Dated 20.01.2010

WHEREAS the Tamil Nadu Electricity Regulatory Commission have published in the Tamil Nadu Government Gazette on different dates the following, namely:-

- (1) Tamil Nadu Electricity Regulatory Commission (Licensing) Regulations 2005
(Notification No.TNERC/LR/12/1, Dated 24.06.2005)
- (2) Tamil Nadu Electricity Regulatory Commission (Fees and Fines and Licensing) Amending Regulations 2006
(Notification No.TNERC/F&F/4/2-1, Dated 16.11.2006)
- (3) Tamil Nadu Electricity Regulatory Commission (Licensing) (Amendment) Regulations 2007
(Notification No.TNERC/LR/12/2, Dated 04.07.2007)

AND WHEREAS, the Commission considers it necessary that the above Regulations with the amendments incorporated therein should be re-published in the Tamil Nadu Government Gazette so as to afford an effective and efficient upto date information to the public, to enable them to have a better understanding of the said Regulation along with the Amendments incorporated therein;

Now, the Commission hereby re-publishes the Tamil Nadu Electricity Regulatory Commission (Licensing) Regulations, 2005 as amended up to 31.12.2009 in the ensuing Part VI- Section 2 of the Tamil Nadu Government Gazette.

**TAMIL NADU ELECTRICITY REGULATORY COMMISSION (LICENSING)
REGULATIONS, 2005**

Notification No. TNERC/LR/12/1 Dated 24.06.2005

Preamble

WHEREAS under the Electricity Act 2003, (Central Act 36 of 2003), the State Electricity Regulatory Commission may, on an application made to it, grant a licence to any person to transmit electricity as a transmission licensee; or to distribute electricity as a distribution licensee; or to undertake trading in electricity as an electricity trader in any area as may be specified by the Commission;

AND WHEREAS the State Electricity Regulatory Commission may specify any general and specific conditions, which shall apply either to a licensee or class of licensees and such conditions shall be deemed to be the conditions of such licence;

AND WHEREAS the regulations providing for, among others, the grant of licence, the general or specific conditions applicable to the licensees shall be subject to the condition of previous publication; and accordingly undergone previous publication;

NOW, THEREFORE, in exercise of the powers conferred by section 181 of the Electricity Act 2003 and all other powers enabling it in this behalf, the Tamil Nadu Electricity Regulatory Commission hereby makes the following regulations, namely:

Table of Contents

1.	Short title, Commencement and Extent	5
2.	Definitions	5
3.	Interpretation	7
4.	Review	8
5.	Provisions of the Act to grant licence	8
6.	Initiation of Licensing process	11
7.	Application for grant of licence	12
8.	Receipt and acknowledgement of application	16
9.	Notice of application and contents thereof	16
10.	Objections and Suggestions	17
11.	Verification of objections	18
12.	Local inquiries and Hearings	18
13.	Notification of proposal to grant licence	19
14.	Grant of licence	19
15.	Format and Date of commencement of Licence and the conditions of the licence	19
16.	Amendment of licence	20
17.	Compliance of Codes and Regulations	20
18.	Duration	20
19.	Deposit of printed copies of licence	21
20.	Revocation	21
21.	Settlement of Disputes	22
22.	Nomination of Arbitrators	23
23.	Procedure for adjudication, settlement and passing of award	23
24.	Cost of arbitration and proceedings	24
25.	Financial implication and proportion of revenue from other business	24
26.	Minimum information to be maintained by the Licensee	24
27.	Notice of acquisition or merger of any utility of the Licensee with that of any other Licensee	26
28.	Regulation of Licensee's purchase of power	26
29.	Saving of inherent power of the Commission	27
30.	General power to amend	27
31.	Power to remove difficulties	27
32.	Power to dispense with the requirement of these Regulations	28
33.	Extension or abridgment of time prescribed	28
34.	Effect of non-compliance	28
35.	Enforcement of order passed by the Commission	28
36.	Service and publication of notice	29
37.	Cognizance of offence	29
	PROFORMA OF PUBLICATION OF NOTICE OF APPLICATION FOR GRANT OF LICENCE FOR TRANSMISSION/ DISTRIBUTION/ TRADING	30
	FORM NO.1: APPLICATION FORM FOR A TRANSMISSION LICENCE IN THE STATE OF TAMIL NADU	32

Part C : FORMAT FOR ASSESSING COMPETENCE OF APPLICANT	36
FORM NO.2: APPLICATION FORM FOR A DISTRIBUTION LICENCE IN THE STATE OF TAMIL NADU	52
Part C : FORMAT FOR ASSESSING COMPETENCE OF APPLICANT	56
FORM NO.3: APPLICATION FORM FOR A TRADING LICENCE IN THE STATE OF TAMIL NADU	69
Part C : FORMAT FOR ASSESSING COMPETENCE OF APPLICANT	72
FORM NO. 4: AFFIDAVIT	83
FORM NO.5: FORMAT AND CONDITIONS OF TRANSMISSION LICENCE	84
SCHEDULE 1	98
FORM NO.6: FORMAT AND CONDITIONS OF DISTRIBUTION LICENCE	99
SCHEDULE 1	118
FORM NO.7: FORMAT AND CONDITIONS OF LICENCE OF AN ELECTRICITY TRADER	119
SCHEDULE 1	133
EXTRACTS FROM THE ARBITRATION & CONCILIATION ACT, 1996	134

1. Short title, Commencement and Extent

- (1) These Regulations may be called the 'Tamil Nadu Electricity Regulatory Commission (Licensing) Regulations, 2005'.
- (2) These Regulations shall come into force on the date of their publication in the Tamil Nadu Government Gazette.
- (3) These Regulations extend to the whole of the State of Tamil Nadu.

2. Definitions

(1) In these Regulations, unless the context otherwise requires:

- (a) **“Act”** means the Electricity Act, 2003(Central Act 36 of 2003);
- (b) **“Applicant”** means a person who has made an application under Section 15 of the Act to transmit electricity as a transmission licensee or distribute electricity as a distribution licensee or to undertake trading in electricity as an electricity trader;
- (c) **“Agreement”** means the agreement entered into between the licensees including the agreements between generating companies and licensees/consumers and between distribution licensees and consumers;

¹[(ca) **“Associate”**, in relation to the applicant, includes a person -

- (i) who, directly or indirectly, by himself, or in combination with relatives, own or controls shares carrying not less than twenty percent of voting rights of the applicant ; or
- (ii) in respect of whom the applicant, directly or indirectly, by himself, or in combination with other persons, owns or controls shares carrying not less than twenty percent of the voting rights ; or
- (iii) majority of the Directors of which, own or control shares carrying not less than twenty percent of the voting rights of the applicant; or
- (iv) whose Director, officer or employee is also a director, officer or employee of the applicant;]

(d) **“Commission”** means the Tamil Nadu Electricity Regulatory Commission.

+++++

¹Inserted as per Commission's Notification No. **TNERC/LR/12/2, dated 4.7.2007 (w.e.f. 25.7.2007)**

+++++

- (e) **“Conduct of Business Regulations”** means the Tamil Nadu Electricity Regulatory Commission - Conduct of Business Regulations, 2004, for the time being in force;
- (f) **“Consumer”** means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be;
- (g) **“Designated Officer”** means an officer of the Commission designated for the specific purpose and shall include the Secretary;
- (h) **“distribution”** means the conveyance of electricity by means of a Distribution System;
- ¹[(ha) **“Economic offence”** means an offence to which the Economic Offences (Inapplicability of Limitation) Act, 1974 (12 of 1974), is applicable for the time being;
- (hb) **“Fraud”** has the same meaning as is assigned to it by section 17 of the Indian Contract Act, 1872 (9 of 1872);]
- (i) **“licence”** means a licence granted under section 14 of the Act;
- (j) **“licensee”** means a person who has been granted a licence under section 14 of the Act;
- (k) **“licensed business”** means the business of transmission or distribution or trading in electricity in the area as authorised under the licence;
- ²[(ka) **“Net worth”** means net worth as defined in the Companies Act, 1956 (1 of 1956) as amended from time to time, including re-enactment thereof;]
- (l) **“other business”** means any business of the licensee other than the licensed business for optimum utilisation of its assets;
- ³[(la) **“Relative”** means a relative as defined in section 6 of the Companies Act, 1956 (1 of 1956);]
- (m) **“Secretary”** means the Secretary of the Tamil Nadu Electricity Regulatory Commission;

+++++

¹Inserted as per Commission's Notification No. **TNERC/LR/12/2, dated 4.7.2007 (w.e.f. 25.7.2007)**

²Inserted as per Commission's Notification No. **TNERC/LR/12/2, dated 4.7.2007 (w.e.f. 25.7.2007)**

³Inserted as per Commission's Notification No. **TNERC/LR/12/2, dated 4.7.2007 (w.e.f. 25.7.2007)**

+++++

- (n) **“State Load Despatch Centre”** means the centre established under sub-section (1) of section 31;
 - (o) **“trading”** means purchase of electricity for resale thereof and the expression “trade” shall be construed accordingly;
 - (p) **“transmit”** means conveyance of electricity by means of transmission lines and the expression "transmission" shall be construed accordingly;
- (2) Words or expressions occurring in these Regulations and not defined herein but defined in the Electricity Act, 2003 (Act 36 of 2003) or in any other Regulations published by the Commission, shall bear the same meanings assigned to them respectively in the Act and such other Regulations, and as defined and understood in the engineering and commercial circles.
- (3) The [Conduct of Business Regulations](#) as may be amended from time to time shall, mutatis mutandis, as far as practicable and possible, apply to the proceedings under these Regulations.

3. Interpretation

In the interpretation of these Regulations, unless the context otherwise requires, the following provisions shall apply

- (1) the original Regulations will be in English and they will be translated in Tamil. In case of difference in interpretation of Regulations in Tamil version, the original Regulation in English version will stand.
- (2) words in the singular or plural term, as the case may be, shall also be deemed to include the plural or the singular term, respectively;
- (3) the terms “include” or “including” shall be deemed to be followed by “without limitation” or “but not limited to” regardless of whether such terms are followed by such phrases or words of like import;
- (4) references herein to the “Regulations” shall be construed as a reference to these Regulations as amended or modified by the Commission from time to time in accordance with the applicable laws in force.
- (5) the headings are inserted for convenience and may not be taken into account for the purpose of interpretation of these Regulations.
- (6) references to the statutes, regulations or guidelines shall be construed as including all statutory provisions consolidating, amending or replacing such statutes, regulations or guidelines, as the case may be.
- (7) Wherever extracts of Electricity Act, 2003 are reproduced, any changes/ amendments to the original Act shall automatically be deemed to be effective under this regulation also.

4. Review

The Commission from time to time may review these Regulations, particularly with the purpose of harmonising the same with the regulation of open access and/or to cater to the needs of developing power markets, in accordance with section 66 of the Act.

5. Provisions of the Act to grant licence

Section 12 of the Act, which deals with the requirement of obtaining licence for transmission, distribution or trading electricity reads as follows:

No person shall-

- (a) transmit electricity; or*
- (b) distribute electricity; or*
- (c) undertake trading in electricity,*

unless he is authorised to do so by a licence issued under section 14, or is exempt under section 13.

Section 13 of the Act, which deals with the power to exempt, reads as follows:

The Appropriate Commission may, on the recommendations, of the Appropriate Government, in accordance with the national policy formulated under section 5 and in public interest, direct, by notification that subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the notification, the provisions of section 12 shall not apply to any local authority, Panchayat Institution, users' association, co-operative societies, nongovernmental organizations, or franchisees:

Section 14 of the Act, which deals with grant of licence, reads as follows:

The Appropriate Commission may, on an application made to it under section 15, grant a licence to any person –

- (a) to transmit electricity as a transmission licensee; or*
- (b) to distribute electricity as a distribution licensee; or*
- (c) to undertake trading in electricity as an electricity trader,*

in any area which may be specified in the licence:

Provided that any person engaged in the business of transmission or supply of electricity under the provisions of the repealed laws or any Act specified in the Schedule on or before the appointed date shall be deemed to be a licensee under this Act for such period as may be stipulated in the licence, clearance or approval granted to him under the repealed laws or such Act specified in the Schedule, and the provisions of the repealed laws or such Act specified in the Schedule in respect

of such licence shall apply for a period of one year from the date of commencement of this Act or such earlier period as may be specified, at the request of the licensee, by the Appropriate Commission and thereafter the provisions of this Act shall apply to such business:

Provided further that the Central Transmission Utility or the State Transmission Utility shall be deemed to be a transmission licensee under this Act:

Provided also that in case an Appropriate Government transmits electricity or distributes electricity or undertakes trading in electricity, whether before or after the commencement of this Act, such Government shall be deemed to be a licensee under this Act, but shall not be required to obtain a licence under this Act:

Provided also that the Damodar Valley Corporation, established under sub-section (1) of section 3 of the Damodar Valley Corporation Act, 1948, shall be deemed to be a licensee under this Act but shall not be required to obtain a licence under this Act and the provisions of the Damodar Valley Corporation Act, 1948, (14 of 1948) in so far as they are not inconsistent with the provisions of this Act, shall continue to apply to that Corporation:

Provided also that the Government company or the company referred to in sub-section (2) of section 131 of this Act and the company or companies created in pursuance of the Acts specified in the Schedule, shall be deemed to be a licensee under this Act:

Provided also that the Appropriate Commission may grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area, subject to the conditions that the applicant for grant of licence within the same area shall, without prejudice to the other conditions or requirements under this Act, comply with the additional requirements (relating to the capital adequacy, credit-worthiness, or code of conduct) as may be prescribed by the Central Government, and no such applicant who complies with all the requirements for grant of licence, shall be refused grant of licence on the ground that there already exists a licensee in the same area for the same purpose:

Provided also that in a case where a distribution licensee proposes to undertake distribution of electricity for a specified area within his area of supply through another person, that person shall not be required to obtain any separate licence from the concerned State Commission and such distribution licensee shall be responsible for distribution of electricity in his area of supply:

Provided also that where a person intends to generate and distribute electricity in a rural area to be notified by the State Government, such person shall not require any licence for such generation and distribution of electricity, but he shall comply with the measures, which may be specified by the Authority under section 53:

Provided also that a distribution licensee shall not require a licence to undertake trading in electricity.

Section 15 of the Act, which deals with procedure for grant of licence, reads as follows:

- (1) *Every application under section 14 shall be made in such form and in such manner as may be specified by the Appropriate Commission and shall be accompanied by such fee as may be prescribed.*
- (2) *Any person who has made an application for grant of a licence shall, within seven days after making such application, publish a notice of his application with such particulars and in such manner as may be specified and a licence shall not be granted-*

(i) until the objections, if any, received by the Appropriate Commission in response to publication of the application have been considered by it:

Provided that no objection shall be so considered unless it is received before the expiration of thirty days from the date of the publication of the notice as aforesaid;

(ii) until, in the case of an application for a licence for an area including 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, the Appropriate Commission has ascertained that there is no objection to the grant of the licence on the part of the Central Government.

- (3) *A person intending to act as a transmission licensee shall, immediately on making the application, forward a copy of such application to the Central Transmission Utility or the State Transmission Utility, as the case may be.*
- (4) *The Central Transmission Utility or the State Transmission Utility, as the case may be, shall, within thirty days after the receipt of the copy of the application referred to in sub-section (3), send its recommendations, if any, to the Appropriate Commission:*

Provided that such recommendations shall not be binding on the Commission.

- (5) *Before granting a licence under section 14, the Appropriate Commission shall*
 - (a) *publish a notice in two such daily newspapers, as that Commission may consider necessary, stating the name and address of the person to whom it proposes to issue the licence;*
 - (b) *consider all suggestions or objections and the recommendations, if any, of the Central Transmission Utility or the State Transmission Utility, as the case may be.*

(6) *Where a person makes an application under sub-section (1) of section 14 to act as a licensee, the Appropriate Commission shall, as far as practicable, within ninety days after receipt of such application, -*

(a) issue a licence subject to the provisions of this Act and the rules and regulations made thereunder; or

(b) reject the application for reasons to be recorded in writing if such application does not conform to the provisions of this Act or the rules and regulations made thereunder or the provisions of any other law for the time being in force:

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

(7) *The Appropriate Commission shall, immediately after issue of a licence, forward a copy of the licence to the Appropriate Government, Authority, local authority, and to such other person as the Appropriate Commission considers necessary.*

(8) *A licence shall continue to be in force for a period of twenty-five years unless such licence is revoked.*

6. Initiation of Licensing process

(1) The Commission may, if it considers it necessary or on the basis of recommendations from Government / State Transmission Utility (STU) invite applications from the public fulfilling such eligibility requirements as may be stipulated by it from time to time for grant of transmission licence / distribution licence as the case may be, by public notification through issue of advertisements in newspapers, always guaranteeing the principles of transparency.

(2) *Suo motu applications for distribution or transmission licence, if received without any specific notifications to this effect by the Commission, shall be considered by the Commission in the following way:*

(a) The Commission will satisfy itself that the proposal is technically and otherwise a viable one. It will improve the consumer's interest and also promote competition;

(b) Public will be informed regarding the receipt of such a suo motu application and further applications will be invited from any other interested (parties) persons;

(c) Based on all applications received these regulations along with the procedures laid down will be followed for issue of licence.

7. Application for grant of licence

- (1) The application for grant of licence under section 14 of the Act, to transmit electricity or distribute electricity or to undertake trading in electricity shall respectively be in Form No. 1, Form No. 2 and Form No. 3 specified as Annexures 2, 3 and 4 of these regulations and shall be accompanied by the proof of payment of such fees as prescribed by the State Government.
- (2) Every application for a licence shall be signed by the applicant or his authorised representative and shall be addressed to the Designated Officer of the Commission. The application shall be filed in five sets or such number of copies as the Commission may direct, and each set shall be accompanied by;
 - (a) three sets of maps of the proposed area of transmission or distribution. Such maps shall be on a scale of
 - (i) not less than 10 cm to a km or
 - (ii) such other scale as may be approved by the Commission in the circumstances of the case.
 - (b) a list of all local authorities vested with the administration of any or all the portion of the area of transmission or distribution or trading;
 - (c) an approximate statement describing any lands which the applicant proposes to acquire for the purpose of the licence, under the provisions of the Land Acquisition Act, 1894 (Act 1 of 1894) and the proposed means of such acquisition;
 - (d) a detailed description of the existing assets if any, in the applicant's proposed area of activity, including the single line diagram of the network as well as an executive summary of the existing facilities, details of other equipments/apparatus in his area including number and details of sub-stations, details of transformers, a description of the metering systems and other relevant details of the system.
 - (e) an approximate statement of the capital proposed to be expended in the proposed area of activity of the licence and such other particulars as the Commission may require;
 - (f) a copy of the Memorandum of Association (MoA) and Articles of Association (AoA) of the company where the applicant is a body corporate, Certificate of Incorporation/ Registration, Certificate of commencement of business, details of Income Tax registration or Tax Account Number and similar statutory documents in all cases;

- (g) Audited annual accounts for previous five years in case the applicant was in the same business or the project report certified by the chartered accountant;
- (h) proof for having paid the application fee;
- (i) details and background of the applicant;
- (j) such other documents/information as the Commission may, in this regard, require by order.
- (k) in case of an applicant seeking a trading licence, volume of power intended to be traded during the first year after grant of licence and the future plans for trading during the next five years.

(3) The application for licence shall be supported by an affidavit in Form No. 4 in the Annexure 5 with these Regulations sworn before Advocate / Notary Public / Magistrate/Gazetted officer.

¹[(4) A person applying for grant of a licence, for distribution of electricity through his own distribution system within the same area of supply of an existing distribution licensee shall, comply with such additional requirements including capital adequacy, credit worthiness or code of conduct as prescribed by the Central Government in Distribution of Electricity Licence (additional requirement of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005 and as amended from time to time.]

(5) Any Person applying for licence to undertake trading in electricity in the State of Tamil Nadu shall duly fulfil the conditions of capital adequacy requirement and credit worthiness as specified under sub-regulation (6) and technical requirement, as stipulated under sub-regulation (7).

+++++

¹Substituted as per Commission's Notification No. **TNERC/LR/12/2 dated 4.7.2007** (w.e.f. **25.7.2007**) which before substitution stood as under:

"A person applying for grant of a licence, for distribution of electricity through his own distribution system within the same area of supply of an existing distribution licensee shall, comply with such additional requirements including capital adequacy, creditworthiness or code of conduct as may be prescribed by the Central Government."

+++++

(6) Capital adequacy requirement, and creditworthiness of electricity trader:

- (a) Having regard to the volume of trading proposed to be undertaken, the networth of an electricity trader at the time of his application shall be as set out in the Table 1 hereunder:-

Table 1 – Net Worth

S. No.	Category	Volume of electricity proposed to be traded (in kWh) per annum	Minimum Networth (in Rs. Crores)
1	A	Less than 50 MU	1
2	B	Greater than 50 MU and equal up to 100	2
3	C	Greater than 100 MU and equal up to 200 MU	4
4	D	Greater than 200 MU and equal up to 300 MU	6
5	E	Greater than 300 MU and equal up to 400 MU	8
6	F	Greater than 400 MU and equal up to 500 MU	10
7	G	Greater than 500 MU	Trade volume (in kWh) x Rs 0.2

- (b) An applicant applying for a trading licence, and if the applicant is a company, the promoters of the company, and if the applicant is a partnership firm, the partners of the firm, shall at no time have been classified as “wilful defaulter” by the Reserve Bank of India or other relevant authority.
- (c) If the applicant is a company, which has been rated by a credit rating agency within a period of eighteen (18) months prior to the date of the application for grant of trading licence, it shall have a rating above ‘B’.
- (d) Where an applicant has one or more borrowal accounts with a bank(s), all such accounts should be classified as ‘Standard’ by each of its bankers.

(7) Technical requirements of the applicant applying for a licence:

The applicant for a licence shall have:

- (a) at least one full-time professional in the relevant discipline with a minimum of twenty years experience to lead the organisation along with sufficient engineering personnel commensurate with the quantum and nature of works involved in the licensed business.
- (b) at least one full-time finance/ accounts professional with a minimum of twenty years experience to lead the finance and accounting wing,

along with sufficient finance and accounting personnel commensurate with the quantum and nature of works involved in the licensed business

- (c) sufficient skilled staff, including those at the lower levels with adequate qualifications and experience and basic computer awareness, in order to discharge technical / commercial transactions smoothly.
- (d) adequate office area with appropriate communication facilities to the satisfaction of the Commission to effectively communicate with the different business associates and regulatory bodies.
- (e) to show justification to the satisfaction of the Commission that the technical capability and resources exhibited by the applicant are adequate to manage the licensed business .

¹[7A. Disqualifications : The applicant shall not be qualified for grant of licence if :

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

++++
¹Inserted as per Commission's Notification No. **TNERC/LR/12/2, dated 4.7.2007 (w.e.f. 25.7.2007)**
++++

- (f) he is not considered a fit and proper person for the grant of licence for any other reason to be recorded in writing ;

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

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

8. Receipt and acknowledgement of application

Upon receipt of the application for grant of licence along with the proof of payment of such fees as prescribed by the State Government, the Designated Officer shall enter the particulars in a register to be maintained for the purpose and allot a reference number to the application. The Designated Officer shall then dispatch to the Applicant, at the address stated in the application, an acknowledgement stating the date of receipt and the reference number.

9. Notice of application and contents thereof

- (1) (a) ¹[The applicant shall, within **seven days** from the date of the application, publish in two English national daily newspapers, including one economic newspaper and two Tamil daily newspapers having a wide circulation in the area for which the licence is sought, a notice of his application as given in Annexure 1.

Where there is more than one edition of the newspaper (both English and Tamil) in the area for which the licence is applied for, the applicant shall ensure that the notice is published in all such editions.

+++++

¹Substituted as per Commission’s Notification No. **TNERC/LR/12/2 dated 4.7.2007 (w.e.f. 25.7.2007)** which before substitution stood as under:

“The applicant shall, within seven days from the date of the application, publish in two English national daily newspapers, including one economic newspaper and two Tamil daily newspapers having a wide circulation in the area for which the licence is sought, a notice of his application as given in Annexure 1.

Provided that the applicant may request the Commission to permit it to refrain from publishing any confidential information in order to protect its business interests or rights in intellectual property and the Commission may grant such request after due consideration.”

+++++

Provided that the applicant may request the Commission to permit it to refrain from publishing any confidential information in order to protect its business interests or rights in intellectual property and the Commission may grant such request after due consideration.]

- (b) The applicant shall endeavour that the notice is published in all the newspapers simultaneously on the same day. However, in case the notice is published on different days in different newspapers, the date last published will be deemed to be the date of publication of the notice.
- (c) Unless otherwise specified by the Commission, the notice shall be published in at least two successive issues of the dailies.
- (2) The applicant shall post complete application along with annexures and enclosures in his own website or any other authorised website to facilitate access to the application by any person through internet. The application with enclosures shall also be submitted to the Commission in a compact disk (CD).
- (3) Applicants for grant of transmission licence are required to forward a copy of such application to the State Transmission Utility for recommendation.
- (4) In addition to the above, the Commission may direct that notice of the application be served on any designated representative of the Central Government, the State Government, any local authority or any other authority or person or body as the Commission may deem appropriate.
- (5) The Applicant shall within **seven days** from the date of publication of the notice as aforesaid submit to the Commission on an affidavit the details of the notice published and shall also file with the Commission relevant copies of the newspapers in which the notice is published.
- (6) The applicant shall make sufficient number of copies of application available for inspection by any person.

10. Objections and Suggestions

- (1) Any Person intending to object to the grant of the licence shall file objections by way of affidavit within **thirty days** from the date of publication of the notice referred to in **Regulation 9(1)(a)** annexing thereto proof of having served copy of such objections upon the Applicant. The objections shall be addressed to the Designated Officer. Upon receipt of such objections, the Designated Officer shall imprint the reference number of the concerned licence application on the same and shall file such objections in the file relating to the concerned licence.
- (2) The Designated Officer shall serve a copy of all the objections received by him on the applicant within one week of its receipt.

- (3) The applicant may file his comments on the objections or suggestions received in response to the notice within fifteen (15) days of receipt of the objections from the Designated Officer.
- (4) The State Transmission Utility shall, **within thirty days** from the date of receipt of the copy of the application, send its recommendations, if any, to the Commission.

Provided such recommendations shall not be binding on the Commission.

11. Verification of objections

Where the application is for grant of licence for an area, which 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 Government for defence purposes, the licence shall be granted by the Commission only after ascertaining that there is no objection to the grant of licence on the part of the Central Government.

12. Local inquiries and Hearings

- (1) Upon compliance by the applicant of all the conditions pertaining to the submission of documents, obtaining of permissions and publication of notices and upon the expiry of the time for receiving objections, the Commission may consider the application for grant of licence through a hearing or without hearing process as it considers appropriate.
- (2) (a) If any person objects to the grant of a licence applied for under the Act the Commission may, if it considers necessary, cause a local inquiry to be held for which the notice in writing shall be given to both the applicant and the objector.

(b) Where a local inquiry is ordered and held under clause (a) above, the Commission shall, in its order requiring the local inquiry, or by further order in writing, specify the time within which the local inquiry is to be completed.

Provided that the Commission may, for reasons to be recorded in writing, extend the time fixed by it for the local inquiry.

(c) In case such local inquiry is ordered and conducted, a memorandum of the results of the local inquiry made shall be prepared and shall be signed by the applicant, the Designated Officer and such other person as the Commission may direct.

(d) The Commission while hearing the application for the grant of licence shall consider the results of the local inquiry.
- (3) The Commission on deciding to follow a public hearing process shall thereafter proceed as far as possible in the same manner as provided in Chapter II of the Conduct of Business Regulations.

- (4) The Commission shall give the notice of hearing to the applicant, the Central Government, the State Government and such other authority, person or body as the Commission considers appropriate.
- (5) The Commission may determine the manner, the place, the date and the time of the hearing on the application.

13. Notification of proposal to grant licence

Before granting a licence under section 14, the Commission shall publish a notice in two daily newspapers, including one economic newspaper and one Tamil daily having wide circulation in the area for which the licence is sought, stating the name of the person to whom it proposes to issue the licence;

14. Grant of licence

- (1) The Commission shall, as far as practicable, within **ninety days** after receipt of such application, -
 - (a) issue a licence subject to the provisions of this Act and the rules and Regulations made thereunder after taking all objections/ suggestions into consideration; or
 - (b) reject the application for reasons to be recorded in writing if such application does not conform to the provisions of this Act or the rules and regulations made thereunder or the provisions of any other law for the time being in force.

Provided that application shall be rejected unless the applicant is given an opportunity of being heard.

- (2) After issue of licence, the Commission shall forward a copy of the licence to the Government of Tamil Nadu, Central Electricity Authority, local authority and to such other person the Commission may consider it appropriate.

15. Format and Date of commencement of Licence and the conditions of the licence

- (1) The licence shall commence from such date as the Commission may specify as the date of commencement of licence.
- (2) The format and conditions of licence applicable to a transmission licensee, including any person who is a deemed transmission licensee, under section 14 of the Act, shall be as specified in Form No.5 in the Annexure 6 to these Regulations.

- (3) The format and conditions of licence applicable to a distribution licensee, including any person who is a deemed distribution licensee, under section 14 of the Act, shall be as specified in Form No.6 in the Annexure 7 to these Regulations.
- (4) The format and conditions of licence applicable to any person undertaking trading of electricity shall be as specified in Form No.7 in the Annexure 8 to these Regulations.

16. Amendment of licence

- (1) The terms and conditions of the licensee may be modified by the Commission in public interest or otherwise on an application made by the licensee.
- (2) The procedure specified in Regulation 7 shall mutatis mutandis be applicable in case of licensee making an application for any alteration of or modification to, the terms and conditions of the licence. The notice shall contain the details of amendment / alteration / modification and the reasons thereof.
- (3) Where any alterations or amendments in a licence are proposed to be made otherwise than on the application of the licensee, the Commission shall publish the proposed alterations or amendments with such particulars the Commission deems necessary in two English dailies and two Tamil dailies circulating in the Licensee's area of activity.

17. Compliance of Codes and Regulations

The licensees shall comply with all these regulations, conditions of licence, provisions of the Act, rules and provisions in the Tamil Nadu Electricity Grid Code, Tamil Nadu Electricity Supply Code, Tamil Nadu Electricity Distribution Code, Tamil Nadu Electricity Distribution Standards of Performance Regulations and any other codes or regulations in force.

18. Duration

- (1) The licence shall be valid for a period of twenty-five years from the date of its commencement unless it is revoked by the Commission.

Provided that at the expiry of the term, the Commission may at its discretion and considering the interest of the public and after giving any member of the public an opportunity to file his objections, if any, extend the licence for such further period, with or without any modification of licence as the Commission may deem fit.

- (2) Unless otherwise specified in writing by the Commission, the procedure for grant of licence shall be followed while dealing with an application for extension of the duration of a licence.

19. Deposit of printed copies of licence

- (1) Every person who is granted a licence shall within **thirty days** of the grant thereof arrange to keep the following as specified by Central Electricity Authority.
 - (a) adequate number of copies of the licence printed;
 - (b) adequate number of maps prepared showing the area of activity or area of supply as specified in the licence;
 - (c) a copy of such licence and maps for public inspection at all reasonable times at his head office, at his local offices (if any) and at the office of every local authority within the area of activity or area of supply as the case may be.
- (2) Every such licensee shall, within the aforesaid period of **thirty days**, supply free of charge one copy of the licence and the relevant maps to every local authority within the area of activity or area of supply as the case may be, and shall also make necessary arrangements for the sale of printed copies of the licence to all persons applying for the same, at a price not exceeding normal photocopying charges per copy.

20. Revocation

The revocation of the licence shall be as stipulated under section 19 of the Act, which reads as follows:

- (1) *If the Appropriate Commission, after making an enquiry, is satisfied that public interest so requires, it may revoke a licence in any of the following cases, namely:-*
 - (a) *where the licensee in the opinion of the Appropriate Commission, makes wilful and prolonged default in doing anything required of him by or under this Act or rules or regulations made thereunder;*
 - (b) *where the licensee breaks any of the terms or conditions of his licence the breach of which is expressly declared by such licence to render it liable to revocation;*
 - (c) *where the licensee fails, within the period fixed in this behalf by his licence, or any longer period which the Appropriate Commission may have granted therefor-*
 - (i) *to show, to the satisfaction of the Appropriate Commission, that he is in a position fully and efficiently to discharge the duties and obligations imposed on him by his licence; or*
 - (ii) *to make the deposits or furnish the security, or pay the fees or other charges required by his licence;*

- (d) *where in the opinion of the Appropriate Commission the financial position of the licensee is such that he is unable fully and efficiently to discharge the duties and obligations imposed on him by his licence .*
- (2) *Where in its opinion the public interest so requires, the Appropriate Commission may, on application, or with the consent of the licensee, revoke his licence as to the whole or any part of his area of distribution or transmission or trading upon such terms and conditions as it thinks fit.*
- (3) *No licence shall be revoked under sub-section (1) unless the Appropriate Commission has given to the licensee not less than three months notice in writing, stating the grounds on which it is proposed to revoke the licence, and has considered any cause shown by the licensee within the period of that notice, against the proposed revocation.*
- (4) *The Appropriate Commission may, instead of revoking the licence under sub-section (1), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose, and any further terms and conditions so imposed shall be binding upon and be observed by the licensee and shall be of like force and effect as if they were contained in the licence.*
- (5) *Where the Commission revokes a licence under this section, it shall serve a notice of revocation upon the licensee and fix a date on which the revocation shall take effect.*
- (6) *Where the Appropriate Commission has given notice for revocation of licence under sub-section (5), without prejudice to any penalty which may be imposed or prosecution proceedings which may be initiated under this Act, the licensee may, after prior approval of that Commission, sell his utility to any person who is found eligible by the Commission for grant of licence.*

21. Settlement of Disputes

- (1) The Commission shall adjudicate upon the disputes between the licensees and generating companies or refer any dispute for arbitration on the application of any of the licensees or the generating companies concerned.
- (2) The Commission shall issue notice to the concerned licensees and generating companies to show cause as to why the disputes between them or the matters as specified in the notice should not be adjudicated and settled through arbitration.
- (3) The Commission may after hearing the concerned licensees and the generating companies to whom notices have been issued and if satisfied that no reason or cause has been shown against the proposed arbitration, pass an order directing that the matter be referred for adjudication or settlement through arbitration.

22. Nomination of Arbitrators

- (1) If the Commission decides to refer the matter to arbitration by a person or persons other than the Commission, the reference shall be:
 - (a) to sole arbitrator if the parties to the dispute agree on the name of the arbitrator; or
 - (b) if the parties are unable to agree on the name of the sole arbitrator to be designated by the Commission, the Commission may direct referral of the dispute to three arbitrators taking into account the nature of the dispute and the value involved. In such an event, one arbitrator shall be nominated by each of the parties to the dispute and the third by the Commission;

Provided that if any of the parties fails to nominate the arbitrator or if any of the arbitrators nominated by the parties or the Commission, fails or neglects to act or continue as arbitrator, the Commission shall be entitled to nominate any other person in his place.

- (2) The Commission shall not nominate a person as arbitrator to whose nomination any of the licensee or generating companies or other concerned in the arbitration has a reasonable objection on grounds of possible bias or similar such reasons and the Commission considers the objection to be valid and justified.

23. Procedure for adjudication, settlement and passing of award

- (1) The procedure to be followed for the arbitration, whether by the Commission itself or by any arbitrator or arbitrators nominated by it shall be as far as possible the same as in the case of hearing before the Commission as provided for in Chapter II of the Conduct of Business Regulations.
- (2) The Arbitrator or arbitrators nominated by the Commission after hearing the parties shall pass a speaking award giving reasons for the decision on all issues arising for adjudication and forward the award to the Commission within such time as the Commission may stipulate.
- (3) The Commission shall give notice of the award given by the arbitrator or arbitrators appointed by the Commission to the parties concerned and shall give an opportunity to the parties to file objection to the award and reply to the objections within such time as the Commission may direct.
- (4) The Commission shall be entitled to pass appropriate orders, as it thinks fit after giving an opportunity of hearing to the parties.

24. Cost of arbitration and proceedings

The cost of the arbitration and proceedings before the Commission shall be borne by such parties and in such sums as the Commission may direct.

25. Financial implication and proportion of revenue from other business

- (1) The transmission / distribution licensee may engage, with prior intimation to the Commission, in any other business **for optimum utilisation of its assets** under the licensed business
- (2) The transmission / distribution licensee engaging in other business, shall pay to the licensed business at least 50% of its profits earned out of such other business by using this asset, which shall be utilised for reducing the charges for transmission, or wheeling or distribution of electricity
- (3) The transmission / distribution licensee engaging in other business, shall not in any manner utilize the assets and facilities of the licensed business or otherwise directly or indirectly allow its other business to be undertaken in a manner that results in the licensed business subsidising its other business.
- (4) The transmission / distribution licensee engaging in other business, shall not in any manner, directly or indirectly encumber the assets and facilities of the licensed business for the other business or for any activities other than the licensed business.
- (5) The other business carried out by optimally utilising the assets covered under the licence, shall not in any way affect or likely to affect the quality of supply and also quality of service rendered.

26. Minimum information to be maintained by the Licensee

- (1) The licensee shall at all times maintain minimum information as detailed in the following sub-clauses to enable any Investigating Authority to accomplish its investigation directed to by the Commission under section 128 of the Act:
 - (a) Maintenance of separate accounts for other business to ensure that the licensed business does not subsidise the other business;
 - (b) Records to show that the assets of the licensed business is not encumbered to support other business;
 - (c) Information on revenue from other business allocated to licensed business;
 - (d) Approval of Commission, if any, on assignment of licence, transfer of assets, acquisition of utility of other licensee within the same State;

- (e) Quantum of compensation paid automatically and on claim for failure to achieve each of the standards of performance prescribed;
 - (f) Details of accidents and major incidents occurred in the area of activity;
 - (g) Books of accounts with subsidiary ledgers to verify the billing and collection of the charges at the rates approved by the Commission; and
 - (h) Registers showing the number of complaints/grievances received and disposed of and the details of awards by Ombudsman.
- (2) The information thus maintained shall be verified, validated and updated regularly by the licensee.
- (3) The transmission licensee shall at all times maintain, updated information on operational details specified herein in the manner as may be required under the Tamil Nadu Electricity Grid Code, of its licensed business.
- (a) Sub-station details (*incomer source, outgoing feeder, transformation capacity, Current Transformer, Potential Transformers etc*), single line diagrams (*showing lines [incl. line length, conductor size], transformers, feeders, etc.*), metering systems & status
 - (b) Details of interface points, metering points & status of meters.
 - (c) Peak Demand (*un-restricted & restricted*), Peak Availability etc.
 - (d) Performance details as against the standards specified by the Commission, in the area of connectivity, quality of supply (*voltage, frequency, interruptions [duration & numbers]*), system outage (*planned & unplanned*), energy received, transmitted and system losses etc.
 - (e) Connection capacity information
 - (f) Details of protection systems
- (4) The distribution licensee shall at all times maintain, updated information on operational details specified herein in the manner as may be required under the Tamil Nadu Electricity Distribution Code and the Tamil Nadu Electricity Supply Code, of its licensed business.
- (a) Sub-station details (*incomer source, outgoing feeder, distribution transformer capacity, Current Transformer, Potential Transformers etc*), single line diagrams (*showing lines [incl. line length, conductor size], transformers, feeders, etc.*), metering systems & status.
 - (b) Details of interface points, metering points & status of meters.

- (c) Peak Demand (*un-restricted & restricted*), Peak Availability, availability of system capacity to allow open access, etc.
 - (d) Performance details as against the standards specified by the Commission, with reference to Quality of Supply (*voltage, frequency, interruptions [duration & numbers]*), System Outage (*planned & unplanned*), energy received, transmitted and system losses, etc.
 - (e) Records of application requiring supply (status & connection details)
 - (f) Billing (*records of meter reading, copies of bills generated, evidence of issuance of bills, records with billing details, etc.*), Collection (*details of collection, copies of bill receipts, etc.*), details of disconnection (*evidences of issuance of notice, effecting of disconnection, etc.*).
- (5) The trading licensee shall at all times maintain, updated information on operational details specified herein in the manner appropriate, of its licensed business.
- (a) Details of the various Agreements including billing and settlement agreement;
 - (b) Quantum electricity traded and the source thereof;
 - (c) Details of beneficiaries of trade;
 - (d) Details of any default in supply; and
 - (e) Details of disputes in bills.

27. Notice of acquisition or merger of any utility of Licensee with that of any other Licensee

- (1) For purpose of securing the prior approval in terms of section 17 of the Act, the Commission shall require the applicant to first publish the brief particulars of his application in two English dailies and two Tamil dailies circulating in the area to which the proposed acquisition relates. The Commission would consider all objections received within **thirty days** of the date of publication of the notice before granting or refusing the approval sought.
- (2) The procedure in the Conduct of Business Regulations shall as far as practicable apply to proceedings under sub-regulation (1).

28. Regulation of Licensee's purchase of power

- (1) The licensee shall file with the Commission, complete copies of all power purchase agreements already entered into by it.

- (2) The licensee shall establish to the satisfaction of the Commission that the purchase of power by the licensee is under a transparent procurement process and is economical and the power purchased is necessary for the licensee to meet its service obligation, and the licensee shall produce all necessary documentary and other evidence to satisfy the Commission of the same.
- (3) As far as possible power procurement shall be through a transparent competitive bidding mechanism in accordance with guidelines issued by the Central Government.
- (4) The licensee shall purchase power from renewable energy sources as directed to by the policy on purchase of power from renewable energy sources and cogeneration in Tamil Nadu.

29. Saving of inherent power of the Commission

- (1) 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 ends of justice or to prevent the abuse of the process of the Commission.
- (2) Nothing in these regulations shall bar the Commission from adopting in conformity with the provisions of the Act, a procedure, which is at variance with any of the provisions of these regulations, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing deems it necessary or expedient for dealing with such a matter or class of matters.
- (3) Nothing in these regulations shall, expressly or impliedly bar the Commission to deal with any matter or exercise any power under the Act for which no Regulation have been framed, and the Commission may deal with such matters with powers and functions in a manner it thinks fit.

30. General power to amend

The Commission may, at any time and on such terms as to costs or otherwise, as it may think fit, amend any defect or error in any proceeding before it, and all necessary amendments shall be made for the purpose of determining the real question or issue arising in the proceedings.

31. Power to remove difficulties

If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may, by general or special order, take action, for removing the same, consistent with the provisions of the Act.

32. Power to dispense with the requirement of these Regulations

The Commission shall have the power, for reasons to be recorded in writing to dispense with the requirements of any of these regulations in a specific case or cases and such cases shall be made known to public.

33. Extension or abridgment of time prescribed

Subject to the provisions of the Act, the time prescribed by these regulations or by order of the Commission for doing any act may be extended (whether it has already expired or not) or abridged for sufficient reason by order of the Commission.

34. Effect of non-compliance

Failure to comply with any requirement of these regulations shall not invalidate any proceeding merely by reason of such failure unless the Commission is of the view that such failure has resulted in miscarriage of justice.

35. Enforcement of order passed by the Commission

- (1) When the Commission is satisfied that a licensee has failed to comply with any of the conditions of the licence or provisions of the Act or codes or regulations, it may direct an investigation into the affairs of the licensee at the cost of the licensee.
- (2) The investigating authority shall conduct the investigation in accordance with the provisions of section 128 of the Act.
- (3) On receipt of investigation report from the investigating authority, the Commission may in accordance with the provisions of the Act and giving such opportunities to the licensee to make representation in connection with the report as in the opinion of the Commission seems reasonable, by order in writing-
 - (a) Require the licensee to take such action in respect of any matter arising out of the report as the Commission may think fit;
 - (b) Cancel the licence or suspend in the case of distribution licensee
- (4) The Commission may also, after giving reasonable notice to the licensee publish the report submitted by the investigating authority.
- (5) The Secretary shall ensure enforcement and compliance of the orders passed by the Commission, as directed to under the Conduct of Business Regulations and in accordance with the provisions of section 129 of the Act.

36. Service and publication of notice

1. When the Commission is satisfied, based on the materials in its possession, that the licensee is contravening or likely to contravene any of the conditions for grant of licence or grant of exemption or has contravened or likely to contravene any of the provisions of the Act, it shall by an order give necessary directions to secure compliance with that condition or provision duly taking into account the loss or damage to any person consequent to such contravention and after giving notice to the licensee.
2. The notice shall be served to the address of the licensee by Registered Post with Acknowledgement Due or through Special Messenger and signed acknowledgement receipt obtained.
3. In case the premise is found locked it shall be served by affixing the notice on the conspicuous part of the premises.
4. The notice shall also be published in two English and one Tamil newspaper having wide circulation in the licensee's area of activities.

37. Cognizance of offence

No court shall take cognizance of an offence punishable under the Act except upon a complaint, in writing, made by the Commission or by any other officer duly authorised by the Commission for this purpose.

(By Order of Tamil Nadu Electricity Regulatory Commission)

**R.Balasubramanian
Secretary**

Annexure 1

PROFORMA OF PUBLICATION OF NOTICE OF APPLICATION FOR GRANT OF LICENCE FOR TRANSMISSION/ DISTRIBUTION/ TRADING

[See Regulation 9(1)(a)]

¹[Name and address of the applicant

Notice under Regulation (9) (1) (a) of Tamil Nadu Electricity (Licensing) Regulation]

Notice is hereby given to all the interested persons that We, Messrs.(name and address of the Applicant) have applied to the Tamil Nadu Electricity Regulatory Commission (the Commission) for grant of licence to or amendment to the conditions of licence (nature of the licence) in the area (specify the area of activity). The application and other documents filed by us can be inspected at our office of (address of the Applicant's office) and the copies of the same will be available from us for Rs. ...(for a price not exceeding the normal photocopy charges).The complete application is available in our website

Any person who has objection to or otherwise for grant of licence may forward the objection/representation to the Commission's office situated at(address) in copies by hand delivery or by registered post and should serve a copy of the objection/representation to us. at the address mentioned above.

GENERAL INFORMATION OF APPLICANT

1. Details of Applicant

- a. Full Name of the Applicant :
- b. Full Address of the Applicant :
- c. Name, Designation & Address of the Contact Person :
- d. Contact Telephone Numbers :
 Fax Number(s) :
 Email ID :

+++++

¹Substituted for the expression "NOTICE" as per Commission's Notification No. **TNERC/LR/12/2 dated 4.7.2007** (w.e.f. **25.7.2007**)

+++++

2. Details of Ownership

(a) Company/ Firm/ Association of persons/ Co-operative Society/ Others
(specify)

(b) Company Incorporation/ Registration
Place of Incorporation/ Registration :
Year of Incorporation :
Registration Number :

(c) Name and Address of Directors/ Principal Shareholders/ Partners/
Members

3. Area of Activity

4. Volume of Business for five years

In case of notice of application for amendment to the conditions of licence, the details of amendments sought for and the reasons therefore shall be furnished in the notice.

The person filing the objection/ representation should give the following particulars

1. Name and full address
2. Grounds/reasons in support of the objection/representation together with documents or evidence, if available
3. Whether he wishes to be heard in person or through authorised representative at the time of hearing.
4. An affidavit for verification of information.

Annexure 2

**FORM NO.1: APPLICATION FORM FOR A TRANSMISSION LICENCE
IN THE STATE OF TAMIL NADU**

[See Regulation 7(1)]

PART A : GENERAL INFORMATION OF APPLICANT

1. Details of Applicant

- (a) Full Name of the Applicant :
- (b) Full Address of the Applicant :
- (c) Name, Designation and
Address of the Contact Person :
- (d) Contact Telephone Numbers :
Fax Number(s) :
Email ID :

2. Details of Ownership

- (a) Company/ Firm/ Association of persons/ Cooperative Society/ Others
(specify)
- (b) Company Incorporation/ Registration
Place of Incorporation/ Registration :
Year of Incorporation :
Registration Number :
- (c) Name & Address of Directors/ Principal Shareholders/ Partners/ Members

3. Details of the area and transmission network for which transmission licence has been sought:

a. Boundaries of the proposed area of transmission	
b. Coverage of transmission network	
c. Voltage Class of Line	
d. Length of Line (Ckt. Kms)	
e. Circuit (Single/ Double)	
f. Location of the Substation	
g. Voltage Level(s) of Substation	
h. Transformer (Nos. & Capacity in MVA)	
i. Shunt Reactor (Nos. & Capacity in MVAR)	
j. Static Var Compensator (Nos. & Capacity in MVAR)	
k. Number of Bays	

4. Organisational Capabilities

(a) Management capability

(b) Financial Strength

(c) Ability to discharge transmission activities in a sustainable manner

5. Whether the area of activity falls under cantonment/ aerodrome/ fortress/ arsenal/ dockyard/ camp or place for the occupation of the Government for defence purpose.

6. Date from which licence is sought

PART B : LIST OF DOCUMENTS TO ACCOMPANY LICENCE APPLICATION

1. Documents (attested copies) to be submitted along with the licence application
 - (a) Information relating to pre-existing licence (if any), with copy of licence/ sanction
 - (b) Certificate of Incorporation/ Registration.
 - (c) Certificate of commencement of Business.
 - (d) Original Power of Attorney of the Signatory to commit the Applicant or its Promoter.
 - (e) Articles of Association, Memorandum of Association and similar constitutional documents.
 - (f) Income Tax - PAN/TAN.
 - (g) Details of import licence, if any.
2. Data relating to Management and Financial capability
 - (a) Managerial
 - (i) Senior management's curriculum vitae
 - (ii) Cadre strength for different categories (technical and non-technical)
 - (b) Financial
 - (i) Bank references asserting that the Applicant is financially solvent
 - (ii) Audited Annual Accounts for the past 5 years for the Applicant
 - (c) Any other document evidence to substantiate the financial capabilities, technical competence and others.
 - (d) Data relating to the Applicant's Proposed Business.

- (e) Business Plan (with 5 years projection) for the proposed business for which licence is sought (*which should contain year wise load growth, year wise transmission loss reduction proposal along with specific action plan, metering plan, investment plan (including investment in Generating Stations or a Trading Company), treatment of previous losses, debt restructuring plan, cost reduction plan, projected profit and loss account, projected balance sheets, projected cash flow statements and projected important financial parameters*).
- (f) Five year annual forecasts of costs, sales, revenues, project financing and funding arrangements (clearly specifying the assumptions involved)

3. Detailed Map

- a. Detailed electrical transmission map (including information on substations and configuration of the system).
 - b. The map shall clearly distinguish between the existing system and new facilities that shall be required for meeting the obligation under the licence.
 - c. A list of all local authorities vested with the administration of any portion of the area of transmission.
4. An approximate Statement describing any lands, which the Applicant proposes to acquire for the purpose of the licence and the means of such acquisition.

Date

Signature of the Applicant

Part C : FORMAT FOR ASSESSING COMPETENCE OF APPLICANT

(This form to be filled by an Applicant applying for a transmission licence)

1. Previous Experience (Past 5 years details of Related Business)

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

General Information	
Name and Address of the Transmission/ Distribution project developed	
Brief description of project developed	
Participation Status of the applicant on the above projects	
Cost of the project(s) developed – Rs. Lakhs.	
Name and Address of the Client company for whom the project were developed	
Name, Designation & Address of Reference person of Client Company	

Details of Transmission/ Distribution project(s) managed in the last 5 years – Commercial Operations	Year 1	Year 2	Year 3	Year 4	Year 5
<p>Asset Base</p> <p style="padding-left: 40px;">Transformers (Nos.)</p> <p style="padding-left: 80px;">1 MVA</p> <p style="padding-left: 80px;">2 MVA</p> <p style="padding-left: 80px;">3 MVA</p> <p style="padding-left: 80px;">4 MVA</p> <p style="padding-left: 80px;">5 MVA</p> <p style="padding-left: 40px;">Others (<i>specify</i>)</p> <p style="padding-left: 40px;">HT Line (Ckt. Kms)</p> <p style="padding-left: 80px;">400 kV</p> <p style="padding-left: 80px;">220 kV</p> <p style="padding-left: 80px;">110 kV</p> <p style="padding-left: 80px;">66 kV</p> <p style="padding-left: 40px;">Others (<i>specify</i>)</p> <p style="padding-left: 40px;">Shunt Reactor (Nos. and Capacity in MVA)</p> <p style="padding-left: 40px;">Static Var Compensator (Nos. & Capacity in MVAR)</p> <p style="padding-left: 40px;">Number of Bays</p>					
<p>Number of Contracts with details</p> <p>Transmission</p> <p style="padding-left: 40px;">Domestic</p> <p style="padding-left: 40px;">International</p> <p>Distribution</p> <p style="padding-left: 40px;">Domestic</p> <p style="padding-left: 40px;">International</p>					

Specific details of Projects (Top 5 Projects)	(Name of the Project)	(Name of the Project)	(Name of the Project)	(Name of the Project)	(Name of the Project)
<p>Timelines</p> <p>Commencement of Construction</p> <p>Scheduled Date</p> <p>Actual Date</p> <p>Commissioning</p> <p>Scheduled Date</p> <p>Actual Date</p> <p>Commercial Operations</p> <p>Scheduled Date</p> <p>Actual Date</p>					
<p>Project Cost</p> <p>Estimated Cost</p> <p>Actual Cost on Completion</p>					
Financial Information (Rs. Lakhs)	Year 1	Year 2	Year 3	Year 4	Year 5
<p>Fixed Assets</p> <p>Gross Fixed Assets</p> <p>Accumulated Depreciation</p> <p>Net Fixed Assets</p>					
<p>Equity</p> <p>Promoters'</p> <p>Government/ Financial Inst. Public</p> <p>Others (<i>specify</i>)</p>					

Liabilities					
Long Term					
Short Term					
Income					
Transmission Service					
Distribution Service					
Others (<i>specify</i>)					
Expenses					
Admin. & General Expense					
Repairs & Maintenance					
Employee Cost					
Interest & Financial Charges					
Long Term					
Short Term					
Others (<i>specify</i>)					
Profits and Returns					
Net Profits					
Dividends Paid					

We hereby certify that we are a Power Utility owning & maintaining transmission lines of 66 kV or higher voltage level. Details of all the transmission lines & sub-stations of 66 kV or higher voltage level owned and maintained by us are given below (As applicable):

Name of the Substation	Voltage level Substation	Name of the Line(s)	Voltage level of the Line	Circuit (S/C or D/C)	Length of the Line(s) Ckt. Kms.	No. of Transformer, Bays, Reactors etc.,	Capacity of Transformers/ Reactors (MVA/ MVAR)	State/ Country where located
1.								
2.								
3.								
4.								
5.								

2. Details of Proposed Project (Business for which licence is sought)

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

(i) Is the applicant acquiring Existing Assets or Creating New Assets?

(ii) For Applicants acquiring Existing Assets or Creating New Assets

Funding	
Proposed means of Finance	
Equity (Rs. Lakhs)	
Applicant	
Co-promoters	
Others (<i>specify</i>)	
Debt	
Domestic (Rs. Lakhs)	
Indian Financial Institutions	
Commercial Banks	
Others (<i>specify</i>)	
International (FC Million)	
Supplier's Credit	
Direct Borrowing	
Others (<i>specify</i>)	
Equivalent INR (with Exchange rate used)	
Others (<i>specify</i>)	

In case Asset Procurement/ Project is proposed to be jointly funded by an External Agency

Name and Address of the Agency, and contact details of the reference person of the Agency (*name, address, telephone/fax numbers, email, etc.,*)

Proposed Equity from the Agency (Rs. Lakhs)

Currency in which Equity is proposed

Agency's equity as a percentage of total equity (%)

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

<p>Details of debt proposed for the Asset Procurement/ Project</p> <p>Details of Lenders (<i>name and address</i>).</p> <p>Details of Loan packages indicating the loan amount, currency, Term of loan, interest rate, up-front fees, Commitment charges etc.</p> <p>Whether any guarantee is being sought for the loans from any agency.</p> <p>If Yes, provide details</p>	<p>Yes/ No</p>
--	----------------

(iii) For Applicants creating New Assets

EPC	
<p>Whether the Applicant is proposing to employ an EPC Contractor.</p> <p>If Yes, Name, Address and contact details of the same.</p> <p>Proposed Contract Value</p> <p>Foreign Currency</p> <p>Equivalent INR (with Exchange rate used)</p>	<p>Yes/ No</p>

(iv) For Applicants employing other contractors

Other Contracts	
Whether the Applicant is proposing to employ any Contractor(s) for Operation and Maintenance work. If Yes, Name, Address & contact details of the same. Period of the Contract Details of the experience of the O&M contractor in similar business(es)	Yes/ No

Note :

1. *Consent letters of the other Agency & Contractors to associate with the Applicant for the above project to be enclosed.*
2. *Necessary approvals and no objections to be obtained at appropriate time and forwarded to the Commission*

3. Appropriate Expertise (Personnel)

Name of Personnel	Qualification	Specialisation	Years of Experience	Status in the Firm
1.				
2.				
3.				
4.				
5.				

Note : Atleast one full time professional, having experience in each of the following disciplines like Power Systems Operation, Finance, should be part of the Core team.

4. Revenue Potential (Business for which licence is sought)

General Information	
<p>In case of acquired assets</p> <p>Quantum transmitted during previous financial year (MU)</p> <p>Expected life of assets acquired (in years)</p> <p>In case of construction of new Assets</p> <p>Quantum transmitted during previous financial year on parallel network already existing (MU)</p>	
<p>Transmission of Electricity</p> <p>Expected Quantum (MU)</p> <p>Anticipated growth in demand (%)</p>	
Commercial / Financial Information	
Prevailing Transmission Tariff (Rs./ Unit)	
Estimated Revenue (Rs. Lakhs)	
Capital Base (Rs. Lakhs)	
Estimated Annual Turnover (Rs. Lakhs)	

5. Financial Soundness (Other Subsidiary Business Units)

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

General Information						
Names of Subsidiary Business Units	Products Manufactured/ Services					
1.	1.					
2.	2.					
3.	3.					
4.	4.					
5.	5.					
Financial Indicators		Year 1	Year 2	Year 3	Year 4	Year 5
Fixed Assets						
Gross Fixed Assets						
Accumulated Depreciation						
Net Fixed Assets						
Equity						
Promoters'						
Government/ Financial Institutions						
Public						
Others (<i>specify</i>)						
Liabilities						
Long Term						
Short Term						
Income						
Sale of Power						
Others (<i>specify</i>)						
Expenses						
Administration and General						

Expense					
Repairs and Maintenance					
Employee Cost					
Interest & Financial Charges					
Long Term					
Short Term					
Others (<i>specify</i>)					
Financial Indicators	Year 1	Year 2	Year 3	Year 4	Year 5
Overall Turnover (Rs. Lakhs)					
Profits and Returns (Rs. Lakhs)					
Net Profits					
Dividends Paid					
Operating Ratios					
Return on Equity					
Return on Capital Employed					
Return on Net Fixed Assets					
Liquidity Ratio					
Debt Service Coverage Ratio					
Current Ratio					
Quick Ratio					
Capital Adequacy and Credit worthiness					
Debt/ Networth					
Debt/ Equity					
Turnover Ratio					
Total Asset Turnover					
Fixed Asset Turnover					

6. Baseline Information (Business for which licence is sought)

General Information	
<p>Assets</p> <p>Transformers (Nos.)</p> <ul style="list-style-type: none">1 MVA2 MVA3 MVA4 MVA5 MVAOthers (<i>specify</i>) <p>HT Line (Ckt. Kms)</p> <ul style="list-style-type: none">400 kV220 kV110 kV66 kVOthers (<i>specify</i>) <p>Shunt Reactor (Nos. and Capacity in MVA)</p> <p>Static Var Compensator (Nos. and Capacity in MVAR)</p> <p>Number of Bays</p>	

Commercial Information	
<p>Metering Points and Status</p> <p style="padding-left: 40px;">Generation to Transmission (G-T) Interconnection Point Total</p> <p style="padding-left: 80px;">Interconnection Points</p> <p style="padding-left: 40px;">No. of points with ToD meters</p> <p style="padding-left: 40px;">No. of points un-metered</p> <p style="padding-left: 40px;">Transmission to Transmission (T-T) Interconnection Point Total</p> <p style="padding-left: 80px;">Interconnection Points</p> <p style="padding-left: 40px;">No. of points with ToD meters</p> <p style="padding-left: 40px;">No. of points un-metered</p> <p style="padding-left: 40px;">Transmission to Distribution (T-D) Interconnection Point</p> <p style="padding-left: 40px;">Total Interconnection Points</p> <p style="padding-left: 40px;">No. of points with ToD meters</p> <p style="padding-left: 80px;">No. of points un-metered</p>	
<p>Communication and Commercial System</p> <p style="padding-left: 40px;">Is there a SCADA system available?</p> <p style="padding-left: 80px;">If yes, details</p> <p style="padding-left: 40px;">Details of arrangement with the Load Dispatch Centre (LDC)</p> <p style="padding-left: 40px;">Existing Communication System (VSAT/ PSTN/ GSM etc)</p>	<p>Yes/ No</p>
<p>Transformation Loss (%)</p>	

Note :

1. Certificates/documents in support of all the credentials detailed above, from the Owner/ Client for whom the project were promoted should be submitted along with the application.
2. Wherever conversion factor is used (for currency conversion and others), mention the conversion factor used for this purpose.

Date

Signature of the Applicant

Annexure 3

FORM NO.2: APPLICATION FORM FOR A DISTRIBUTION LICENCE IN THE STATE OF TAMIL NADU

[See Regulation 7(1)]

PART A : GENERAL INFORMATION OF APPLICANT

1. Details of Applicant

- a. Full Name of the Applicant :

- b. Full Address of the Applicant :

- c. Name, Designation and
Address of the Contact Person :

- d. Contact Telephone Numbers :
Fax Number :
Email ID :

2. Details of Ownership

- a. Company/ Firm/ Association of persons/ Co-operative Society/ Others
(specify)

- b. Company Incorporation/ Registration
Place of Incorporation/ Registration :
Year of Incorporation :
Registration Number :

- c. Name and Address of Directors/ Principal Shareholders/ Partners/ Members

3. Details of the area and distribution networks for which distribution licence has been sought:

- a. Boundaries of the proposed area of distribution

- b. Coverage of distribution network

- c. Sourcing of Power
 - i. Voltage Level
 - ii. Point(s) of Sourcing
 - iii. Quantum of electricity
 - 1. Demand (MW)
 - 2. Energy (MU)
 - d. Distribution of Power
 - i. Voltage Level
 - ii. Point(s) of Delivery
 - iii. Categories of End Consumers
 - e. Length of HT Line (Ckt. Kms)
 - f. Length of LT Line (Ckt. Kms)
 - g. Transformer (Nos. and Capacity in MVA)
4. Organisational Capabilities
- a. Management capability
 - b. Financial strength
 - c. Ability to discharge distribution activities in a sustainable manner
5. Whether the area of activity falls under cantonment/ aerodrome/ fortress/ arsenal/ dockyard/ camp or place for the occupation of the Government for defence purpose.
6. Date from which licence is sought

PART B : LIST OF DOCUMENTS TO ACCOMPANY LICENCE APPLICATION

1. Documents (attested copies) to be submitted along with the licence application
 - (a) Information relating to pre-existing licence (if any), with copy of licence/ sanction
 - (b) Certificate of Incorporation/ Registration.
 - (c) Certificate of commencement of Business.
 - (d) Original Power of Attorney of the Signatory to commit the Applicant or its Promoter.
 - (e) Articles of Association, Memorandum of Association and similar constitutional documents.
 - (f) Details of Income Tax PAN/TAN
 - (g) Details of import license, if any.
2. Data relating to Management and Financial capability
 - (a) Managerial
 - (i) Senior management's curriculum vitae
 - (ii) Cadre strength for different categories (technical and non-technical)
 - (b) Financial
 - (i) Bank references asserting that the Applicant is financially solvent
 - (ii) Annual Audited Reports for the past 5 years for the Applicant and for any Holding Company, Subsidiary or affiliated company (if any).
 - (c) Any other document evidence to substantiate the financial capabilities, technical competence and others.
3. Data relating to the Applicant's Proposed Business
 - a. Business Plan (with 5 years projection) for the proposed business for which licence is sought (*which should contain year wise load growth, year wise distribution loss reduction proposal along with specific action plan, metering plan, investment plan (including investment in Generating Stations or a Trading Company), treatment of previous losses, debt restructuring plan, program for rural electrification, cost reduction plan, projected profit and loss account, projected balance sheets, projected cash flow statements and projected important financial parameters*).
 - b. Five year annual forecasts of costs, sales, revenues, project financing and funding arrangements (clearly specifying the assumptions involved)

4. Detailed Map

- a. Detailed electrical distribution map (including information on substations and configuration of the system) and geographical map for the proposed area of distribution, drawn to scale (scale not less than 10 Cms to one Km or any other scale as may be approved by the Commission).
- b. The map shall clearly distinguish between the existing system and new facilities that shall be required for meeting the obligation under the licence.
- c. The map shall indicate the streets and roads in the proposed area of distribution in which the electricity is to be distributed.
- d. A list of all local authorities vested with the administration of any portion of the area of distribution.
- e. An approximate Statement describing any lands, which the Applicant proposes to acquire under the provisions of Land Acquisition Act, 1894 (Act 1 of 1894) for the purpose of the licence and the means of such acquisition.

Date

Signature of the Applicant

Part C : FORMAT FOR ASSESSING COMPETENCE OF APPLICANT

(This form to be filled by an Applicant applying for a distribution licence)

1. Previous Experience (Past 5 years details for Related Business)

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

General Information					
Name and Address of the Distribution project(s) developed					
Brief description of project developed					
Cost of the project developed – Rs. Lakhs.					
Name & Address of the Client company for whom the project were developed					
Name, Designation and Address of Reference person of Client Company					
Details of Distribution/ Transmission project(s) managed in the last 5 years – Commercial Operations	Year 1	Year 2	Year 3	Year 4	Year 5
Assets					
Transformers (Nos.) 500 kVA					

250 kVA 100 kVA 63 kVA 25 kVA 10 kVA Others HT Line (Ckt. Kms) 230 kV 110 kV 66 kV 33 kV 11 kV LT Line (Ckt. Kms) 440 Volts					
Number of Contracts with details Transmission Domestic International Distribution Domestic International					
Specific details of Projects (<i>Top 5 Projects</i>)	(<i>Name of the Project</i>)	(<i>Name of the Project</i>)	(<i>Name of the Project)</i>	(<i>Name of the Project</i>)	(<i>Name of the Project</i>)
Timeliness Commencement of Construction Scheduled Date Actual Date					

Commissioning Scheduled Date Actual Date Commercial Operations Scheduled Date Actual Date					
Project Cost Estimated Cost Actual Cost on Completion					
Consumer Base (Nos.) EHT HT Industrial LT Industrial Commercial Domestic Agricultural Others					
Quantum of Energy Distributed Total (Million Units) Metered Sales (%)					
Revenue Collection Amount (Rs. Lakhs) Collection Efficiency (%)					
Financial Information (Rs. Lakhs)	Year 1	Year 2	Year 3	Year 4	Year 5
Fixed Assets Gross Fixed Assets Accumulated Depreciation Net Fixed Assets					

Equity					
Promoters'					
Government/ Financial Institutions					
Public					
Others					
Liabilities					
Long Term					
Short Term					
Income					
Sale of Power					
Others					
Expenses					
Administration and General Expense					
Repairs and Maintenance					
Employee Cost					
Depreciation					
Interest and Financial Charges					
Long Term					
Short Term					
Others					
Profits and Returns					
Net Profits					
Dividends Paid					

2. Details of Proposed Project (Business for which licence is sought)

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

(i) Is the applicant acquiring Existing Assets or Creating New Assets?

(ii) (ii) Acquiring of Existing Assets / Construction of New Assets

Funding	
Proposed means of Finance	
Equity (Rs. Lakhs)	
Applicant	
Co-promoters	
Others (<i>specify</i>)	
Debt	
Domestic (Rs. Lakhs)	
Indian Financial Institutions	
Commercial Banks	
Others (<i>specify</i>)	
International (FC Million)	
Supplier's Credit	
Direct Borrowing	
Others (<i>specify</i>)	
Equivalent INR (with Exchange rate used)	
Others (<i>specify</i>)	

<p>In case Asset Procurement/ Project is proposed to be jointly funded by an External Agency</p> <p>Name and Address of the Agency, and contact details of the reference person of the Agency (name, address, telephone/fax numbers, email etc.,)</p> <p>Proposed Equity from the Agency (Rs. Lakhs)</p> <p>Agency's equity as a percentage of total equity (%)</p> <p>Nature of proposed tie-up between Applicant and the other agency.</p>	
<p>Details of debt proposed for the Asset Procurement/ Project</p> <p>Details of Lenders (name & address).</p> <p>Details of Loan packages indicating the loan amount, currency, Term of loan, interest rate, up-front fees, Commitment charges etc.</p> <p>Whether any guarantee is being sought for the loans from any agency.</p> <p>If Yes, provide details</p>	<p>Yes/ No</p>

(iii) For Applicants creating New Assets

EPC	
<p>Whether the Applicant is proposing to employ an EPC Contractor.</p> <p>If Yes, Name, Address and contact details of the same.</p> <p>Proposed Contract Value</p> <p>Foreign Currency</p> <p>Equivalent INR (with Exchange rate used)</p>	<p>Yes/ No</p>

(iv) For Applicants employing other contractors

Other Contracts	
<p>Whether the Applicant is proposing to employ any Contractor for Operation and Maintenance work.</p> <p>If Yes, Name, Address & contact details of the same.</p> <p>Period of the Contract</p> <p>Details of the experience of the O&M contractor in similar business</p>	<p>Yes/ No</p>

Note :

Consent letters of the other Agency and Contractors to associate with the Applicant for the above project to be enclosed.

Necessary approvals and no objections to be obtained at appropriate time and forwarded to the Commission.

3. Appropriate Expertise (Personnel)

Name of Personnel	Qualification	Specialisation	Years of Experience	Status in the Firm

Note : Atleast one full time professional, having experience in each of the following disciplines like Power Systems Operation, Finance should be part of the Core team.

4. Revenue Potential (Business for which licence is sought)

General Information	
<p>In case of acquired assets</p> <p>Quantum energy distributed during previous financial year (MU)</p> <p>Expected life of assets acquired (in years)</p> <p>In case of construction of new Assets</p> <p>Quantum energy distributed during previous financial year on parallel network already existing (MU)</p>	
<p>Consumer Base (Nos.)</p> <p>EHT</p> <p>HT Industrial</p> <p>LT Industrial</p>	

Commercial Domestic Agricultural Others (specify)	
Sale of Electricity Expected Quantum (MU) Anticipated growth in demand (%)	
Commercial Information	
Average Tariff (Rs./ Unit) EHT HT Industrial LT Industrial Commercial Domestic Agricultural Others (<i>specify</i>)	
Revenue Realization (Rs. Lakhs) Collection Efficiency (%)	
Financial Information	
Capital Base (Rs. Lakhs) Annual Expected Turnover (Rs. Lakhs)	

5. Financial Soundness (Other Subsidiary Business Units)

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

General Information						
Names of Subsidiary Business Units	Products Manufactured/ Services					
1.	1.					
2.	2.					
3.	3.					
4.	4.					
5.	5.					
Financial Indicators	Year 1	Year 2	Year 3	Year 4	Year 5	
Fixed Assets						
Gross Fixed Assets						
Accumulated Depreciation						
Net Fixed Assets						
Equity						
Promoters'						
Government/ Financial Institutions						
Public						
Others						
Liabilities						
Long Term						
Short Term						

Income					
Sale of Power					
Others (<i>specify</i>)					
Expenses					
Administration and General Expense					
Repairs and Maintenance					
Employee Cost					
Depreciation					
Interest and Financial Charges					
Long Term					
Short Term					
Others (<i>specify</i>)					
Financial Indicators	Year 1	Year 2	Year 3	Year 4	Year 5
Overall Turnover (Rs. Lakhs)					
Profits and Returns (Rs. Lakhs)					
Net Profits					
Dividends Paid					
Operating Ratios					
Return on Equity					
Return on Capital Employed					
Return on Net Fixed Assets					
Liquidity Ratio					
Debt Service Coverage Ratio					
Current Ratio					
Quick Ratio					

Capital Adequacy and Credit worthiness Debt/ Networth Debt/ Equity					
Turnover Ratio Total Asset Turnover Fixed Asset Turnover					

6. Baseline Information (Business for which licence is sought)

General Information	
Assets	
Transformers (Nos.)	
500 kVA	
250 kVA	
100 kVA	
63 kVA	
25 kVA	
10 kVA	
Others	
HT Line (Ckt. Kms)	
230 kV	
110 kV	
66 kV	
33 kV	
11 kV	
LT Line (Ckt. Kms)	
440 Volts	

Commercial Information	
Metering Status Metered Consumers (as a % of Total Consumers)	
Billing Status Billing (as a % of Total Input)	
Revenue Realization Revenue Realization per Unit Sale (Rs./ Unit) Collection Efficiency (%)	
Loss Technical Loss (%) Commercial Loss (%)	

Note :

1. Certificates/documents in support of all the credentials detailed above, from the Owner/ Client for whom the project were promoted should be submitted along with the application.
2. Wherever conversion factor is used (for currency conversion and others), mention the conversion factor used for this purpose.

Date

Signature of the Applicant

Annexure 4

FORM NO.3: APPLICATION FORM FOR A TRADING LICENCE IN THE STATE OF TAMIL NADU

[See Regulation 7 (1)]

PART A : GENERAL INFORMATION OF APPLICANT

1. Details of Applicant

- (a) Full Name of the Applicant :
- (b) Full Address of the Applicant :
- (c) Name, Designation and
Address of the Contact Person :
- (d) Contact Telephone Numbers :
Fax Number :
Email ID :

2. Details of Ownership

- a. Company/ Firm/ Association of persons/ Co-operative Society/
Others (specify)
- b. Company Incorporation/ Registration
Place of Incorporation/ Registration :
Year of Incorporation :
Registration Number :
- c. Name and Address of Directors/ Principal Shareholders/ Partners/
Members

PART B : LIST OF DOCUMENTS TO ACCOMPANY LICENCE APPLICATION

1. Documents (attested copies) to be submitted along with the licence application

- (a) Information relating to pre-existing licence (if any), with copy of licence/ sanction
- (b) Certificate of Incorporation/Registration.
- (c) Certificate of commencement of Business.
- (d) Original Power of Attorney of the Signatory to commit the Applicant or its Promoter.
- (e) Articles of Association,Memorandum of Association and similar constitutional documents.
- (f) Details of Income Tax registration.

2. Organisational and Managerial Capability of Applicant

(a) Managerial

- (i) Senior management's curriculum vitae
- (ii) Cadre strength for different categories (technical and non-technical)

(b) Financial

- (i) Bank references asserting that the Applicant is financially solvent
- (ii) Annual Audited Reports for the past 5 years for the Applicant and for any Holding Company, Subsidiary or affiliated company (if any).
- (c) Any other document evidence to substantiate the financial capabilities, technical competence and others.

3. Data relating to the Applicant's Proposed Business

- (a) Approach and Methodology (*Applicant is required to describe Approach and Methodology for establishment of the Trading arrangements as proposed by the Applicant*)

- (b) Business Plan (with 5 years projection) for the proposed business for which licence is sought (*which should contain year wise anticipated growth in trade volumes, metering plan, treatment of previous losses, debt restructuring plan, projected profit and loss account, projected balance sheets, projected cash flow statements and projected important financial parameters*).
- (c) Five year annual forecasts of costs, sales, revenues, project financing and funding arrangements (clearly specifying the assumptions involved)

Date

Signature of the Applicant

Part C : FORMAT FOR ASSESSING COMPETENCE OF APPLICANT

(This form to be filled by an Applicant applying for a trading licence)

1. Previous Experience (Past 5 years details for Related Business)

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

General Information					
Does the applicant have previous experience in electricity trading ? If yes, Specify location (<i>State/ Country</i>)	Yes/ No				
Does the applicant have trading experience in any other related sector? If yes, name the sector Specify location? (<i>State/ Country</i>)	Yes/ No				
Details of electricity trading in the last 5 years – Commercial Operations	Year 1	Year 2	Year 3	Year 4	Year 5
Trading Volume at various voltage levels (Million Units) Bulk trade Retail trade					
Number of Ongoing Contracts with details Bulk trade Retail trade					

LICENSING REGULATIONS (TRANSMISSION, DISTRIBUTION & TRADING)

Bulk trade (Nos. and Quantum)					
End consumers					
Re-seller(s)/ Trader(s)					
Retail trade Consumer Base (Nos. and Quantum)					
High Tension					
Low Tension					
Revenue from electricity trading (Rs. Lakhs)					
Bulk trade					
Retail trade					
Details of trading in other sectors during the last 5 years – Commercial Operations	Year 1	Year 2	Year 3	Year 4	Year 5
Trading Volume (_____Units)					
Bulk trade					
Retail trade					
Revenue from trading (Rs. Lakhs)					
Bulk trade					
Retail trade					
Number of Ongoing trading Contracts with details					
Bulk trade					
Retail trade					

LICENSING REGULATIONS (TRANSMISSION, DISTRIBUTION & TRADING)

Financial Information (Rs. Lakhs)	Year 1	Year 2	Year 3	Year 4	Year 5
Equity					
Promoters'					
Government/ Financial Institutions					
Public					
Others					
Liabilities					
Long Term					
Short Term					
Income					
Electricity trading					
Others					
Expenses					
Administration and General Expense					
Employee Cost					
Depreciation					
Interest and Financial Charges					
Long Term					
Short Term					
Others					
Profits and Returns					
Net Profits					
Dividends Paid					

2. Details of proposed trading activity (Business for which licence is sought)

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

Funding	
Whether applicant himself shall be financing the proposed trading fully on its own balance sheet	Yes/ No
Proposed means of Finance Equity (Rs. Lakhs) Applicant Co-promoters Others Debt Domestic (Rs. Lakhs) Indian Financial Institutions Commercial Banks Others (specify) International (FC Million) Supplier's Credit Direct Borrowing Others (specify) Equivalent INR (with Exchange rate used) Others (specify)	

LICENSING REGULATIONS (TRANSMISSION, DISTRIBUTION & TRADING)

<p>In case the trading activity is proposed to be jointly funded by an External Agency</p> <p>Name & Address of the Agency, and contact details of the reference person of the Agency (<i>name, address, telephone/fax numbers, email, etc.,</i>)</p> <p>Proposed Equity from the Agency (Rs. Lakhs)</p> <p>Agency's equity as a percentage of total equity (%)</p> <p>Nature of proposed tie-up between Applicant and the other agency.</p>	
<p>Details of debt proposed for trading activity</p> <p>Details of Lenders (<i>name and address</i>).</p> <p>Details of Loan packages indicating the loan amount, currency, Term of loan, interest rate, up-front fees, Commitment charges etc.</p> <p>Whether any guarantee is being sought for the loans from any agency.</p> <p>If Yes, provide details</p>	<p>Yes/ No</p>
<p>Minimum level of communication infrastructure available?</p> <p>Any other (specify)</p>	<p>Telephone/ Fax/ Internet/ VSAT</p>

LICENSING REGULATIONS (TRANSMISSION, DISTRIBUTION & TRADING)

Note :

1. Consent letters of the other Agency & Contractors to associate with the Applicant for the above project to be enclosed.
2. Necessary approvals and no objections to be obtained at appropriate time and forwarded to the Commission.

3. Appropriate Expertise (Personnel)

Name of Personnel	Qualification	Specialisation	Years of Experience	Status in the Firm
1.				
2.				
3.				
4.				
5.				

Note : Atleast one full time professional, having experience in each of the following disciplines like Power Systems Operation, Metering, Finance & Commercial transactions should be part of the Core team.

Knowledge & Understanding of Power Systems Operation (covering Generation Availability, Capacity Utilisation, Demand, Plant Load Factor, Flow of Electricity, etc.), Power Market Operations (Commercial arrangements (PPAs, BSA, TSA etc.) & Communication and Scheduling of Power (Load Dispatch) are required.

4. Revenue Potential (Business for which licence is sought)

General Information	
Details of Target Bulk Consumers End Consumer Reseller(s)/ Trader(s)	
Retail Consumer Base (Nos.) High Tension Low Tension	

LICENSING REGULATIONS (TRANSMISSION, DISTRIBUTION & TRADING)

Trading of Electricity (Expected Annual)	
Bulk Trade	
Expected Quantum (MU)	
Anticipated demand growth (%)	
Retail Trade	
Expected Quantum (MU)	
Anticipated demand growth (%)	
Commercial Information	
Existing Average Tariff (Rs./ Unit)	
Bulk Supply Tariff	
Retail Supply Tariff	
High Tension	
Low Tension	
Financial Information	
Annual Expected Turnover (Rs. Lakhs)	

5. Financial Soundness (Other Subsidiary Business Units)

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

General Information	
Names of Subsidiary Business Units	Products Manufactured / Traded
1.	1.
2.	2.
3.	3.
4.	4.
5.	5.

Banker's Details						
Details of Bank Accounts						
Name & Address of the Bank						
Account Number						
Contact Person & Details						
Name of the Representative						
Designation						
Contact Numbers						
Email ID						
Financial Indicators		Year 1	Year 2	Year 3	Year 4	Year 5
Fixed Assets						
Gross Fixed Assets						
Accumulated Depreciation						
Net Fixed Assets						

LICENSING REGULATIONS (TRANSMISSION, DISTRIBUTION & TRADING)

Equity Promoters' Government/Financial Institutions Public Others					
Liabilities Long Term Short Term					
Income From Sale From Trading Others					
Expenses Administration and General Expense Repairs and Maintenance Employee Cost Depreciation Interest and Financial Charges Long Term Short Term Others					
Financial Indicators	Year 1	Year 2	Year 3	Year 4	Year 5
Overall Turnover (Rs. Lakhs)					
Profits & Returns (Rs. Lakhs) Net Profits Dividends Paid					
Operating Ratios Return on Equity					

LICENSING REGULATIONS (TRANSMISSION, DISTRIBUTION & TRADING)

Return on Capital Employed Return on Net Fixed Assets					
Liquidity Ratio Debt Service Coverage Ratio Current Ratio Quick Ratio					
Capital Adequacy and Credit worthiness Debt/ Networth Debt/ Equity					
Turnover Ratio Total Asset Turnover Fixed Asset Turnover					

6. Baseline Information (Business for which licence is sought)

Commercial Information	
Metering Status Total Interconnection points Un-metered Interconnection Points Metered Bulk Consumers Consumers with ToD Meters Metered Retail Consumers Un-metered Retail Consumers Consumers with ToD meters	
Billing Status Billing (as a % of Total Input)	

LICENSING REGULATIONS (TRANSMISSION, DISTRIBUTION & TRADING)

Loss	
Commercial Loss (%)	

Note :

1. Certificates/documents in support of all the credentials detailed above, from the Owner/ Client for whom the project were promoted should be submitted along with the application.
2. Wherever conversion factor is used (for currency conversion and others), mention the conversion factor used for this purpose.

Date

Signature of the Applicant

Annexure 5

FORM NO. 4: AFFIDAVIT

[See Regulation 7 (3)]

I S/o: Aged Resident of
..... solemnly affirm and state on Oath as follows.

I am Chairperson and Managing Director / Company Secretary / Authorised Signatory (or any other position held by the deponent in the firm or company as the case may be) as such I am well acquainted with the facts of the case. I am authorized to file application, documents, swear affidavits as may be necessary.

The facts stated above in the application and documents provided by me are true to the best of my knowledge and belief.

Signature of the Deponent

This affidavit is solemnly affirmed and signed before me this Day of
month of Year

.....

(an Advocate/Notary Public/Magistrate/Gazetted Officer can attest)

Annexure 6

FORM NO.5: FORMAT AND CONDITIONS OF TRANSMISSION LICENCE

Licence granted for Transmission of electricity

[See Regulations 15(2)]

Licence is granted by the Tamil Nadu Electricity Regulatory Commission under section 14 of the Electricity Act, 2003 (Act 36 of 2003) to _____, for carrying on the business of transmission of electrical energy within the area of activity (as specified under 'licensed activity' in the schedule) and shall be subject to the terms and conditions specified herein. The licence shall come into force from the date of issue of this licence.

PART - I

DEFINITIONS

1. Words, terms and expressions to which meanings are assigned by the Electricity Act 2003 (36 of 2003) (hereinafter called the 'Act'), shall have the same meaning in these General Conditions.
2. Unless the context otherwise requires:
 - (a) **“accounting statement”** means for each financial year, accounting statements for the licensed business comprising a profit and loss account, a balance sheet and a statement of sources and application of funds, together with notes thereto as detailed under the Companies Act, 1956 (1 of 1956) or the respective Acts under which the licensee is governed and such other particulars and details in the manner as the Commission may prescribe from time to time. If the licensee engages in any other business or activity for optimum utilisation of its assets in addition to the licensed business, the accounting statements shall comply with the regulations of the Commission dealing with the treatment of other business of transmission licensees and show the amounts of any revenue, cost, asset, liability, reserve or provision, which has been either:
 - (i) charged from the licensed business to any other business or vice versa together with a description of the basis of that charge; or
 - (ii) determined by apportionment or allocation between the licensed business and any other business of the licensee

together with a description of the basis of the apportionment or allocation.

However, the deemed licensees under proviso to section 14 of the Act shall continue to maintain the accounts in accordance with Electricity (Supply) Annual Accounts Rules 1985 till these rules are rescinded or modified or such deemed licensees are reorganised under section 131 of the Act.

- (b) **“Act”** means the Electricity Act, 2003 (36 of 2003)
- (c) **“annual accounts”** means the accounts of the licensee prepared in accordance with the provisions of the Companies Act, 1956 and/or in such other manner as may be directed by the Commission in terms of the provisions of the Act;
- (d) **“area of activity”** means the area stated in the licence within which the licensee is authorised to establish, operate and maintain transmission lines;
- (e) **“Auditors”** means the licensee’s auditors holding office in accordance with the requirements of sections 224 to 234A or Section 619 as appropriate, of the Companies Act 1956 (1 of 1956);
- (f) **“authorised”**, in relation to any person, business or activity, means authorised by licence granted under Section 14 of the Act or deemed to be granted under the first second third and fifth proviso to Section 14 of the Act or exemption granted under section 13 of the Act;
- (g) **“Commission”** means the Tamil Nadu Electricity Regulatory Commission;
- (h) **“distribution”** means the conveyance of electricity by means of a distribution system;
- (i) **“distribution system”** means a system of wires and associated facilities between the delivery points on the transmission lines or the generating station connection and the point of connection to the installation of the consumers.
- (j) **“Force Majeure”** means events beyond the reasonable control of the licensee, including, but not limited to earthquakes, cyclones, floods, storms, adverse weather conditions, war, terrorist attacks, civil commotion or other similar occurrences that leads to any act that would involve a breach of relevant laws or regulations concerned with electrical safety;

- (k) **“generating station”** means any station for generating electricity, including any building and plant with step-up transformer, switchgear, switchyard, cables or other appurtenant equipments, if any used for that purpose and the site thereof; a site intended to be used for a generating station, and any building used for housing the operating staff of a generating station, and where electricity is generated by water-power, includes penstocks, head and tail works, main and regulating reservoirs, dams and other hydraulic works, but does not in any case include any sub-station;
- (l) **“holding company”** shall have the same meaning as assigned to it under the Companies Act, 1956 (1 of 1956);
- (m) **“intervening transmission facilities”** means the electric lines owned or operated by a licensee where such electric lines can be utilized for transmitting electricity for and on behalf of another licensee at his request and on payment of a tariff or charge.
- (n) **“licence”** means the licence granted under section 14 of the Act;
- (o) **“licensee”** means a person who has been granted a licence under section 14 of the Act;
- (p) **“licensed business”** means the business of transmission of electricity in the area of activity as authorised under this licence;
- (q) **“Open Access”** means the non-discriminatory provision for the use of transmission lines or distribution system or associated facilities with such lines or system by any licensee or consumer or a person engaged in generation in accordance with the regulations specified by the Commission;
- (r) **“operational control”** means possessing the authority to make operational decisions such as commissioning and utilisation of units, service lines and equipments;
- (s) **“other business”** means any business of the licensee other than the licensed business for optimum utilisation of its assets;
- (t) **“Overall Performance Standards”** means the standards as may be determined by the Commission pursuant to section 57 of the Act;
- (u) **“person”** shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;

- (v) “**subsidiary**” shall have the same meaning as in section 4 of the Companies Act 1956 (1 of 1956);
- (w) “**sub-station**” means a station for transforming or converting electricity for the transmission or distribution thereof and includes transformers, converters, switchgears, capacitors, synchronous condensers, structures, cable and other appurtenant equipments and any buildings used for that purpose and the site thereof;
- (x) “**supply**” in relation to electricity means the sale of electricity to a licensee or consumer;
- (y) “**Tamil Nadu Electricity Grid Code**” means the grid code specified by the Commission under clause (h) of sub-section (1) of Section 86 of the Act;
- (z) “**trader**” means a person who has been granted a licence to undertake trading in electricity under section 14 of the Act;
- (aa) “**trading**” means purchase of electricity for resale thereof and the expression “trade” shall be construed accordingly;
- (ab) “**transfer**” shall include the sale, exchange, gift, lease, licence, loan, securitisation, mortgage, charge, pledge or grant of any other encumbrance or otherwise permitting of any encumbrance to subsist or parting with physical possession or any other disposition or dealing;
- (ac) “**transmit**” means conveyance of electricity by means of transmission lines and the expression “transmission” shall be construed accordingly;
- (ad) “**transmission lines**” means all high pressure cables and overhead lines (not being an essential part of the distribution system of a licensee) transmitting electricity from a generating station to another generating station or a sub-station, together with any step-up and step-down transformers, switch-gear and other works necessary to and used for the control of such cables or overhead lines, and such buildings or part thereof as may be required to accommodate such transformers, switch-gear and other works;
- (ae) “**transmission business**” means the authorised business of a transmission licensee to transmit electricity, whether for its own account or for that of any other person, through any system owned and/ or operated by such licensee;
- (af) “**transmission licensee**” means a licensee authorised to establish or operate transmission lines;

- (ag) **“transmission operating standards”** means the standards related to the licensee’s operation of its transmission system stipulated by the Commission in Tamil Nadu Electricity Grid Code;
- (ah) **“transmission planning and security standards”** means the standards related to the adequacy of the licensee’s system planning and security of its transmission system as stipulated by the Commission in Tamil Nadu Electricity Grid Code;
- (ai) **“transmission system”** means the system consisting mainly of extra high voltage electric lines having design voltage of 33 kV and higher, owned or controlled by the transmission licensee, and used for the purposes of the conveyance of electricity and includes all bays/equipments upto the interconnection with the distribution system and any plant, apparatus and meters owned or used in connection with the transmission of electricity, but shall not include any part of a distribution system;
- (aj) **“use of system”** means use of the transmission system for the transportation of electricity for any person pursuant to a contract entered into with the transmission licensee.
- (ak) **“users”** means anyone who uses the transmission system.
- (al) **“wheeling”** means the operation whereby the distribution system and associated facilities of a transmission licensee or distribution licensee, as the case may be, are used by another person for the conveyance of electricity on payment of charges to be determined under section 62 of the Act;

PART - II GENERAL

CONDITIONS

3. PERIOD OF THE LICENCE

The transmission licence shall come into force on the date specified by the Commission in the order granting such licence and unless revoked earlier, in accordance with the regulation 20 or under section 19 of the Act, shall remain in force for 25 (Twenty five) years from that date.

4. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

- (1) The transmission licensee shall comply with the provisions of the Act, rules, regulations, orders and directions issued by the Commission from time to time and all other applicable laws.

- (2) The transmission licensee shall duly comply with the order and directions of the National Load Despatch Centre, Regional Load Despatch Centre and the State Load Despatch Centre and other statutory authorities issued in the discharge of their functions.
- (3) Non compliance of provisions of the Act, Rules, Regulations and Codes will be dealt with in accordance with Regulation 35 and 36 of these Regulations.

5. DUTIES OF THE TRANSMISSION LICENSEE

- (1) The transmission licensee shall duly discharge the duties of the transmission licensee as provided under section 40 of the Act.
- (2) The transmission licensee shall provide non discriminatory Open Access to the transmission system for use of the licensees, and generating companies including the captive generating plants and the consumer subject to availability of transmission capacity in the transmission lines and in the case of use of such transmission system for supply of electricity to consumer subject to payment of surcharge to meet the current level of cross subsidy as envisaged in section 40 read with sub-section (2) of section 42 of the Act .
- (3) The transmission licensee owning or operating intervening facilities shall, under the orders of the Commission, provide such facilities to the extent of surplus capacity available, in his transmission system and in the event of any dispute as to the availability of the surplus capacity the Commission shall determine the same. The charges and terms and conditions for the intervening facilities may be mutually agreed between the licensees and in the event of any disagreement the same shall be decided by the Commission.
- (4) The transmission licensee shall not, without the prior approval of the Commission:
 - (a) undertake any transaction to acquire by purchase or takeover or otherwise, the utility of any other licensee within the State, or
 - (b) merge his utility with the utility of any other licensee within the State, or
 - (c) assign his licence or transfer his utility or part thereof to any person, by sale, lease, exchange or otherwise.
- (5) The transmission licensee shall, before obtaining the approval, give not less than one month's notice to every other licensee(s) who transmits or distributes electricity in the area of such licensee who applies for such approval.

Any agreement relating to the above transaction without approval of the Commission shall be void.

LICENSING REGULATIONS (TRANSMISSION, DISTRIBUTION & TRADING)

- (6) The transmission licensee shall not engage in the business of electricity trading.
- (7) In the event the transmission licensee engages in any other business for optimum utilisation of his assets, he shall ensure that
 - (a) due intimation to the Commission, about the other business the licensee is proposes to engage is given.
 - (b) the licensed business and the conduct thereof by the licensee is not prejudiced and/or adversely affected in any manner by reason of the other business;
 - (c) at least 50% of its profits earned out of such other business, shall be utilized for reducing the charges for transmission and wheeling
 - (d) separate accounting records as would be required to be kept in respect of such activities are prepared and kept as if they were carried on by a separate entity, so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to such other business activities are separately identifiable from those of the licensed business;
 - (e) the licensed business does not subsidize in any way such other business nor creates encumbrance on its transmission assets in any way to support such other business; and
 - (f) the transmission licensee shall be entitled to give equipments/ materials in its possession on hire or lease provided such arrangement results in optimum utilisation and gainful employment of its assets, provided the licensed business and the conduct thereof by the licensee is not prejudiced and/or adversely affected in any manner. The transmission licensee shall be entitled to sell or dispose off scrap/ unserviceable/ obsolete material/ equipments. The earnings from such activities shall be recognised in the annual revenue requirement petition to be filed by the licensee to the Commission.
- (8) The transmission licensee shall seek approval of the Commission before making any loans to, or issuing any guarantee for any obligation of any person, except when made or issued for the purposes of the licensed business. Loans to employees pursuant to their terms of service and trade advances in the ordinary course of business are excluded from the requirement to seek such approval.

LICENSING REGULATIONS (TRANSMISSION, DISTRIBUTION & TRADING)

- (9) The transmission licensee may engage any of its subsidiaries or holding company or a subsidiary of such holding company to provide any goods or services to him in connection with the licensed business, subject to the following conditions that:
- (a) such subsidiaries or holding company does not engage in any business activities which the licensee is prohibited from doing or which the licensee is not entitled to engage in without the prior approval of the Commission.
 - (b) the transaction will be on an arms-length basis and at a value that is fair and reasonable in the circumstances;
 - (c) the transaction will be consistent with any regulations framed by the Commission relating to the provision of goods and services with respect to licensed business; and
 - (d) the transmission licensee will give fifteen days' notice with details of such arrangement, to the Commission prior to commencement of the such arrangement.
- (10) The transmission licensee may establish subsidiaries or associated companies to conduct or carry out any of the functions, which the licensee is authorised, to conduct or carry out under the Act and this licence. Provided always that:
- (a) any such subsidiary or associated company shall operate under the overall supervision and control of the licensee and upon the terms and conditions of this licence; and
 - (b) the licensee shall have, prior to delegating any function to any such subsidiary or associated company, intimate the Commission, subject to such conditions as the Commission may stipulate.
 - (c) the licensee shall also be responsible for all actions of the subsidiaries or associated companies and the Commission may require the licensee to terminate the arrangements in case the performance is not to its satisfaction.

Where such prior approval is required, the licensee will file a suitable application with the Commission disclosing relevant facts. The Commission may, within thirty days of the filing of the application, seek further information in support of the application. The Commission shall generally within thirty days of such further information being submitted by the licensee, and where no such further investigation is required, generally within sixty days of the filing of the application, allow the arrangement subject to such terms and

conditions or modifications as it considers appropriate or reject the same, for reasons recorded in writing in the order to be issued by the Commission.

6. ACCOUNTS

- (1) Unless otherwise permitted by the Commission the financial year of the licensee for the purposes of these General Conditions and matters relating to the licensed business shall run from the first of April to the following thirty-first of March.
- (2) The transmission licensee shall, in respect of the licensed business and any other business:
 - (a) keep such accounting records as would be required to be kept in respect of each such business so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to the licensed business are separately identifiable in the books of the licensee, from those of other business in which the licensee may be engaged;
 - (b) prepare on a consistent basis from such accounting records and deliver to the Commission
 - (i) the accounting statements;
 - (ii) in respect of the first six months of each financial year, a half yearly profit and loss account, cash flow statement and balance sheet together with such supporting documents and information as the Commission may prescribe from time to time such statements and documents to be published in the manner prescribed by the Commission;
 - (iii) in respect of the accounting statements prepared, an auditor's report for each financial year, stating whether in their opinion these statements have been properly prepared in accordance with this clause and give a true and fair view of the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to such businesses to which the statements relate; and
 - (iv) a copy of each half yearly profit and loss account not later than three months after the end of the period to which it relates, and copies of the accounting statements and auditor's report not later than six months after the end of the financial year to which they relate.

LICENSING REGULATIONS (TRANSMISSION, DISTRIBUTION & TRADING)

- (3) 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.
- (4) The transmission licensee shall not normally change the basis of charge or apportionment or allocation of revenues or expenses in relation to the preparation of the accounting statements in respect of a financial year from those applied in respect of the previous financial year, without prior intimation to the Commission. Any change, if proposed, in the basis of charge or apportionment of revenues or expenses shall be consistent with the provisions of the Companies Act, 1956 or the respective Acts under which the licensee is governed, the accounting standards or rules and any guidelines issued by the Commission in this regard.
- (5) Where, in relation to the accounting statements in respect of a financial year, the licensee has changed the basis of charge or apportionment or allocation from those adopted for the immediately preceding financial year, the Licensee shall, if requested by the Commission, (in addition to preparing accounting statements on those bases which it has adopted), prepare such accounting statements on the basis which it applied in respect of the immediately preceding financial year.
- (6) Accounting statements under clause (2) shall, unless otherwise approved or directed by the Commission shall:
 - (a) be prepared and published with the annual accounts of the licensee, in the manner provided herein;
 - (b) state the accounting policies adopted;
 - (c) be prepared in accordance with generally accepted Indian accounting standards; and
 - (d) be prepared in the form as the Commission may stipulate from time to time;
- (7) References to costs or liabilities which are reasonably attributable to licensed business or other business shall be construed as excluding taxation, and capital liabilities which do not relate principally to such business and interest thereon.

7. PROVISION OF INFORMATION TO THE COMMISSION

- (1) The transmission licensee shall furnish to the Commission without undue delay such information, documents and details related to the licensed business or any other business of the licensee, as the Commission may require for its own purposes or for the purposes of the Government of India, State Government, the Central Commission and/or the Central Electricity Authority.
- (2) The transmission licensee on occurrence of any major incident shall notify the Commission about such occurrence as directed to under the Tamil Nadu Electricity Grid Code and Tamil Nadu Electricity Distribution Code.
- (3) The transmission licensee shall also undertake such studies as the Commission may direct it to undertake from time to time for the improvement of its transmission business and any other matter concerning the transmission business that the Commission considers necessary in the public interest.
- (4) The transmission licensee shall duly inform the Commission about any incident restricting it from meeting its obligation under the licence granted including any act of omission or commission by others and steps taken by the Licensee to mitigate the effect of such incident.
- (5) The Commission may at any time require the licensee to comply with the provisions of clauses (2) to (4) as to incidents which the Commission may specifically direct and the licensee shall be obliged to comply with the same notwithstanding that such incidents are not major incidents; provided that the time limits specified in clause (2) shall commence from the date that the Commission notifies licensee of such requirement.
- (6) The transmission licensee shall submit [a business plan, as required under the TNERC \(Terms and Conditions for Determination of Tariff\) Regulations - 2005](#), within three months of this licence coming into force and shall update such plan annually.
- (7) The Commission may require the licensee to intimate by the end of first quarter of each financial year the progress made in implementing the business plan of the previous financial year with the comparison of actual implementation vis-à-vis the plan as approved by the Commission.

8. CAPITAL INVESTMENT PLAN

The licensee shall comply with the provisions relating to Capital Investment Plan as detailed in TNERC (Terms and Conditions for determination of tariff) Regulations – 2005.

9. PAYMENT OF LICENCE FEES

- (1) Within 30 days or such further period as the Commission may allow after the coming into force of this licence, the licensee shall pay to the Commission ¹[a licence fee as specified in regulation 9 of the Tamil Nadu Electricity Regulatory Commission-Fees and Fines Regulations 2004], on a prorata basis for the balance period of the year in quarterly instalments as stated in sub-clause (2) below.
- (2) For the subsequent financial year(s), for as long as this licence remains in force, the licensee shall, in four equal instalments by the 10th of April, 10th of July, 10th of October and 10th of January in each year, or such further period as the Commission may allow, pay to the Commission ²[an annual fee as specified in regulation 9 of the Tamil Nadu Electricity Regulatory Commission-Fees and Fines Regulations 2004.]
- (3) The Commission may, from time to time, revise the annual licence fee payable by the licensee. The Commission may publish such notice, detailing the annual licence fee payable by the licensee on/ or before the start of each financial year.
- (4) Where the transmission licensee fails to pay to the Commission any of the fees due under sub-clauses (1) or (2) by the due dates:
 - (a) without prejudice to other obligations, the licensee shall be liable to pay interest on the outstanding amount at a simple interest rate of **two percent per month**, the interest being payable for the period beginning on the day after which the amount became due, and ending on the day on which the payment is made to the Commission in cleared funds; and
 - (b) in the event of continued default by the licensee, the Commission may revoke this licence pursuant to section 19 of the Act and Regulation 20 of these regulations.
- (5) The transmission licensee shall be entitled to take into account any fee paid by it under this condition 9 as an expense in the determination of aggregate revenues to be charged to the tariffs, but shall not take into account any interest paid pursuant to this clause.

10. AMENDMENT OF LICENCE CONDITIONS

- (1) Any terms and conditions of licence may be altered or amended by the Commission at any time in public interest in exercise of powers under section 18 of the Act. The following provisions shall have effect for any alterations or amendments:
 - (a) Where the licensee has made an application under sub-section (1) section 18, of the Act proposing any alteration or modifications to the

++++
¹Substituted for the expression “a fee as may be stipulated by the Commission” as per Commission’s Notification No.TNERC/REGULATIONS/F&F/4/2-1,dated 16.11.2006 (w.e.f. 3.1.2007)

²Substituted for the expression “an annual licence fee as may be specified by the Commission” as per Commission’s Notification No.TNERC/REGULATIONS/F&F/4/2-1,dated 16.11.2006 (w.e.f. 3.1.2007)
++++

terms and conditions of licence, the licensee shall publish a notice of such application with such particulars and in such manner as specified in Regulation 9. (1) (a) of these regulations;

- (b) in the case of an application proposing alterations or modifications in the area of activity comprising 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, the Commission shall make any alterations or modifications only with the consent of the Central Government;
- (c) the Commission shall not make any alterations or modification unless all suggestions or objections received within **thirty days** from the date of the first publication of the notice have been considered.

11. SETTLEMENT OF DISPUTES

The provisions contained in Regulations 21 to 24 of these regulations, shall apply to any dispute between the transmission licensee and any generating company and such disputes shall be settled in accordance with the provisions contained in the said regulations.

12. TRANSMISSION PLANNING AND SECURITY STANDARDS AND TRANSMISSION OPERATING STANDARDS

The licensee shall comply with the provisions of Tamil Nadu Electricity Grid Code specified under clause (h) of sub-section (1) of section 86 of the Act.

13. COMPLIANCE WITH THE GRID CODE BY THE TRANSMISSION LICENSEE

- (1) The transmission licensee shall ensure due compliance with the Indian Electricity Grid Code and Tamil Nadu Electricity Grid Code.
- (2) The Commission may, on reasonable grounds and after consultation with any affected Generating Company, the transmission licensee, the State Transmission Utility, the State Load Despatch Centre and electricity traders, issue directions relieving the licensee of its obligation in respect of such parts of the State Grid Code and to such extent as may be decided by the Commission.

14. CONNECTION AND USE OF SYSTEM

The transmission licensee shall comply with the provisions of the Act and the regulations made thereunder by the Commission in regard to non-discriminatory open access to the use of his transmission system by the users.

15. APPLICATION OF THE GENERAL CONDITIONS TO DEEMED LICENSEES

The conditions as set out herein above are applicable to any person, who is a deemed licensee under section 14 of the Act.

SCHEDULE 1

Licensed Activity

The following transmission systems and transmission corridor as detailed below, in the state of Tamil Nadu, including cantonment, aerodrome, fortresses, arsenal, dockyard or camp or any building or place in occupation of Central Government for defence purposes and without however affecting the rights of any other Licensee or exemption holder, as the case may be, under the Electricity Act, 2003 and subject to the conditions of licence agreed upon.

.....

.....

.....

(By order of the Commission)

Chennai
Dated

Sd/-
Secretary/TNERC

Annexure 7

FORM NO.6: FORMAT AND CONDITIONS OF DISTRIBUTION LICENCE

Licence granted for Distribution of electricity

[See Regulations 15(3)]

Licence granted by the Tamil Nadu Electricity Regulatory Commission under section 14 of the Electricity Act, 2003 (36 of 2003) to _____, for carrying on the business of distribution of electrical energy within the area of activity (as specified under 'licensed area of distribution licensee' in the schedule) and shall be subject to the terms and conditions specified herein. The licence shall come into force from

.....

PART - I

DEFINITIONS

1. Words, terms and expressions to which meanings are assigned by the Electricity Act 2003 (36 of 2003) (hereinafter called the 'Act'), shall have the same meaning in these General Conditions.
2. Unless the context otherwise requires, in these General conditions:
 - (a) **“accounting statement”** means for each financial year, accounting statements for the licensed business comprising a profit and loss account, a balance sheet and a statement of sources and application of funds, together with notes thereto as detailed under the Companies Act, 1956 (Act 1 of 1956) or the respective Acts under which the licensee is governed and such other particulars and details in the manner as the Commission may prescribe from time to time. If the licensee engages in any other business or activity in addition to the licensed business, the accounting statements shall comply with the regulations of the Commission dealing with the treatment of other business of distribution licensees and show the amounts of any revenue, cost, asset, liability, reserve or provision, which has been either:
 - (i) charged from the licensed business to any other business or vice versa together with a description of the basis of that charge; or
 - (ii) determined by apportionment or allocation between the licensed business and any other business of the licensee together with a description of the basis of the apportionment or allocation.

However, The Tamil Nadu Electricity Board, which is a deemed licensee under proviso to section 14 of the Act shall continue to maintain the accounts in accordance with Electricity (Supply) Annual Accounts Rules 1985 till these rules are rescinded or modified or such deemed licensees are reorganised under section 131 of the Act.

- (b) **“Act”** means the Electricity Act, 2003 (Act 36 of 2003)
- (c) **“annual accounts”** means the accounts of the licensee prepared in accordance with the provisions of the Companies Act, 1956 (Act 1 of 1956) and/or in such other manner as may be directed by the Commission in terms of the provisions of the Act;
- (d) **“area of activity”** or **“area of distribution”** or **“area of supply”** means the area stated in the schedule to the licence within which the licensee is authorised to establish, operate and maintain distribution lines and to distribute and supply electricity;
- (e) **“Auditors”** means the licensee’s auditors holding office in accordance with the requirements of sections 224 to 234A or section 619, of the Companies Act 1956 (Act 1 of 1956) as the case may be;
- (f) **“authorised”**, in relation to any person, business or activity, means authorised by licence granted under section 14 of the Act or deemed to be granted under the first, second, third and fifth provisos to section 14 of the Act;
- (g) **“Commission”** means the Tamil Nadu Electricity Regulatory Commission;
- (h) **“distribution”** means the conveyance of electricity by means of a distribution system;
- (i) **“distribution business”** means authorised business of the licensee to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply;
- (j) **“distribution licensee”** means a licensee authorised to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply;
- (k) **“distribution system”** means the system of wires and associated facilities between delivery points on the transmission lines or the generating station connections and the point of connection to the installation of the consumers;
- (l) **“distribution system operating standards”** means the standards as specified by the Commission in the Tamil Nadu Electricity Regulatory

LICENSING REGULATIONS (TRANSMISSION, DISTRIBUTION & TRADING)

Commission Tamil Nadu Electricity Distribution Standards of Performance Regulations, 2004 and the Tamilnadu Electricity Grid code.

- (m) **“franchisee”** means a person authorised by a distribution licensee to distribute electricity on its behalf in a particular area within his area of supply;
- (n) **“Force Majeure”** means events beyond the reasonable control of the licensee, including, but not limited to earthquakes, cyclones, floods, storms, adverse weather conditions, war, terrorist attacks, civil commotion or other similar occurrences that leads to any act that would involve a breach of relevant laws or regulations concerned with electrical safety;
- (o) **“generating station”** means any station for generating electricity, including any building and plant with step-up transformer, switchgear, switchyard, cables or other appurtenant equipments, if any used for that purpose and the site thereof; the site intended to be used for a Generating Station, and any building used for housing the operating staff of a Generating Station, and where electricity is generated by water-power, includes penstocks, head and tail works, main and regulating reservoirs, dams and other hydraulic works, but does not in any case include any sub-station;
- (p) **“holding company”** shall have the same meaning as assigned to it under the Companies Act, 1956 (Act 1 of 1956);
- (q) **“licence”** means the distribution licence under section 14 of the Act under which the licensee is authorised to conduct the licensed business;
- (r) **“licensee”** means any person, who has been granted this licence under section 14 of the Act;
- (s) **“licensed business”** means the business of distribution of electricity in the area of activity as authorised under this licence;
- (t) **“Open Access”** means the non-discriminatory provision for the use of transmission lines or distribution system or associated facilities with such lines or system by any licensee or consumer or a person engaged in generation in accordance with the regulations specified by the Commission;
- (u) **“operational control”** means possessing the authority to make operational decisions such as commissioning and utilisation of units, service lines and equipments;
- (v) **“other business”** means any business of the licensee other than the licensed business for optimum utilisation of its assets;

LICENSING REGULATIONS (TRANSMISSION, DISTRIBUTION & TRADING)

- (w) **“person”** shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;
- (x) **“subsidiary”** shall have the same meaning as in section 4 of the Companies Act 1956 (Act1 of 1956);
- (y) **“sub-station”** means a station for transforming or converting electricity for the transmission or distribution thereof and includes transformers, converters, switchgears, capacitors, synchronous condensers, structures, cables and other appurtenant equipments and any buildings used for that purpose and the site thereof;
- (z) **“supply”** in relation to electricity means the sale of electricity to a licensee or consumer;
- (aa) **“Tamil Nadu Electricity Distribution Code”** means the Code published by the Commission under sections 46 and 86 of Act;
- (ab) **“Tamil Nadu Electricity Supply Code”** means the Code published by the Commission under section 50 of the Act;
- (ac) **“trader”** means a person who has been granted a licence to undertake trading in electricity under section 14 of the Act;
- (ad) **“trading”** means the purchase of electricity for resale thereof and the expression “trade” shall be construed accordingly;
- (ae) **“trading business”** means the authorised business of the trading licensee in the licensed area of activity;
- (af) **“trading licensee”** means the person who is authorised to undertake trading and shall include deemed licensee who is so authorised under section 14 of the Act;
- (ag) **“transfer”** shall include the sale, exchange, gift, lease, licence, loan, securitisation, mortgage, charge, pledge or grant of any other encumbrance or otherwise permitting of any encumbrance to subsist or parting with physical possession or any other disposition or dealing;
- (ah) **“transmit”** means conveyance of electricity by means of transmission lines and the expression “transmission” shall be construed accordingly;
- (ai) **“transmission lines”** means all high pressure cables and overhead lines (not being an essential part of the distribution system of a licensee) transmitting electricity from a generating station to another generating station or a sub-station, together with any step-up and step-down

transformers, switch-gear and other works necessary to and used for the control of such cables or overhead lines, and such buildings or part thereof as may be required to accommodate such transformers, switch-gear and other works;

- (aj) **“transmission system”** means the system consisting mainly of extra high voltage electric lines having design voltage of 33 kV and higher, owned or controlled by the transmission licensee, and used for the purposes of the conveyance of electricity and includes all bays/equipments upto the interconnection with the distribution system, and any plant, apparatus and meters owned or used in connection with the transmission of electricity, but shall not include any part of a distribution system;
- (ak) **“use of system”** means use of the distribution system for the transportation and wheeling of electricity for any person pursuant to a contract entered into with the distribution licensee.
- (al) **“users”** means anyone who uses the distribution system.
- (am) **“wheeling”** means the operation whereby the distribution system and associated facilities of a transmission licensee or distribution licensee, as the case may be, are used by another person for the conveyance of electricity on payment of charges stipulated by the Commission under the Tamil Nadu Electricity Regulatory Commission (Terms and Conditions for the Determination of Tariff) Regulations, 2005;

PART - II GENERAL

CONDITIONS

3. TERM OF THE LICENCE

The distribution licence shall come into force on the date specified by the Commission in the order granting such licence and unless revoked earlier, in accordance with the provisions of Regulation 20 of these regulations or under section 19 of the Act, shall remain in force for 25 (Twenty five) years from that date.

4. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

- (1) The distribution licensee shall comply with the provisions of the Act, rules, regulations, orders and directions issued by the Commission from time to time.

- (2) The distribution licensee shall act in accordance with this General Conditions except where the licensee is exempted from any provisions of these General Conditions at the time of the grant of licence or otherwise specifically permitted by the Commission for any deviation therefrom.
- (3) The distribution licensee shall duly comply with the order and directions of the National Load Despatch Centre, Regional Load Despatch Centre and the State Load Despatch Centre and other statutory authorities issued in the discharge of their functions.

5. DUTIES OF THE DISTRIBUTION LICENSEE

- (1) The distribution licensee shall duly discharge the duties of the distribution licensee as provided under section 42 and 43 of the Act.
- (2) The distribution licensee shall develop and maintain an efficient, co-ordinated and economical distribution system in the area of distribution and effect supply of electricity to Consumers in such area of distribution in accordance with the provisions of the Act, rules, regulations, orders and directions of the Commission.
- (3) The distribution licensee shall be entitled to:
 - (a) purchase, import or otherwise acquire electricity from generating company, trader and from such other sources and persons with whom the distribution licensee has agreements or arrangements of power purchase or procurement of energy in accordance with the terms and conditions of such agreement and arrangement as consented to or approved by the Commission;
 - (b) purchase or acquire electricity from any person whose generating unit existing as on date of the grant of the distribution licence, is directly connected to and interfaced with the distribution system of the licensee, provided that the licensee shall intimate the Commission of the existing arrangements for such purchase or acquisition of electrical energy and obtain the general or special approval of the Commission;
 - (c) purchase from renewable sources connected to its distribution system in such quantum as may be stipulated by the Commission under section 86 (1) (e) of the Act.
 - (d) purchase or otherwise acquire electricity from any person or licensee on the tariffs and terms and conditions as approved by the Commission;
 - (e) undertake trading in electricity in its area of distribution without the need for a separate trading licence;

LICENSING REGULATIONS (TRANSMISSION, DISTRIBUTION & TRADING)

- (f) sell electricity or energy capacity contracted for such period and to such extent of electricity or capacity is not required by the distribution licensee for the discharge of his obligations to supply electricity in his area of supply.
 - (g) supply to such persons situated within its area of supply and requiring supply of electricity from a generating company or any licensee other than the distribution licensee in accordance with regulations made by the Commission. The licensee with respect to such supply shall be of a common carrier providing non-discriminatory open access.
- (4) The distribution licensee shall not, without the general or special approval of the Commission:
- (a) Sell or supply electricity to any person, other than pursuant only in accordance with this licence, and on the tariffs and terms and conditions as approved by the Commission; or
 - (b) provide wheeling services to third parties for transportation of electricity through the licensee's distribution system in accordance with the regulations made by the Commission; and where the Commission permits a consumer or class of consumers to receive electricity supply from a person other than the licensee of his area of supply, such consumer shall be liable to pay an additional surcharge on the charges of wheeling as may be stipulated by the Commission in the open access regulation; or
 - (c) undertake any transaction to acquire by purchase or takeover or otherwise, the utility of any other licensee within the State; or
 - (d) merge his utility with the utility of any other licensee or his own elsewhere within the State; or
 - (e) assign his licence or transfer his utility or part thereof to any person by sale, lease, exchange or otherwise.
- (5) Save as in the case of the consumers of the distribution licensee and persons authorised by the Commission, the licensee shall not commence any new provision of services to any other licensee or person not authorised by the Commission for the conveyance of electricity through its distribution system, without informing the Commission **seven days** prior to the commencement of such arrangement. In circumstances requiring immediate remedial action in the interest of continuity of supply to the persons other than the consumers, the licensee may commence the activity referred to in this clause, provided that the licensee will inform the Commission of such occurrence or circumstances within **seven days** thereof.

LICENSING REGULATIONS (TRANSMISSION, DISTRIBUTION & TRADING)

- (6) The distribution licensee shall purchase the energy required for meeting its obligation under its licence in an economical manner and under a transparent power purchase or procurement process and in accordance with the regulations, guidelines, directions made by the Commission from time to time. In case of a shortage of electricity supply, the Commission may fix the maximum and minimum ceiling of tariff for sale or purchase of electricity in pursuance of an agreement, entered into between a generating company and the licensee or between licensees for a period not exceeding one year to ensure reasonable prices of electricity for transmission, wheeling and retail sale of electricity.
- (7) In the event the distribution licensee engages in any other business the same shall be subject to the following conditions:
- (a) due intimation to the Commission, about the other business the licensee is proposing to engage;
 - (b) the licensed business and the conduct thereof by the licensee is not prejudiced and/or adversely affected in any manner by reason of the other business;
 - (c) at least 50% of its profits earned out of such other business, shall be utilized for reducing the charges for wheeling;
 - (d) the distribution licensee shall prepare and keep, in respect of the other business activities, separate accounting records as would be required to be kept in respect of such activities as if they were carried on by a separate entity, so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to such other business activities are separately identifiable from those of the licensed business;
 - (e) the licensed business does not subsidize in any way such other business nor creates encumbrance on its distribution assets in any way to support such other business; and
 - (f) the distribution licensee shall be entitled to give equipments/ materials in its possession on hire or lease provided such arrangement results in optimum utilisation and gainful employment of its assets, provided the licensed business and the conduct thereof by the licensee is not prejudiced and/or adversely affected in any manner. The licensee shall be entitled to sell or dispose off scrap/ unserviceable/ obsolete materials/ equipments. The earnings from such activities shall be recognised in the annual revenue requirement petition to be filed by the licensee to the Commission.

LICENSING REGULATIONS (TRANSMISSION, DISTRIBUTION & TRADING)

- (8) The distribution licensee shall seek approval of the Commission before making any loans to, or issuing any guarantee for any obligation of any person, except when made or issued for the purposes of the licensed business. The loans to employees pursuant to their terms of service and trade advances in the ordinary course of business are excluded from the requirement to seek such approval.
- (9) The distribution licensee may engage any of its subsidiaries or holding company or a subsidiary of such holding company to provide any goods or services to the licensee in connection with the licensed business, subject to the following conditions that:
- (a) such subsidiaries or holding company does not engage in any business activities which the distribution licensee is prohibited from doing or which such licensee is not entitled to engage in without the prior approval of the Commission.
 - (b) the transaction will be on an arms-length basis and at a value that is fair and reasonable in the circumstances;
 - (c) the transaction will be consistent with any regulations framed by the Commission relating to the provision of goods and services with respect to licensed business; and
 - (d) the distribution licensee will give fifteen days' notice with details of such arrangements to the Commission prior to commencement of the such arrangement.
- (10) The distribution licensee may establish subsidiaries or associated companies or grant a franchisee or enter into management contracts including appointment of billing agent to conduct or carry out any of the functions, which such licensee is authorised to conduct or carry out under the Act and this licence.

Provided always that:

- (a) any such subsidiary or associated company or franchisees or contractors or agents shall operate under the overall supervision and control of the licensee and upon the terms and conditions of this licence; and
- (b) the licensee shall have, prior to delegating any function to any such subsidiary or associated company or franchisees or contractor, intimate the Commission for transactions of value of greater than **Rs one crore**, subject to such conditions as the Commission may stipulate.

- (c) The distribution licensee shall also be responsible for all actions of the subsidiaries or associated companies or franchisees or agents or contractors and the Commission may require the licensee to terminate the arrangements in case the performance is not to its satisfaction.
- (11) Where such prior approval is required, the distribution licensee shall file a suitable application with the Commission disclosing relevant facts. The Commission may, within thirty days of the filing of the application, seek further information in support of the application. The Commission shall generally within thirty days of such further information being submitted by such licensee, and where no such further investigation is required, generally within sixty days of the filing of the application, allow the arrangement subject to such terms and conditions or modifications as it considers appropriate or reject the same, for reasons recorded in writing in the order to be issued by the Commission.
- (12) The distribution licensee shall provide open access to the distribution system for use of the distribution licensees and generating company including the captive generating plant and the consumer subject to operational constraints in the distribution system and subject to payment by the user all applicable tariffs and charges as determined or directed to be charged by any general or special order of the Commission.

6. ACCOUNTS

- (1) Unless otherwise permitted by the Commission the financial year of the distribution licensee for the purposes of these General Conditions and matters relating to the licensed business shall run from the first of April to the following thirty-first of March.
- (2) The distribution licensee shall, in respect of the licensed business and any other business:
 - (a) keep such accounting records as would be required to be kept in respect of each such business so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to the licensed business are separately identifiable in the books of the licensee, from those of other business in which the licensee may be engaged;
 - (b) prepare on a consistent basis from such accounting records and deliver to the Commission
 - (i) the accounting statements;
 - (ii) in respect of the first six months of each financial year, a half yearly profit and loss account, cash flow statement and balance sheet together with such supporting documents and

information as the Commission may prescribe from time to time such statements and documents to be published in the manner the Commission may direct from time to time;

- (iii) in respect of the accounting statements prepared , an auditor's report for each financial year, stating whether in their opinion, these statements have been properly prepared in accordance with this clause and give a true and fair view of the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to such businesses to which the statements relate; and
 - (iv) a copy of each half yearly profit and loss account not later than three months after the end of the period to which it relates, and copies of the accounting statements and auditor's report not later than six months after the end of the financial year to which they relate.
- (3) Any person authorised by the Commission shall be entitled to inspect and verify the accounts of the distribution licensee and such licensee shall render all necessary assistance to such person.
- (4) The distribution licensee shall not normally change the basis of charge or apportionment or allocation of revenues or expenses in relation to the preparation of the accounting statements in respect of a financial year from those applied in respect of the previous financial year, without prior intimation to the Commission. Any change, if proposed, in the basis of charge or apportionment of revenues or expenses shall be consistent with the provisions of the Companies Act, 1956 (Act1 of 1956) or the respective Acts under which the licensee is governed, the accounting standards or rules and any guidelines issued by the Commission in this regard.
- (5) Where, in relation to the accounting statements in respect of a financial year, the Licensee has changed the basis of charge or apportionment or allocation from those adopted for the immediately preceding financial year, the licensee shall, if requested by the Commission, (in addition to preparing accounting statements on those bases which it has adopted), prepare such accounting statements on the basis which it applied in respect of the immediately preceding financial year.
- (6) Accounting statements under sub-clause (2) shall, unless or otherwise approved or directed by the Commission:
- (a) be prepared and published with the annual accounts of the distribution licensee, in the manner provided herein;
 - (b) state the accounting policies adopted;

LICENSING REGULATIONS (TRANSMISSION, DISTRIBUTION & TRADING)

- (c) be prepared in accordance with generally accepted Indian accounting standards; and
 - (d) be prepared in the form as the Commission may stipulate from time to time;
- (7) The references to costs or liabilities of, or reasonably attributable to licensed business or other business shall be construed as excluding taxation, and capital liabilities which do not relate principally to such business and interest thereon.
- (8) The distribution licensee shall ensure that the accounting statements in respect of each financial year prepared under clause (2) and the auditor's report in respect of each financial year are publicised in such manner as the Commission may direct and are made available to any person requesting them at a price not exceeding the reasonable cost of duplicating them.
- (9) The Commission may, from such time it considers appropriate, require the licensee to comply with the provisions of clause (1) to (8) above treating the distribution and supply activities of the licensee as separate and distinct businesses and shall comply with any guidelines issued by the Commission in this regard. In order to meet the requirement of open access, the accounting statements should be maintained separately for capital expenditure of the distribution activity and supply activity while for the purposes of revenue expenditure, the segregation of common services may be done by suitably allocating the same.

7. PROVISION OF INFORMATION TO THE COMMISSION

- (1) The distribution licensee shall furnish to the Commission without undue delay such information, documents and details related to the licensed business or any other business of the licensee engaged for optimum utilisation of the assets of the licensed business, as the Commission may require from time to time for its own purposes or for the purposes of the Government of India, State Government, the Central Commission, and/or the Central Electricity Authority, the State Transmission Utility and State Load Dispatch Centre.
- (2) The distribution licensee shall furnish information on standards of performance in accordance with regulation 24 of Tamil Nadu Electricity Distribution Standards of Performance Regulations 2004.
- (3) The distribution licensee on occurrence of any major incident shall notify the Commission about such occurrence as directed to under the Tamil Nadu Electricity Distribution Code.

- (4) The distribution licensee shall also undertake such studies as the Commission may direct it to undertake from time to time for the improvement of its distribution business and any other matter concerning the distribution business that the Commission considers necessary in the public interest.
- (5) The distribution licensee shall duly inform the Commission about any incident restricting it from meeting its obligations under its licence including any act of omission or commission by others and steps taken by the licensee to mitigate the effect of such incident.
- (6) The Commission may at any time require the licensee to comply with the provisions of clauses (3) to (5) as to incidents which the Commission may specifically direct and the licensee shall be obliged to comply with the same notwithstanding that such incidents are not major incidents; provided that the time limits specified in clause (3) shall commence from the date that the Commission notifies licensee of such requirement.
- (7) The distribution licensee shall submit a business plan, as required under the TNERC (Terms and Conditions for Determination of Tariff) Regulations - 2005, within three months of this licence coming into force and shall update such plan annually.
- (8) The Commission may require the licensee to intimate by the end of first quarter of each financial year the progress made in implementing the business plan of the previous financial year with the comparison of actual implementation vis-à-vis the plan as approved by the Commission.

8. CAPITAL INVESTMENT PLAN

The licensee shall comply with the provisions relating to Capital Investment Plan as detailed in TNERC (Terms and Conditions for determination of tariff) Regulations – 2005.

9. PAYMENT OF LICENCE FEES

- (1) Within thirty days or such further period as the Commission may allow after the date of commencement of the licence, the licensee shall pay to the Commission ¹[a fee as specified in regulation 9 of the Tamil Nadu Electricity Regulatory Commission-Fees and Fines Regulations 2004], on a prorata basis for the balance period of the year in quarterly instalments as specified in sub-clause (2).
- (2) For the subsequent financial year(s), for as long as this Licence remains in force, the Licensee shall, in four equal instalments by the 10th of April, 10th of July, 10th of October and 10th of January in each year, or such further period as the Commission may allow, pay to the Commission ²[an annual fee as specified in regulation 9 of the Tamil Nadu Electricity Regulatory Commission-Fees and Fines Regulations 2004]

++++
¹Substituted for the expression “a fee as may be determined by the Commission” as per Commission’s Notification No.TNERC/REGULATIONS/F&F/4/2-1,dated 16.11.2006 (w.e.f. 3.1.2007)

²Substituted for the expression “an annual licence fee as specified by the regulation” as per Commission’s Notification No.TNERC/REGULATIONS/F&F/4/2-1,dated 16.11.2006 (w.e.f. 3.1.2007)

++++

LICENSING REGULATIONS (TRANSMISSION, DISTRIBUTION & TRADING)

- (3) The Commission may, from time to time revise the annual licence fee payable by the licensee. The Commission may publish such notice, detailing the annual licence fee payable by such licensee on/ or before the start of each financial year.
- (4) Where the distribution licensee fails to pay to the Commission any of the fees due under sub-clauses (1) or (2) by the due dates:
 - (a) without prejudice to other obligations, the distribution licensee shall be liable to pay interest on the outstanding amount at a simple interest rate of **two percent per month**, the interest being payable for the period beginning on the day after which the amount became due, and ending on the day on which the payment is made to the Commission in cleared funds; and
 - (b) in the event of continued default by the distribution licensee, the Commission may revoke this licence pursuant to section 19 of the Act and regulation 20 of these regulations.
- (5) The distribution licensee shall be entitled to take into account any fee paid by it under this clause as an expense in the determination of aggregate revenues to be charged to the tariffs, but shall not take into account any interest paid pursuant to this clause.

10. AMENDMENT OF LICENCE CONDITIONS

Any terms and conditions of licence may be altered or amended by the Commission at any time in public interest in exercise of powers under section 18 of the Act. The following provisions shall have effect for any alterations or amendments:

- (a) where the licensee has made an application under sub-section (1) of section 18, of the Act proposing any alteration or modifications to the terms and conditions of licence, the licensee shall publish a notice of such application with such particulars and in such manner as specified in Regulation 9 (1) (a) of these regulations;
- (b) in the case of an application proposing alterations or modifications in the area of activity comprising 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, the Commission shall make any alterations or modifications only with the consent of the Central Government;

the Commission shall not make any alterations or modification unless all suggestions or objections received within **thirty days** from the date of the first publication of the notice have been considered.

11. SETTLEMENT OF DISPUTES

The provisions contained in regulations 21 to 24 of these regulations, shall apply to any dispute between the distribution licensee and any generating company and such disputes shall be settled in accordance with the provisions contained in the said regulations.

12. SUSPENSION OF DISTRIBUTION LICENCE

The provisions relating to suspension of the distribution Licence and sale of utility as stipulated in section 24 of the Act is applicable and are reproduced below:

- (1) *“If at any time the Appropriate Commission is of the opinion that a distribution licensee-*
- (a) *has persistently failed to maintain uninterrupted supply of electricity conforming to standards regarding quality of electricity to the consumers; or*
 - (b) *is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or*
 - (c) *has persistently defaulted in complying with any direction given by the Appropriate Commission under this Act; or*
 - (d) *has broken the terms and conditions of licence,*

and circumstances exist which render it necessary for it in public interest so to do, the Appropriate Commission may; for reasons to be recorded in writing, suspend, for a period not exceeding one year, the licence of the distribution licensee and appoint an Administrator to discharge the functions of the distribution licensee in accordance with the terms and conditions of the licence;

Provided that before suspending a licence under this section, the Appropriate Commission shall give a reasonable opportunity to the distribution licensee to make representations against the proposed suspension of licence and shall consider the representations, if any, of the distribution licensee.

- (2) *Upon suspension of licence under sub-section (1), the utilities of the distribution licensee shall vest in the Administrator for a period not exceeding one year or up to the date on which such utility is sold in accordance with the provisions contained in section 20, whichever is later.*

(3) *The Appropriate Commission shall, within one year of appointment of the Administrator under sub-section (1), either revoke the licence in accordance with the provisions contained in section 19 or revoke suspension of the licence and restore the utility to the distribution licensee whose licence had been suspended, as the case may be.*

(4) *In a case where the Appropriate Commission revokes the licence under sub-section (3), the utility of the distribution licensee shall be sold within a period of one year from the date of revocation of the licence in accordance with the provisions of section 20 and the price after deducting the administrative and other expenses on sale of utilities be remitted to the distribution licensee.”*

13. COMPLIANCE WITH THE GRID CODE BY THE DISTRIBUTION LICENSEE

The distribution licensee shall ensure due compliance with the Tamil Nadu Electricity Grid Code specified by the Commission under clause (h) sub section (1) of section 86.

14. COMPLIANCE WITH THE ELECTRICITY SUPPLY CODE and DISTRIBUTION CODE BY THE DISTRIBUTION LICENSEE

The distribution licensee shall ensure due compliance with the Tamil Nadu Electricity Supply Code and the Tamil Nadu Electricity Distribution Code as in force for the time being.

15. CONSUMER SERVICE

(1) The distribution licensee shall duly comply with the regulations specified by the Commission from time to time in regard to consumer services including the terms and conditions relating to consumer services contained in the Tamil Nadu Electricity Supply Code and Tamil Nadu Electricity Distribution Code and Tamil Nadu Electricity Distribution standards of performance regulations.

(2) *Payment of Bills*

The procedures regarding billing and payment of electricity charges outlined in Tamil Nadu Electricity Supply code shall be followed both by the licensees and the consumers.

(3) *Complaint Handling Procedure*

The distribution licensee shall establish a forum for redressal of grievances of the consumers in accordance with the Regulations for Consumer Grievance Redressal Forum and Electricity Ombudsman, 2004, as specified by the Commission.

(4) ***Consumer Rights Statement***

- (a) The distribution licensee shall, within a reasonable period of time as specified by the Commission after the commencement of the licence or such other time as the Commission may allow, prepare and submit to the Commission for approval, a consumer rights statement, explaining to consumers their rights as Consumers serviced by such licensee. The Commission may, upon holding such consultation with the TNERC State Advisory Committee, and such other persons or bodies of persons who the Commission considers as representing the interests of consumers likely to be affected by it, make such modification of the statement, as it considers necessary in public interest.
- (b) The Commission may, upon receiving a representation or otherwise, require such licensee to review the consumer rights statement prepared and the manner in which it has been implemented with a view to determining whether any modification should be made to it or to the manner of its implementation.
- (c) The distribution licensee shall submit any revision to the consumer rights statement that it wishes to make to the Commission for its approval, including any representation received by such licensee and not accepted by it. The Commission may modify the existing consumer rights statement, as it considers necessary.
- (d) The distribution licensee shall:
 - (i) draw to the attention of consumers, in such manner as the Commission may direct, the existence of its consumer rights statement and each substantive revision of it and how they may inspect or obtain a copy of such consumer rights statement in its latest form.
 - (ii) make a copy of its consumer rights statement, revised from time to time, available for inspection by members of the public at its offices during normal working hours; and
 - (iii) provide to all new consumers to be served by it, and to any other person who requests, a copy of the consumer rights statement, revised from time to time, at a price not exceeding the reasonable cost of duplicating it.
- (5) The distribution licensee shall duly comply with the standards as the Commission may specify from time to time, in performing its duties under the Act.

16. DISTRIBUTION SYSTEM PLANNING AND SECURITY STANDARDS, DISTRIBUTION SYSTEM OPERATING STANDARDS

The Distribution licensee shall comply with the provisions outlined in Chapter 3 and 5 of the Tamil Nadu Electricity Distribution Code.

17. DUTY TO SUPPLY

The Distribution licensee shall comply with the provisions outlined in Regulation 27 of the Tamil Nadu Electricity Distribution Code.

18. POWERS TO RECOVER EXPENDITURE, RECOVER SECURITY

The Distribution licensee shall comply with the provisions outlined in Chapter 7 of the Tamil Nadu Electricity Distribution Code.

19. USE OF METERS

The distribution licensee shall comply with the requirements of the Act and the regulations, directions and orders of the Commission in regard to supply of electricity through meter as published in Regulation 7 of the Tamil Nadu Electricity Supply Code.

20. PROVISION OF SUBSIDIES TO CERTAIN CONSUMERS

The distribution licensee shall be guided by the provisions as per TNERC (Terms and Conditions for Determination of Tariff) Regulations, 2005.

21. POWERS OF THE LICENSEE FOR REVENUE REALISATION, PREVENTION OF METER TAMPERING, Etc.

The distribution licensee shall act as per the provisions in Chapters 2 and 4 of the Tamil Nadu Electricity Supply Code.

22. POWER TO ENTER PREMISES AND TO REMOVE FITTINGS OR OTHER APPARATUS OF LICENSEE

The distribution licensee shall act as per the provisions of Regulation 25 of the Tamil Nadu Electricity Supply Code.

23. THEFT OF ELECTRICITY, LINES, MATERIALS, INTERFERENCE WITH WORKS, etc.

The distribution licensee shall act as per the provisions in Regulation 25 (B) of the Tamil Nadu Electricity Supply Code.

24. DISCONNECTIONS AND OTHER ACTIONS

The distribution licensee shall act as per the provisions of Regulation 21 of the Tamil Nadu Electricity Supply Code.

25. INTRODUCTION OF COMPETITION IN SUPPLY

- (1) In accordance with section 14 of the Act, the Commission may, grant licence to two or more persons for distribution of electricity through their own distribution system within the same area of supply subject to the condition that the applicant meets the eligibility norms as specified by the Central Government pursuant to under clause (b) of sub section (2) of section 176 of the Act. And no applicant who complies with all the requirements for grant of licence shall be refused licence on the ground that there already exists a licensee in the same area for the same purpose.
- (2) As and when permitted by the Commission a consumer or a class of consumers can avail electricity from a person other than the licensee of his area of supply. In such a case the duties of the licensee shall be that of a “common carrier” providing non-discriminatory open access and the charges payable will be, determined by the Commission.
- (3) The Commission may, fix only the maximum ceiling of tariff for retail sale of electricity in an area of supply having two or more distribution licensees.

26. APPLICATION OF THE GENERAL CONDITIONS TO DEEMED LICENSEES

The conditions as set out herein above are applicable to any person who is a deemed licensee under section 14 of the Act.

SCHEDULE 1

Licensed Area of Distribution Licensee

The distribution system detailed below, covering the following circles/districts / geographical area in the state of Tamil Nadu, including cantonment, aerodrome, fortresses, arsenal, dockyard or camp or any building or place in occupation of Central Government for defence purposes and without however affecting the rights of any other Licensee or exemption holder, as the case may be, under the provisions of the Electricity Act. 2003

.....
.....
.....

(By order of the Commission)

Chennai
Dated

Sd/-
Secretary/TNERC

Annexure 8

FORM NO.7: FORMAT AND CONDITIONS OF LICENCE OF AN ELECTRICITY TRADER

Licence granted for Trading in electricity

[See Regulations 15(4)]

The Tamil Nadu Electricity Regulatory Commission (hereinafter referred to as “the Commission”), in exercise of the powers conferred under section 14 of the Electricity Act, 2003 (Act 36 of 2003, hereinafter referred to as “the Act”), hereby grants this licence as a Category _____trader to _____, (hereinafter referred to as “the licensee”) to trade in electricity as an electricity trader in the area _____subject to the terms and conditions contained in the Act, (in particular, Section 17 to 22 thereof, both inclusive), the rules made by the Central Government (hereinafter referred to as “the Rules”) and the regulations specified by the Commission (hereinafter referred to as “the Regulations”), including statutory amendments, alterations, modifications, re-enactments thereof, which shall be read as part and parcel of this licence. The licence shall come into effect from

PART - I

DEFINITIONS

1. Words, terms and expressions to which meanings are assigned by the Electricity Act 2003 (36 of 2003) (hereinafter called the ‘Act’), shall have the same meaning in these General Conditions.
2. Unless the context otherwise requires:
 - (a) **“accounting statement”** means for each financial year, accounting statements for the licensed business comprising a profit and loss account, a balance sheet and a statement of sources and application of funds, together with notes thereto as detailed under the Companies Act, 1956 (1 of 1956) or the respective Acts under which the licensee is governed and such other particulars and details in the manner as the Commission may prescribe from time to time. If the trading licensee engages in any business or activity in addition to the licensed business, the accounting statements shall comply with the regulations of the Commission dealing with the treatment of other business of trading licensees and show specifically the amounts of any revenue, cost, asset, liability, reserve or provision, which has been either:

LICENSING REGULATIONS (TRANSMISSION, DISTRIBUTION & TRADING)

- (i) charged from the licensed business to any other business or vice versa together with a description of the basis of that charge; or
 - (ii) determined by apportionment or allocation between the licensed business and any other business of the licensee together with a description of the basis of the apportionment or allocation.
- (b) “**Act**” means the Electricity Act, 2003 (Act 36 of 2003)
- (c) “**agreement**” means agreement entered into by the electricity trader with the seller of electricity, buyer of electricity, other licensees, State Load Despatch Centre, consumer etc. that enables the trading transactions;
- (d) “**annual accounts**” means the accounts of the licensee prepared in accordance with the provisions of the Companies Act, 1956 and/or in such other manner as may be directed by the Commission in terms of the provisions of the Act;
- (e) “**area of activity**” means the area of activity stated in the trading licence within which the licensee is authorised to trade;
- (f) “**auditors**” means the licensee’s auditors holding office in accordance with the requirements of sections 224 to 234A or section 619 as appropriate, of the Companies Act 1956 (1 of 1956);
- (g) “**authorised**”, in relation to any person, business or activity, means authorised by licence granted under section 14 of the Act or deemed to be granted under the first, second, third and fifth proviso to section 14 of the Act or exemption granted under section 13 of the Act and the regulations of the Commission;
- (h) “**Commission**” means the Tamil Nadu Electricity Regulatory Commission;
- (i) “**Conduct of Business Regulations**” means the Tamil Nadu Electricity Regulatory Commission - Conduct of Business Regulations, 2004, for the time being in force;
- (j) “**customer**” means any buyer purchasing electricity from the trader, viz. distribution licensee, any other trading licensee and any customer that the licensee gets into a sale agreement with.

- (k) “**Force Majeure**” means events beyond the reasonable control of the licensee, including, but not limited to earthquakes, cyclones, floods, storms, adverse weather conditions, war, terrorist attacks, civil commotion or other similar occurrences that leads to any act that would involve a breach of relevant laws or regulations concerned with electrical safety;
- (l) “**licence**” means a licence granted under section 14 of the Act;
- (m) “**licensee**” means a person who has been granted a licence under section 14 of the Act;
- (n) “**licensed business**” means the business of trading of electricity in the area of activity as authorised under the licence;
- (o) “**open access**” means the non-discriminatory provision for the use of transmission lines or distribution lines or transmission systems or distribution systems or associated facilities with such lines or systems by any licensee or customer or a person engaged in generation in accordance with the regulations specified by the Commission;
- (p) “**person**” shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;
- (q) “**regulations**” means the regulations made by the Commission, under the provisions of the Act;
- (r) “**State**” means the State of Tamil Nadu;
- (s) “**State Government**” means the Government of the State of Tamil Nadu;
- (t) “**subsidiary**” shall have the same meaning as in section 4 of the Companies Act 1956 (1 of 1956);
- (u) “**supply**” in relation to electricity means the sale of electricity to a licensee or consumer;
- (v) “**Tamil Nadu Electricity Distribution Code**” means the Code published by the Commission under sections 46 and 86 of Act;
- (w) “**Tamil Nadu Electricity Supply Code**” means the Code published by the Commission under section 50 of the Act;
- (x) “**trader**” means a person who has been granted a licence or deemed to be a licensee to undertake trading in electricity under section 14 of the Act;

- (y) **“trading”** means purchase of electricity for resale thereof and the expression “trade” shall be construed accordingly;
- (z) **“trading business”** means the authorised business of the trading licensee in the area of supply;
- (aa) **“transfer”** shall include the sale, exchange, gift, lease, licence, loan, securitisation, mortgage, charge, pledge or grant of any other encumbrance or otherwise permitting of any encumbrance to subsist or parting with physical possession or any other disposition or dealing;
- (ab) **“transmit”** means conveyance of electricity by means of transmission lines and the expression “transmission” shall be construed accordingly;
- (ac) **“transmission licensee”** means a licensee authorised to establish or operate transmission lines;
- (ad) **“transmission system”** means the system consisting mainly of extra high voltage electric lines having design voltage of 33 kV and higher, owned or controlled by the transmission licensee, and used for the purposes of the conveyance of electricity and includes all bays/equipments upto the interconnection with the distribution system, and any plant, apparatus and meters owned or used in connection with the transmission of electricity, but shall not include any part of a distribution system;

PART - II GENERAL

CONDITIONS

3. PERIOD & TRANSFERABILITY OF THE LICENCE

- (1) The trading licence shall come into force on the date specified by the Commission in the order granting such licence and unless revoked earlier, in accordance with the regulation 20 of these regulations or under section 19 of the Act, shall remain in force for 25 (Twenty five) years from that date.
- (2) This trading licence is not transferable, except in accordance with the provisions of the Act, the rules and the regulations.

4. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

- (1) The trading licensee shall comply with the provisions of the Act, rules, regulations, orders and directions issued by the Commission from time to time.

- (2) The trading licensee shall act in accordance with this General Conditions except where the licensee is exempted from any provisions of these General Conditions at the time of the grant of licence or otherwise specifically permitted by the Commission for any deviation therefrom.
- (3) The trading licensee shall duly comply with the order and directions of the National Load Despatch Centre, Regional Load Despatch Centre and the State Load Despatch Centre and other statutory authorities issued in the discharge of their functions.

5. DUTIES OF THE TRADING LICENSEE

- (1) The trading licensee may engage in the business of trading in electricity in the State provided that any such sale or supply of electricity to customer subject to the trade margin that may be fixed by the Commission from time to time.
- (2) The trading licensee shall have in place all agreements, including the billing and settlement agreement, for the purchase, sale and supply of electricity, and all necessary authorisations as required by it to be able to perform its obligations under such agreements.
- (3) The trading licensee shall not without the prior approval of the Commission:
 - (a) undertake any transaction to acquire by purchase or takeover or otherwise, the utility of any other licensee in its area of activity; or
 - (b) acquire any beneficial interest in any generating company or generating station or distribution licensee or any other trading licensee; or
 - (c) merge its utility with any other licensee within the State; or
 - (d) assign its licence, or transfer its utility, or any part thereof, by sale, lease, exchange or otherwise;

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

- (4) To obtain the approval of the Commission as aforesaid, the licensee shall file a suitable application with the Commission disclosing relevant facts in that behalf and the Commission shall dispose such application expeditiously.
- (5) The grant of this trading 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 trading licensee shall not claim any exclusivity.

LICENSING REGULATIONS (TRANSMISSION, DISTRIBUTION & TRADING)

- (6) The trading licensee shall carry out trade by entering into appropriate contracts. Necessary safeguards with regard to supply of electricity through trading, or payment for the electricity traded shall be included in the agreements between the parties. All trading arrangements shall be done through the letters of credit or with any other superior instrument.
- (7) If the contract of the trading licensee with its customer is for a fixed term, then prior to the expiry of such fixed term, the licensee shall inform the customer as to when the term expires and the tariffs and terms and conditions applicable to the customer beyond the expiry of the contract, if the arrangement is continued.
- (8) The trading licensee shall comply with the requirements of laws in force and, in particular, the provisions of the Act, the rules and the regulations, Tamil Nadu Electricity Grid Code, Tamil Nadu Electricity Distribution Code, Tamil Nadu Electricity Supply Code, other codes, orders and directions issued by the Commission from time to time.
- (9) The trading licensee shall maintain an up to date register or record of all the business transactions.
- (10) The trading licensee shall be governed by the technical requirement, capital adequacy requirement and creditworthiness specified by the Commission in these regulations, for being an electricity trader and shall upgrade these technical and capital adequacy requirements including staff, when the volume of trade increases.
- (11) The trading licensee shall increase its networth if the quantum 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 cumulated as on 31st March of each year of which the licensee shall keep the Commission informed of his moving from one category to the other and subsequent changes in the networth.
- (12) The trading licensee shall establish adequate communication facilities like telephone, fax, computer, internet facilities, before undertaking the trading.
- (13) The trading licensee shall render all assistance to any person authorised by the Commission for carrying out his duties relating to the licence.
- ¹[(14) The trading licensee shall pay the licence fee as specified in regulation 9 of the Tamil Nadu Electricity Regulatory Commission Fees and Fines Regulations 2004]
- (15) The trading licensee shall purchase the energy required for meeting its obligation under its licence in an economical manner and under a transparent power purchase or procurement process and in accordance with the regulations, guidelines, directions made by the Commission from time to time.

+++++

¹Substituted as per Commission's Notification No. **TNERC/REGULATIONS/F&F/4/2-1 dated 16.11.2006** (w.e.f. **3.1.2007**) which before substitution stood as under:

"(14) The trading licensee shall pay the licence fee specified under these regulations in accordance with the time-schedule specified hereunder."

+++++

6. ACCOUNTS

- (1) Unless otherwise permitted by the Commission the financial year of the trading licensee for the purposes of these General Conditions and matters relating to the licensed business shall run from the first of April to the following thirty-first of March.
- (2) The trading licensee shall, in respect of the licensed business and any other business:
 - (a) prepare on a consistent basis from such accounting records and deliver to the Commission
 - (i) the accounting statements;
 - (ii) in respect of the first six months of each financial year, a half yearly profit and loss account, cash flow statement and balance sheet together with such supporting documents and information as the Commission may prescribe from time to time such statements and documents to be published in the manner prescribed by the Commission;
 - (iii) in respect of the accounting statements prepared, an auditor's report for each financial year, stating whether in their opinion these statements have been properly prepared in accordance with this clause and give a true and fair view of the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to such businesses to which the statements relate; and
 - (iv) a copy of each half yearly profit and loss account not later than three months after the end of the period to which it relates, and copies of the accounting statements and auditor's report not later than six months after the end of the financial year to which they relate.
- (3) The trading licensee shall not normally change the basis of charge or apportionment or allocation of revenues or expenses in relation to the preparation of the accounting statements in respect of a financial year from those applied in respect of the previous financial year, without prior intimation to the Commission. Any change, if proposed, in the basis of charge or apportionment of revenues or expenses shall be consistent with the provisions of the Companies Act, 1956, the accounting standards or rules and any guidelines issued by the Commission in this regard.

LICENSING REGULATIONS (TRANSMISSION, DISTRIBUTION & TRADING)

- (4) Where, in relation to the accounting statements in respect of a financial year, the licensee has changed the basis of charge or apportionment or allocation from those adopted for the immediately preceding financial year, the licensee shall, if requested by the Commission, (in addition to preparing accounting statements on those bases which it has adopted), prepare such accounting statements on the basis which it applied in respect of the immediately preceding financial year.
- (5) Accounting statements under sub-clause (2) above shall, unless or otherwise approved or directed by the Commission:
 - (a) be prepared and published with the annual accounts of the trading licensee, in the manner provided herein;
 - (b) state the accounting policies adopted;
 - (c) be prepared in accordance with generally accepted Indian accounting standards; and
 - (d) be prepared in the form as the Commission may stipulate from time to time;
- (6) The references to costs or liabilities of, or reasonably attributable to licensed business or other business shall be construed as excluding taxation, and capital liabilities which do not relate principally to such business and interest thereon.
- (7) The trading licensee shall ensure that the accounting statements in respect of each financial year prepared under sub-clause (2) and the auditor's report in respect of each financial year are publicised in such manner as the Commission may direct and are made available to any Person requesting them at a price not exceeding the reasonable cost of duplicating them.
- (8) The Commission may, from such time it considers appropriate, require the licensee to comply with the provisions of clause (1) to (7) above treating the trading and other activities of the licensee as separate and distinct businesses and shall comply with any guidelines issued by the Commission in this regard.
- (9) Any person authorised by the Commission shall be entitled to inspect and verify the accounts of the trading licensee and the licensee shall render all necessary assistance to such person.

7. PROVISION OF INFORMATION TO THE COMMISSION

- (1) The trading licensee shall furnish to the Commission without undue delay such information, documents and details related to the licensed business or any other business of the licensee, as the Commission may require for its own purposes or for the purposes of the Government of India, State Government, the State Transmission Utility, The State Load Dispatch Centre, the Central Commission and/or the Central Electricity Authority.
- (2) The trading licensee shall furnish the information as may be required from time to time to monitor the licensee's performance and compliance of the terms and conditions of the licence and any other legislative or regulatory requirement in the manner required by the Commission.
- (3) The trading licensee shall file the annual revenue requirements, at a time as may be directed by the Commission, and in the form and manner specified thereof, to enable the Commission to determine the trading margin, wherever necessary.
- (4) The trading licensee shall duly inform the Commission about any incident restricting it from meeting its obligation under the licence granted including any act of omission or commission by others and steps taken by the licensee to mitigate the effect of such incident. The trading licensee shall notify the Commission as soon as possible the occurrence of any other incident which materially affect any part of its trading activities and in any event, by not later than thirty days from the date of such occurrence:
 - (a) submit a report to the Commission giving full details of the facts within the knowledge of the licensee regarding the incident and its cause; and
 - (b) give copies of the report to all parties concerned with such incident and to such other persons as the Commission may direct.
- (5) The Commission may by order, after providing an opportunity of hearing, direct the trading licensee to provide such amount of compensation as the Commission may direct, to persons who are affected or prejudiced by any act of commission, omission or negligence on the part of any of the employees or agents of the licensee.
- (6) The Commission may at any time require the trading licensee to comply with the provisions of this clause 6 in a manner the Commission may direct and the licensee shall be obliged to comply with the same.
- (7) The trading licensee shall submit a business plan in accordance with the provisions of TNERC (Terms and Conditions for determination of tariff) Regulations - 2005.

8. CAPITAL ADEQUACY, CREDIT WORTHINESS NORMS TO BE MAINTAINED

- (1) The trading licensee shall duly comply with the regulations, guidelines, directions and orders the Commission may issue from time to time in regard to the technical and financial parameters and norms to be maintained at all times by the trading licensee.
- (2) The net worth at any point of time during the operation of trading shall not reduce below 75% of the minimum requirements specified for the respective category of trader and shall be replenished at the end of every quarter ending March, June, September & December every year to the above specified levels. An audited certificate of compliance would need to be submitted to the Commission for every quarter within a period of 30 days from the end of that quarter.
- (3) The trader shall make reasonable endeavours to maintain investment grade credit rating obtained from a leading independent Credit Rating Agency for all debts throughout the period they remain on the books of the trader.
- (4) The non-maintenance of the technical and financial parameters as per sub-clause (1) above shall amount to a material breach of the obligations by the licensee;
- (5) The trading licensee shall maintain the technical resources as specified in the regulations and provide to the Commission details of any changes justifying the adequacy of its capability to cater to the volume of trade it handles;
- (6) If the trading volume of the licensee exceeds its specified maximum volume of trade, then the licensee shall immediately inform the Commission and increase its network as specified in the regulations. In case of non-reporting of such an event the Commission shall levy compensation to the licensee for such negligence, and the licence shall be liable for revocation.
- (7) The increased network shall remain in force till such time the increased network consistently exceeds the requirement for a particular volume of trade through three consecutive months. On any such consistent reduction in volume of trade, the network requirement may be revised in proportion to the average traded volumes during the three months, specified herein.

9. PAYMENT OF LICENCE FEES

- (1) Within thirty days or such further period as the Commission may allow after the coming into force of this licence, the licensee shall pay to the Commission ¹[a licence fee as specified in regulation 9 of the Tamil Nadu Electricity Regulatory Commission-Fees and Fines Regulations 2004] , on a prorata basis for the balance period of the year in quarterly instalments as specified in sub-clause (2)

+++++
¹Substituted for the expression "a fee as may be specified by the Commission" as per Commission's Notification No.TNERC/REGULATIONS/F&F/4/2-1,dated 16.11.2006 (w.e.f. 3.1.2007)
+++++

LICENSING REGULATIONS (TRANSMISSION, DISTRIBUTION & TRADING)

- (2) For the subsequent financial year(s), for as long as this licence remains in force, the licensee shall, in four equal instalments by the 10th of April, 10th of July, 10th of October and 10th of January in each year, or such further period as the Commission may allow, pay to the Commission ¹[an annual licence fee as specified in regulation 9 of the Tamil Nadu Electricity Regulatory Commission-Fees and Fines Regulations 2004]
- (3) The Commission may, from time to time revise the annual licence fee payable by the licensee. The Commission may publish such notice, detailing the annual licence fee payable by the licensee on/ or before the start of each financial year.
- (4) Where the trading licensee fails to pay to the Commission any of the fees due under sub-clauses (1) or (2) by the due dates:
 - (a) without prejudice to other obligations, the licensee shall be liable to pay interest on the outstanding amount at a simple interest rate of **two percent per month**, the interest being payable for the period beginning on the day after which the amount became due, and ending on the day on which the payment is made to the Commission in cleared funds; and
 - (b) in the event of continued default by the licensee, the Commission may revoke this licence pursuant to section 19 of the Act and regulation 20 of these regulations.
- (5) The trading licensee shall be entitled to take into account any fee paid by it under this clause as an expense in the determination of aggregate revenues, but shall not take into account any interest paid pursuant to this clause.
- (6) In case the trading licensee has moved from a lower Category to a higher Category, the balance of licence fee applicable to the licensee for such changed category shall be paid before 30th April of each year.

10. AMENDMENT OF LICENCE CONDITIONS

Any terms and conditions of licence may be altered or amended by the Commission at any time in public interest in exercise of powers under section 18 of the Act. The following provisions shall have effect for any alterations or amendments:

- (a) where the licensee has made an application under sub-section (1) of section 18, of the Act proposing any alteration or modifications to the terms and conditions of licence, the licensee shall publish a notice of such application with such particulars and in such manner as specified in Regulation 9 (1) (a) of these regulations;

+++++
¹Substituted for the expression “**an annual licence fee as specified by the Regulation**” as per Commission’s Notification No.**TNERC/REGULATIONS/F&F/4/2-1,dated 16.11.2006 (w.e.f. 3.1.2007)**
+++++

- (b) in the case of an application proposing alterations or modifications in the area of activity comprising 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, the Commission shall make any alterations or modifications only with the consent of the Central Government;

the Commission shall not make any alterations or modification unless all suggestions or objections received within **thirty days** from the date of the first publication of the notice have been considered.

11. SETTLEMENT OF DISPUTES

The provisions contained in regulation 24 to 27 of these regulations, shall apply to any dispute between the trading licensee and any generating company or transmission licensee or consumers or distribution licensee and such disputes shall be settled in accordance with the provisions contained in the said regulations.

12. TARIFF, TRADING MARGINS AND EXPECTED REVENUE CALCULATION

- (1) The trading licensee shall calculate the expected revenue from charges, which it is permitted to recover in accordance with the provisions of the Act, the regulations of the Commission, the tariff terms and conditions and other guidelines, orders and directions issued by the Commission from time to time.
- (2) The trading licensee shall file the expected revenue calculation in the manner provided in the Conduct of Business Regulations and consistent with the regulations issued under section 61 of the Act.
- (3) Unless otherwise provided in the Special Conditions or in any order or direction made by the Commission the licensee shall every year, not later than 31st November, submit to the Commission a Statement with full details of its expected aggregate revenues and cost of service for the ensuing financial year for its licensed business in accordance with the provisions of the Act and the regulations, guidelines and orders issued by the Commission from time to time.

13. COMPLIANCE AND SUBMISSION OF INFORMATION TO STATE LOAD DESPATCH CENTRE & CENTRAL ELECTRICITY AUTHORITY

- (1) The trading licensee shall comply with the provisions of codes and regulations published / specified by the Commission and directives of the Commission issued from time to time;

- (2) The trading licensee shall submit to the State Load Dispatch Centre (SLDC) all such information pertaining to the trade of electricity by the licensee, provided further that the SLDC shall verify the information provided by the licensee on quantum of electricity traded as against its reports and submit a review report to the Commission.
- (3) The trading licensee shall submit information to the Central Electricity Authority as required under section 74 of the Act in accordance with clause (i) of section 73 of the Act;
- (4) The trading licensee shall pay the SLDC charges as may be specified by the Commission from time to time;
- (5) The distribution licensee(s) when trading with other distribution licensee(s) shall comply with the Commission's specified ceiling value of trading margin.
- (6) The trading licensee shall comply with the requirements under section 66 of the Act as may be specified by the Commission to promote the development of market;

14. PRUDENTIAL REPORTING

The trading licensee, shall, as soon as practicable report to the Commission: (a)

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

- (b) Any material breach of the provisions of the Act, the rules and the Regulations, directives/orders issued by the Commission, the Tamil Nadu Electricity Grid Code, the Tamil Nadu Electricity Distribution Code, the Tamil Nadu Electricity Supply Code, agreement or the licence.
- (c) Any major change in shareholding pattern, ownership or management of the licensee.

15. COMMUNICATION

- (1) All communications relating to the trading licence shall be in writing and shall be delivered either in person to the addressee or his authorised agent, or sent by registered/speed post to the place of business of the addressee.
- (2) All communications shall be regarded to have been given by the sender and received by the addressee:

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

16. INTRODUCTION OF COMPETITION IN TRADING

- (1) The Commission may grant licence to more than one person to trade in the same area of activity of the licensee subject to the proviso to section 14 of the Act.
- (2) The Commission may, after considering applicable Government policy and in consultation with the licensees and generating companies, formulate arrangements for the introduction of competition in supply / promote the development of a market (including trading of power) in the State. These consultations will adhere to the principles of natural justice, financial viability of the sector and will afford a reasonable opportunity to the affected parties to represent their perspectives in the matter.
- (3) The Commission may, with reasons recorded in writing, and after providing reasonable opportunity to the licensee to be heard, issue such appropriate orders modifying or amending the conditions of this licence, as it shall consider appropriate for the purpose of implementing the arrangements referred to in this clause.
- (4) The trading licensee shall arrange systems and other resources necessary for complying with this clause.
- (5) The trading licensee in any circumstances shall not enter into any Agreement or abuse its dominant position or enter into a combination, which is likely to cause or causes an adverse effect on competition in the electricity industry.
- (6) If the trading licensee anticipates that it will be unable to meet any of the obligations under this clause, it shall as soon as possible notify the Commission and give sufficient reasons for the same.

17. APPLICATION OF THE GENERAL CONDITIONS TO DEEMED LICENSEES

The conditions as set out herein above are applicable to any person who is a deemed licensee under section 14 of the Act.

SCHEDULE 1

Area of Activity

The following circles/districts in the state of Tamil Nadu:

... including cantonment, aerodrome, fortresses, arsenal, dockyard or camp or any building or place in occupation of Central Government for defence purposes and without however affecting the rights of any other Licensee or exemption holder, as the case may be, under the provisions of the Electricity Act,2003

(By order of the Commission)

Chennai

Sd/-

Dated

Secretary/TNERC

Annexure 9

EXTRACTS FROM THE ARBITRATION & CONCILIATION ACT, 1996

61. Application and Scope

- (1) Save as otherwise provided by any law for the time being in force and unless the parties have otherwise agreed, this Part shall apply to conciliation of disputes arising out of legal relationship, whether contractual or not and to all proceedings relating thereto.
- (2) This Part shall not apply where by virtue of any law for the time being in force certain disputes may not be submitted to conciliation.

62. Commencement of conciliation proceedings

- (1) The party initiating conciliation shall send to the other party a written invitation to conciliate under this Part, briefly identifying the subject of the dispute.
- (2) Conciliation proceedings shall commence when the other party accepts in writing the invitation to conciliate.
- (3) If the other party rejects the invitation, there will be no conciliation proceedings.
- (4) If the party initiating conciliating does not receive a reply within thirty days from the date on which he sends the invitation or within such other period of time as specified in the invitation, he may elect to treat this as a rejection of the invitation to conciliate and if he so elects, he shall inform in writing the other party accordingly.

63. Number of conciliators:-

- (1) There shall be one conciliator unless the parties agree that there shall be two or three conciliators.
- (2) Where there is more than one conciliator, they ought, as a general rule, to act jointly.

64. Appointment of conciliators:-

- (1) Subject to sub-section (2),-
 - (a) in conciliation proceedings with one conciliator, the parties may agree on the name of a sole conciliator;
 - (b) in conciliation proceedings with two conciliators, each party may appoint one conciliator;
 - (c) in conciliation proceedings with three conciliators, each party may appoint one conciliator and the parties may agree on the name of the third conciliator who shall act as the presiding conciliator.
- (2) Parties may enlist the assistance of a suitable institution or person in connection with the appointment of conciliators, and in particular,-
 - (a) a party may request such an institution or person to recommend the names of suitable individuals to act as conciliator; or

- (b) the parties may agree that the appointment of one or more conciliators be made directly by such an institution or person:

Provided that in recommending or appointing individuals to act as conciliator, the institution or person shall have regard to such considerations as are likely to secure the appointment of an independent and impartial conciliator and, with respect to sole or third conciliator, shall take into account the advisability of appointing a conciliator of a nationality other than the nationalities of the parties.

65. Submission of Statements to conciliators:-

- (1) The conciliator, upon his appointment, may request each party to submit to him a brief written statement describing the general nature of the dispute and the points at issue. Each party shall send a copy of such statement to the other party.
- (2) The conciliator may request each party to submit to him a further written statement of his position and the facts and grounds in support thereof, supplemented by any documents and other evidence that such party deems appropriate. The party shall send a copy of such statement, documents and other evidence to the other party.
- (3) At any stage of the conciliation proceedings, the conciliator may request a party to submit to him such additional information as he deems appropriate.

Explanation:- In this section and all the following sections of this Part, the term “conciliator” applies to a sole conciliator, two or three conciliators as the case may be.

66. Conciliator not bound by certain enactments:-

The conciliator is not bound by the Code of Civil Procedures, 1908 or the Indian Evidence Act, 1872.

67. Role of conciliator:-

- (1) The conciliator shall assist the parties in an independent and impartial manner in their attempt to reach an amicable settlement of their dispute.
- (2) The conciliator shall be guided by principles of objectivity, fairness and justice, giving consideration to, among other things the rights and obligations of the parties, the usages of the trade concerned and the circumstances surrounding the dispute, including any previous business practices between the parties.
- (3) The conciliator may conduct the conciliation proceedings in such a manner as he considers appropriate, taking into account the circumstances of the cases, the wishes the parties may express, including any request by a party that the conciliator hear oral statements, and the need for a speedy settlement of the dispute.
- (4) The conciliator may, at any stage of the conciliation proceedings, make proposals for a settlement of the dispute. Such proposals need not be in writing and need not be accompanied by a statement of the reasons therefor.

68. Administrative assistance:-

In order to facilitate the conduct of the conciliation proceedings, the parties, or the conciliator with the consent of the parties, may arrange for administrative assistance by a suitable institution or person.

69. Communication between conciliator and parties:-

- (1) The conciliator may invite the parties to meet him or may communicate with them orally or in writing. He may meet or communicate with the parties together or with each of them separately.
- (2) Unless the parties have agreed upon the place where meetings with the conciliator are to be held, such place shall be determined by the conciliator, after consultation with the parties, having regard to the circumstances of the conciliation proceedings.

70. Disclosure of information:-

When the conciliator receive factual information concerning the dispute from a party, he shall disclose the substance of that information to the other party, he shall disclose the substance of that information to the other party in order that the other party may have the opportunity to present any explanation which he considers appropriate:

Provided that when a party gives any information to the conciliator subject to a specific condition that it be kept confidential, the conciliator shall not disclose that information to the other party.

71. Co-operation of parties with conciliator:-

The parties shall in good faith co-operate with the conciliator and, in particular, shall endeavour to comply with requests by the conciliator to submit written materials, provide evidence and attend meetings.

72. Suggestions by parties for settlement of dispute:-

Each party may, on his own initiative or at the invitation of the conciliator, submit to the conciliator suggestions for the settlement of the dispute.

73. Settlement agreement:-

- (1) When it appears to the conciliator that there exist elements of a settlement, which may be acceptable to the parties, he shall formulate the terms of a possible settlement and submit them to the parties for their observations. After receiving the observations of the parties, the conciliator may reformulate the terms of a possible settlement in the light of such observations.
- (2) If the parties reach agreement on a settlement of the dispute, they may draw up and sign a written settlement agreement. If requested by the parties, the conciliator may draw up, or assist the parties in drawing up, the settlement agreement.
- (3) When the parties sign the settlement agreement, it shall be final and binding on the parties and persons claiming under them respectively.
- (4) The conciliator shall authenticate the settlement agreement and furnish a copy thereof to each of the parties.

74. Status and effect of settlement agreement:-

The settlement agreement shall have the same status and effect as if it is an arbitral award on agreed terms on the substance of the dispute rendered by an arbitral tribunal under section 30.

75. Confidentiality:-

Notwithstanding anything contained in any other law for the time being in force, the conciliator and the parties shall keep confidential all matters relating to the conciliation proceedings. Confidentiality shall extend also to the settlement agreement, except where its disclosure is necessary for purposes of implementation and enforcement.

76. Termination of conciliation proceedings:-

The conciliation proceedings shall be terminated –

- (a) by the signing of the settlement agreement by the parties on the date of the agreement; or
- (b) by a written declaration of the conciliator, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of the declaration; or
- (c) by a written declaration of the parties addressed to the conciliator to the effect that the conciliation proceedings are terminated, on the date of the declaration; or
- (d) by a written declaration of a party to the other party and the conciliator, if appointed, to the effect that the conciliation proceedings are terminated, on the date of the declaration.

77. Resort to arbitral or judicial proceedings:-

The parties shall not initiate, during the conciliation proceedings, any arbitral or judicial proceedings in respect of a dispute that is the subject matter of the conciliation proceedings except that a party may initiate arbitral or judicial proceedings where, in his opinion, such proceedings are necessary for preserving his rights.

78. Costs:-

- (1) Upon termination of the conciliation proceedings, the conciliator shall fix the costs of the conciliation and give written notice thereof to the parties.
- (2) For the purpose of sub-section (1), “costs” means reasonable costs relating to-
 - (a) the fee and expenses of the conciliator and witnesses requested by the conciliator with the consent of the parties;
 - (b) any expert advice requested by the conciliator with the consent of the parties;
 - (c) any assistance provided pursuant to clause (b) of sub-section (2) of section 64 and section 68;

(d) any other expenses incurred in connection with the conciliation proceedings and the settlement agreement.

- (3) The costs shall be borne equally by the parties unless the settlement agreement provides for a different apportionment. All other expenses incurred by a party shall be borne by that party.

79. Deposits:-

- (1) The conciliator may direct each party to deposit an equal amount as an advance for the costs referred to in sub-section (2) of section 78, which he expects will be incurred.
- (2) During the course of the conciliation proceeding, the conciliator may direct supplementary deposits in an equal amount from each party.
- (3) If the required deposits under sub-section (1) and (2) are not paid in full by both the parties within thirty days, the conciliator may suspend the proceedings or may make a written declaration of termination of the proceedings to the parties effective on the date of that declaration.
- (4) Upon termination of the conciliation proceedings, the conciliator shall render an accounting to the parties of the deposits received and shall return any unexpended balance to the parties.

80. Role of conciliator in other proceedings:-

Unless otherwise agreed by the parties,-

- (a) the conciliator shall not act as an arbitrator or as a representative or counsel of a party in any arbitral or judicial proceedings in respect of dispute that is the subject of the conciliation proceedings;
- (b) the conciliator shall not be represented by the parties as a witness in any arbitral or judicial proceedings.

81. Admissibility of evidence in other proceedings:-

The parties shall not rely on or introduce as evidence in arbitral or judicial proceedings, whether not such proceedings relate to the dispute that is the subject of the conciliation proceedings,-

- (a) views expressed or suggestions made by the other party in respect of a possible settlement of the dispute;
- (b) admissions made by the other party in the course of the conciliation proceedings;
- (c) proposals made by the conciliator;
- (d) the fact that the party had indicated his willingness to accept a proposal for settlement made by the conciliator.

82. Power of High Court to make rules:-

The High Court may make rules consistent with this Act as to all proceedings before the Court under this Act.

83. Removal of difficulties:-

- (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not consistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty;
- (2) Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.
- (3) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

84. Power to make rules:-

- (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Ordinance.
- (2) Every rule made by the Central Government under this Act shall be laid, as soon as may be, after it is made before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

85. Repeal and saving:-

- (1) The Arbitration (Protocol and Convention) Act, 1937, the Arbitration Act, 1940, and the Foreign Awards (Recognition and Enforcement) Act, 1961 are hereby repealed.
- (2) Notwithstanding such repeal,-
 - (a) the provisions of the said enactments shall apply in relation to arbitral proceedings which commenced before this Act came into force unless otherwise agreed by the parties by this Act shall apply in relation to arbitral proceedings which commenced on or after this Act comes into force;
 - (b) all rules made and notifications published, under the said enactments shall, to the extent to which they are not repugnant to this Act, be deemed respectively to have been made or issue under this Act.

86. Repeal of Ordinance 27 of 1996 and saving:-

- (1) The Arbitration and Conciliation (Third) Ordinance 1996 is hereby repealed.
- (2) Notwithstanding such repeal any order rule notification or scheme made or anything done or any action taken in pursuance of any provision of the said Ordinance shall be deemed to have been made done or taken under the corresponding provisions of this Act.