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অসম ৰাজপত্ৰ

THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্ত্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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GOVERNMENT OF ASSAM

ASSAM ELECTRICITY REGULATORY COMMISSION

NOTIFICATION

The 6th April, 2005

A. E. R. C. (Procedure, terms and conditions for granting on Intra-state Trading Licence and other related matters) Regulations, 2005

No. AERC./2005/16 – In exercise of powers conferred under section 14 and section 52 and read with Section 181 of the Electricity Act 2003 (36 of 2003) and all powers enabling it in that regard, the Assam Electricity Regulatory Commission hereby makes the following Regulations providing for the procedures to grant, amend or revoke an Intra-State Trading licence for the State of Assam and the general terms and conditions of licence:

CHAPTER I – GENERAL

1. Short title, commencement and interpretation:

1.1 These Regulations may be called the Assam Electricity Regulatory Commission (Procedure, Terms and Conditions for granting on Intra-State Trading Licence and other related matters) Regulations, 2005.

1.2 These Regulations shall apply to any person applying for an Intra-State Trading licence to undertake the trading of electricity in the State of Assam.

1.3 These Regulations extend to the whole of the State of Assam.

1.4 These Regulations shall come into force on the date which the Commission may by notification appoint for the purpose.

2. Definitions:

2.1 In these Regulations, unless the context otherwise require:

(a) "Act" means The Electricity Act 2003 (36 of 2003);

(b) "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) and such other particulars and details in the manner as the Commission may direct 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 separately 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 Trading Licensee together with a description of the basis of the apportionment or allocation.

(c) "Applicant" means a person who has made an application to the Commission for grant of licence for the Trading of electricity;

(d) "Annual Accounts" means the accounts of the Trading 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 from time to time in terms of the provisions of the Act;

(e) "Auditor" means the Trading 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 and the regulations of the Commission;

(g) "Commission" means the Assam Electricity Regulatory Commission constituted under section 17 of the Electricity Regulatory Commissions Act, 1998 and which continues to be so under section 82 of the Electricity Act, 2003 (no.36 of 2003);

(h) "Conduct of Business Regulations" means the Assam Electricity Regulatory Commission (Conduct of Business) Regulations, 2004;

(i) "Deemed Licensee" means a person authorised under the first, second, third and fifth proviso to section 14 of the Act.

(j) "Holding Company" shall have the same meaning as in section 4 of the Companies Act 1956 (1 of 1956);

(k) "Intra-state trading" means trading in electricity within the territory of the State by an electricity trader;

(l) "Intra-State Trading Regulations" means the Assam Electricity Regulatory Commission (Intra-State Trading) Regulations, 2005;

(m) "Licence" means the licence under section 14 of the Act under which the Licensee is authorised to conduct the Licensed Business;

(n) "Licensed Business" means the business of the Trading of electricity as authorised under the licence;

(o) "Net worth" means the sum total of paid up capital and free reserves, but shall not include reserves credited out of revaluation of assets, write back of depreciation provisions and amalgamation;

(p) "Open access consumer" means a consumer who is eligible to receive supply of electricity from a person other than the distribution licensee of his area of supply;

(q) "Open access customer" means a person using or intending to use the transmission system or the distribution system or both of the licensees in the state for transmission or wheeling of electricity in the State;

(r) "Other Business" means any business of the Licensee other than the Licensed Business but shall exclude other entities in which the licensee may be a shareholder or partner or in joint venture;

(s) "Petition" shall include all petitions, complaints, appeals, replies, rejoinder, supplemental pleadings and other papers and documents filed before the Commission;

(t) "Person" shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;

(u) "Proceedings" means proceedings of all nature that the Commission may decide to initiate or hold in the discharge of its functions under the Act but any preliminary meeting or any action done by the Commission before such initiation shall not be a proceeding for the purposes of these Regulations;

(v) "Receiving Officer" shall mean the officer designated by the Chairperson for receiving the Petition;

(w) "Specific Conditions" means the conditions in addition to or in variation of the General Conditions which the Commission may lay down specifically for a trading licensee;

(x) "Secretary" means the Secretary of the Commission.

(y) "State Government" means the Government of the State of Assam.

(z) "Subsidiary" shall have the same meaning as in section 4 of the Companies Act 1956 (1 of 1956);

(aa) "Trading Business" means the authorised business of a Trading Licensee allowed under the Trading Licence granted;

(bb) "Trading Licence" means a licence granted under Section 14 of the Act to undertake trading in electricity as a trader in the State of Assam;

(cc) "Trading Licensee" means a person who has been granted by the Commission under section 14 of the Act a Trading License to undertake

electricity trading in the State of Assam and shall include Deemed Licensee for the purpose;

(dd) "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.

2.2 Words or expressions occurring in these Regulations and not defined herein above shall bear the same meaning as in the Act.

CHAPTER II – LICENCE PROCEDURES

3. Application for licence:

3.1 Any person who has been granted an Inter-State Trading license by the Central Electricity Regulatory Commission may apply for and will automatically be issued an Intra-State Trading license to trade electricity in the State of Assam. Such persons need only provide a copy of their Inter-State Trading Licence to the Commission and the person will be issued the licence given at Appendix 3 upon payment of the application fee. Such persons will also be required to pay annual licence fees in accordance with the general terms and conditions of licence.

3.2 Distribution licensees are not required to obtain an Intra-State Trading Licence.

3.3 All other persons intending to engage in the business of trading of electricity in the State of Assam, shall apply to the Commission for the grant of a Trading Licence in the form and manner directed by the Commission and accompanied by such fees as laid down in Appendix 4 relating to schedule of fees under Assam Electricity Regulatory Commission (Conduct of Business) Regulations 2004.

3.4 The General Conditions of Trading Licence are given in Chapter 3 of these regulations and the Distribution Licensees, Inter-State Trading Licensees, and Trading Licensee shall be bound by such conditions, except to the extent exempted by the Commission.

3.5 The Commission shall in addition to the General Conditions, decide on the specific conditions subject to which Licence shall be issued to the applicant.

3.6 Any person intending to apply for Licence shall duly comply with the conditions and requirements laid down by the Commission.

3.7 The application for Licence shall be made in accordance with the provision of the Act and these Regulations and in the applicable form contained in Appendix 1 to these Regulations and shall be accompanied by a fee of Rupees twenty thousand, which shall be non-refundable .

3.8 The Application for Licence shall be accompanied by documents and particulars required to be provided as per the application form in Appendix 1.

3.9 The application shall be supported by affidavit of the authorized person familiar with the details of the application.

3.10 The applicant to be entitled for grant of Licence, shall provide evidence as given in Appendix 1 of fulfilling the following technical requirements:

(a) The applicant for trading Licence shall have the technical and other capabilities and resources adequate to manage the intended volume of intra-state trade.

(b) The Commission may from time to time by general or special order decide on the technical capabilities to be maintained by the Electricity Trader.

(c) The applicant shall have at least one full time person with qualification in engineering and adequate experience in electricity industry to comply with the technical requirements for discharging the functions of the Trading Licensee.

(d) The applicant shall have at least one full time person with qualification in finance or accounting with adequate experience to comply with the technical requirements for discharging the functions of the Trading Licensee.

(e) Any person granted an inter-state trading Licence by the Central Electricity Regulatory Commission will be deemed to comply with the above technical requirements.

3.11 The applicant shall declare to the Commission the maximum trading volume the applicant proposes to handle in a month and its future plans of trading during the initial three years.

3.12 The applicant shall demonstrate its capability to maintain at all times the capital adequacy and net worth sufficient to cover the maximum trading volume over an average settlement period of 30 days (one month) subject to the following minimum requirements:

Sl No.	Licence Category	Volume of Electricity Traded in MU per month	Net worth Rps. Crore
1	A	Up to 5 million	0.1
2	B	Greater than 5 million and up to 10 million	0.2
3	C	Greater than 10 million and up to 20 million	0.4
4	D	Greater than 20 million and up to 30 million	0.6
5	E	Greater than 30 million and up to 40 million	0.8
6	F	Greater than 40 million and up to 50 million	1.0
7	G	Greater than 50 million	1.0 and 0.02 crore for each 10 MU above 50 MU

3.13 The Application for Licence shall specifically state any special terms and conditions the applicant proposes as applicable for the Licence.

4. Acknowledgment of application:

On receipt of the application, the receiving Officer shall note thereon the date of its receipt and shall send to the applicant an acknowledgment stating the date of receipt.

5. Copies of documents and maps for public inspection:

The applicant shall maintain at his own office and at such other place as may be designated by the Commission, copies of the documents referred to in Appendix 1 for public inspection and furnish to persons applying for them the copies of such documents at a price not exceeding the normal photocopying charges.

6. Calling for additional information:

The Commission may upon scrutiny of the application, require the applicant to furnish within a period to be specified, such additional information or particulars or documents as the Commission may consider necessary for the purpose of dealing with the application.

7. Acceptance of application:

If the Commission finds the application to be complete and accompanied by the requisite information, particulars and documents and that the applicant has complied with all the requirements for making the application and furnishing of information, particulars and documents, the Commission shall accept the application and inform all concerned that the application is ready for being considered for grant of Licence in accordance with applicable laws and communicate the same to the applicant. Upon receipt of such communication the applicant shall collect an authenticated copy of the application filed and related documents from the office of the Commission for making it available for inspection by all interested parties as directed by the Commission.,

8. Notice of application:

8.1 The applicant shall, within seven days from the date of admission of the application, publish a notice of the application in the form specified in Appendix 2 with such particulars and in such manner as the Commission may direct.

8.2 The published notice shall be headed by a short title corresponding to that given in the application and shall give the addresses of the offices at which the application documents and copies of maps therein referred to may be inspected and copies of same may be purchased and shall also state that any person, desirous of making a representation with reference to the application to the Commission, may do so by letter addressed to the Commission in this regard, within thirty days from the date of publication.

9. Service of notice of the application:

9.1 The Commission may direct that the notice of the application be served on the Central Government, the State Government, the local authority or any other authority or person or body as the Commission may direct in such form, with such particulars and in such manner as the Commission may consider appropriate.

9.2 The applicant shall apply for and obtain the no objection certificate if any is required from the Central Government in terms of clause (ii) of sub-section (2) of Section 15 of the Act before hearing by the Commission.

10. Objections:

10.1 Any person intending to object to the grant of the Licence shall file objection within thirty days from the date of publication of the notice by the applicant. The objection shall be filed as a reply petition and the provisions of Chapter II of the Conduct of Business Regulations dealing with reply shall apply to the filing of such objections.

10.2 Any person who desires to have any amendment made in the proposed conditions of Licence shall furnish a statement of the amendments to the applicant and to the Commission within the time allowed by the Commission for filing objection.

11. Hearings and local inquires:

11.1 After the intended application is duly published and the time for filing of objections is over and after the applicant has furnished to the Commission the no objection certificate, if any, required from the Central Government and Local authority, the Commission may proceed with the hearing of the application.

11.2 The Commission shall give notice of hearing to the applicant, the persons who had filed objections, the Central Government, the State Government and such other authority, person or body as the Commission may consider appropriate.

11.3 If any person objects to the grant of the Licence applied for, the Commission may if either the applicant or the objector so desires, cause a local inquiry to be held for which the notice in writing shall be given to the applicant and the objector;

11.4 In case of a local inquiry under Clause 11.3 above a memorandum of the results of the inquiry made shall be prepared and shall be signed by the applicant, the Officer or person designated for the purpose and such other person as the Commission may direct.

11.5 The hearing on the application for grant of Licence shall thereafter proceed as far as possible in the same manner as provided in Chapter II of the Conduct of Business Regulations.

12. Grant of Licence:

12.1 After the hearing, under Regulation 11 the Commission may decide to grant or refuse the Licence and if it decides to grant the Licence it may do so on such terms and conditions and with such modifications to the general conditions and on such specific conditions as the Commission may decide.

12.2 When the Commission has approved the grant of Licence, the Commission shall inform the applicant of such approval and the conditions to be satisfied by the applicant including the initial and periodical Licence fees to be paid by the applicant for the grant of Licence.

12.3 On receiving an intimation in writing from the applicant that he is willing to accept a Licence on the terms approved by the Commission and after the applicant satisfies the conditions imposed for the grant of the Licence, the Commission may direct the applicant to publish the Licence or such part or gist thereof as the Commission consider it to be appropriate.

12.4 The Commission shall issue a Licence to the applicant in the form provided at Appendix 3.

12.5 The Commission shall, within fifteen days of passing the order to grant a Licence, forward a copy of the Licence to the State Government, Central Electricity Authority, local authority and to such other person as the Commission considers necessary.

12.6 The Licence shall commence from the date the Commission may direct as the date of commencement of Licence, and the Licence shall be in force for the period of twenty five years unless such Licence is revoked.

Provided that any person who has his inter-state trading Licence revoked by the Central Electricity Regulatory Commission shall no longer be permitted to conduct trading of electricity in the State of Assam.

12.7 When the order to grant a Licence has been passed, the Licensee shall produce three sets of documents containing the particulars specified in clause 12.8 below and these shall be signed on the date of the notification of the grant of the Licence by such Officer as the Commission may designate in this regard. The Licensee shall, whenever required by Commission, furnish the proforma in an electronic form.

12.8 The particulars of the documents to be furnished under Clause 12.7 above shall be as under:

(a) A short title descriptive of the proposed trading business together with the

address and description of the applicant, and if the applicant is a company, the names and addresses of all the directors of the company;

(b) The general conditions and also any special conditions , if any, which the Commission has laid down for inclusion in the licences of the nature applied for with justification by the applicant under clause 3.13.

13. Amendment of Licence:

13.1 The General Conditions of Licence in Chapter 3 may be altered or amended by the Commission at any time, if it deems fit and proper, it is in the public interest to do so, in exercise of powers under Section 18 of the Act. Provided that no such alterations or amendments shall be made except with the consent of the Licensee unless such consent has, in the opinion of the Commission, been unreasonable withheld.

13.2 In the event, that the Licensee wishes to amend the Licence conditions, the application for amendment of the conditions of the license shall be made by the Licensee in such form as may be directed for the purpose by the Commission.

13.3 The application shall be accompanied by a statement of the proposed amendment and shall be supported by affidavit as provided in Chapter II of these Regulations.

13.4 The applicant shall, within seven days from the date of admission of the application for amendment for hearing publish a public notice of the application filed giving a brief statement of the amendments proposed, the reason for the proposed amendments, the effect of the amendments proposed on the discharge of the functions of the Licensee under the License granted and the consumers, the alternate arrangements proposed for such discharge of the functions and such other particulars as the Commission may direct.

13.5 The notice published shall give the addresses of the offices at which the application for amendment may be inspected and copies of the application and the documents can be purchased and shall state that a person, desirous of making any representation with reference to the application to the Commission, may do so by letter addressed to the Commission, within thirty days from the date of publication.

13.6 In the event the Commission proposes to amend the terms and conditions of the Licence granted to a licensee, the Commission shall publish a public notice of the proposed amendments giving a brief statement of the amendments proposed, the reasons for the proposed amendments, the effect of the amendments proposed on the discharge of the functions of the Licensee under the Licence granted and the consumers, the alternative arrangement proposed for such discharge of the functions and such other particulars as the Commission may consider appropriate.

13.7 The Commission shall not make any alterations or amendment to Licence conditions whether initiated by the Licensee or by the Commission unless all suggestions or objections received within thirty days from the date of the first publication of the notice in clauses 13.5 and 13.6 have been considered by the Commission.

13.8 Unless otherwise specified in writing by the Commission, the procedure specified in these Regulations for grant of license, in so far it can be applied, shall be followed while dealing with an application for amendment of the Licence.

CHAPTER III – GENERAL TERMS AND CONDITIONS OF LICENCE

14. Term:

The Trading Licence shall come into force on the date to be mentioned by the Commission in the order granting the Licence and subject to the terms and conditions of the grant of Licence and shall remain in force for the period of twenty five years unless revoked by the Commission.

Provided that any person who has his inter-state trading Licence revoked by the Central Electricity Regulatory Commission shall no longer be permitted to conduct trading of electricity in the State of Assam.

15. Compliance with laws, rules and regulations:

15.1 The Trading Licensee shall comply with the provisions of the Act, Rules, Regulations, orders and directions issued by the Commission from time to time and the provisions of all other applicable laws.

15.2 The Trading Licensee shall act in accordance with these General Terms and Conditions except where the Trading Licensee is exempted from any provisions of these general conditions at the time of the grant of Licence or otherwise specifically obtains the approval of the Commission for any deviation there from.

15.3 Notwithstanding anything contained in clauses 3.10, 3.12, and regulation 19 of these regulations, the Deemed Licensee under Section 14 of the Act entitled to undertake intra-state trading in electricity shall not be required to meet the technical or financial requirements as specified in the above clauses including the required capital adequacy norm and credit worthiness till the time allowed by the Commission.

15.4 The Trading Licensee shall duly comply with and undertake all activities consistent with the Assam Electricity Grid Code, Distribution Code, Electricity Supply Code and other codes and standards, orders 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 under the Act.

16. Duties of the Trading Licensee:

16.1 The Trading Licensee shall:

(a) have in place all agreements or arrangements for the purchase and sale of electricity, and all necessary authorisations as required by the Trading Licence to be able to perform its obligations under such agreements;

(b) have in place the requisite agreements with the Transmission Licensees and Distribution Licensees for the transmission or wheeling of electricity, as the case may be;

(c) have in place Billing and Settlement Agreements, i.e. between him and the supplier of energy including the generating companies or, between him and other Licensees, who are purchasers of electricity and also between him and the customers, who are traders or consumers;

(d) maintain an up to date register or record of all the intra-state business transactions; and

(e) comply with any other requirements as the Commission may direct from time to time.

16.2 The Trading Licensee shall pay to the Distribution Licensee concerned as provided in sub-section (2) of section 42 of the Act the amount of surcharge if any permitted to be recovered by the Trading Licensee in the case of trading of electricity to the Open Access Consumer as directed by the Commission.

16.3 The Trading Licensee shall not engage in the business of transmission of electricity.

16.4 The Trading Licensee shall not without the prior approval of the Commission

(a) acquire by purchase or take over or otherwise the utility of any other Licensee operating in the State of Assam, or

(b) merge his trading business with any other Licensee operating in the State of Assam, or

(c) assign or transfer his Licence to any person, by sale, lease, exchange or otherwise.

16.5 Wherever prior approval of the Commission is required, the Electricity Trader shall file an appropriate application before the Commission, in accordance with the Conduct of Business Regulations.

16.6 The Trading 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.

17. Accounts:

17.1 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 first of April in a year to the thirty-first March in the succeeding year notwithstanding that Licensee follows any other period for the purpose of closing its Books of Accounts under Company's Act.

17.2 The Trading 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 businesses 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 Trading Licensee, from those of Other Business in which the Trading Licensee may be engaged;

(b) prepare on a consistent basis from such accounting records and deliver to the Commission the Accounting Statements; namely;

i) 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 per formats of Companies' Act 1956 and in respect of matters falling outside these formats as the Commission may prescribe from time to time and such statements and documents are to be published in the manner prescribed by the Commission;

ii) 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

iii) 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.

17.3 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, prevailing Accounting Standards or Rules and any guidelines issued by the Commission in this regard.

17.4 Where, in relation to the Accounting Statements in respect of a financial year, the Trading Licensee has changed the basis of charge or apportionment or allocation of revenues or expenses from those adopted for the immediately preceding financial year, the Trading Licensee shall, if directed by the Commission, (in addition to preparing Accounting Statements on those basis which it has adopted), prepare and deliver to the Commission such Accounting Statements on the basis which it applied in respect of the immediately preceding financial year.

17.5 Accounting Statements under clause 17.2 above shall, unless otherwise approved or directed by the Commission :

(a) be prepared and published with the Annual Accounts of the Trading Licensee and 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,

(b) be prepared in the form as the Commission may stipulate from time to time in the Terms and Conditions of Tariff Regulations of the Commission

17.6 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.

17.7 The Trading Licensee shall ensure that the Accounting Statements in respect of each financial year prepared under clause 17.2 and the Auditor's report in respect of each financial year are published in such manner as is provided in the Companies' Act and are made available to any Person requesting them at a price not exceeding the reasonable cost of duplicating them.

18. Provision of information to the Commission:

18.1 The Trading Licensee shall duly maintain such information as the Commission may direct under Section 128 of the Act. 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 Trading Licensee, 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 Trading Utility and the Regional and State Load Despatch Centres.

18.2 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 proforma provided in Appendix 4 of these regulations for submission of information.

Provided that the information in the prescribed Form shall be furnished to the Commission and State Load Dispatch Centre as the case may be, on a weekly basis where the report will be provided by Wednesday or the business day for the previous week. Provided further that the State or Regional Load Dispatch Centres, as the case may be, shall verify the quantum of energy traded, as indicated in the reports submitted by the Trading Licensee and submit a report to the Commission.

18.3 The Trading Licensee shall not be required to publish the tariff in an agreement in order to ensure the confidentiality of commercial arrangements between the Trading Licensee and its customers.

18.4 The Trading Licensee shall notify the Commission as soon as possible of the occurrence of any other incident which materially affects any part of its Trading activities and in any event, by not later than seven days from the date of such occurrence. The Trading Licensee shall submit a report to the Commission giving full details of the facts within the knowledge of the Trading Licensee regarding the incident and its cause.

18.5 The Trading Licensee shall immediately 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 Trading Licensee to mitigate the effect of such incident.

18.6 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 Trading Licensee.

19. Capital adequacy, credit worthiness and other norms

19.1 The Trading Licensee shall maintain at all times the capital adequacy and net worth sufficient to cover the maximum trading volume over an average settlement period of 30 days (one month) subject to the minimum requirements set out in regulation 3.

19.2 The Trading Licensee shall increase his net worth if the volume of trade moves from a lower category to a higher category and the change of category shall be decided based on the volume of electricity traded as on the last day of each month during the year, and of which the Licensee shall keep the Commission informed of his moving from one category to the other and subsequent changes in the net worth.

19.3 The Trading Licensee shall make reasonable endeavour to maintain investment grade credit rating from an independent Credit Rating Agency throughout the period of the Licence and shall provide the Commission with the details of any changes thereon.

19.4 The Trading Licensee shall maintain the technical capability and resources as set by the Commission in regulation 3 and provide the Commission with the details of any changes thereon and justify that the capability is adequately maintained to cater to the volume of trade undertaken by him.

19.5 The non maintenance of the technical and financial parameters as per this regulation shall amount to a material breach of the obligations of the Trading Licensee.

20. Expected revenues, tariffs and trading margin:

20.1 In accordance with section 49 of the Act, the Commission will not regulate the:

(a) expected aggregate revenues or trading margin of the Trading Licensee; or

(b) tariff or trading margin on an agreement for the purchase or sales of electricity.

20.2 The Commission may intervene to regulate the tariff or trading margin of a proposed agreement for the purchase or sale of electricity, if petitioned to do so by an Open Access Consumer or distribution licensee under the Conduct of Business Regulations.

20.3 If the Commission chooses to intervene on a proposed agreement, the Trading Licensee is under no obligation to execute the agreement and may not be ordered to do so by the Commission.

20.4 The Commission may issue such directions as it considers appropriate to a trading licensee if such licensee enters into any agreement leading to abuses of its dominant position or enters into a combination which is likely to cause or causes an adverse effect on competition in electricity industry, and the Licensee shall comply with such directions.

21. Payment of Licence fees:

21.1 The Licensee shall pay to the Commission an annual Licence fee of Rupees one lakh by means of a Bank Draft drawn in favour of The Secretary, Assam Electricity Regulatory Commission, Guwahati, Assam within seven days of receiving information as per clause 12.2 about grant of Licence.

21.2 For the period between the date of commencement of commercial operation and end of the financial year, yearly Licence fee as provided in clause 21.2 of this regulation shall be paid on pro rata basis.

21.3 In case the Licensee fails to pay to the Commission the Licence fee specified above or a part thereof, the Licensee shall be liable to pay late payment surcharge on the outstanding amount at a simple interest at the rate of 2% per month or a part thereof, calculated from the due date for the period the Licence fee or a part thereof remains unpaid.

21.4 If any applicant on being informed about the decision to grant Licence is unable to deposit the Licence fee within the period fixed, viz. seven days, and applies to the Commission within that period for extension of time for payment, the Commission may allow an extension, which shall not be beyond seven days, subject to deposit of late payment surcharge of 2% per month or a part thereof, calculated from the due date for the period the licence fee remains un paid by the applicant from the date of issue of information.

21.5 The Trading Licensee shall be entitled to take into account any fee paid by it under this regulation 21 as an expense in the determination of aggregate revenues to be charged to the Tariffs, but shall not take into account any late payment charges paid pursuant to this clause.

22. Contravention by Licensee:

The Commission may pass such orders as it thinks fit in accordance with the provisions of the Act and these Regulations if there is a contravention or likely contravention of the terms and conditions of license by the Licensee.

23. Revocation of Licence:

23.1 Subject to the provisions of section 19 of the Act and the Regulations framed there under ,the Commission may, at any time initiate proceedings against the Trading Licensee for revocation of the Trading Licence and if satisfied in such proceedings on the grounds for revocation duly considering the public interest, revoke the Trading Licence:

(a) where the Trading Licensee in the opinion of the Commission, makes wilful

and prolonged default in doing anything required of him by or under this Act or the rules or regulations made thereafter;

(b) where the Trading Licensee violates 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 Trading Licensee fails, within the period fixed in this behalf by his Licence, or any longer period which the Commission may have granted therefor:

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

ii) to make deposits or furnish the security, or pay the fees or other charges required by his Licence;

(d) where in the opinion of the Commission the financial position of the Trading Licensee is such that he is unable to fully and efficiently discharge the duties and obligations imposed on him; and

(e) where the Trading Licensee has failed to comply with all the Regulations, codes, and standards and also orders and directions of the Commission or otherwise has committed an act which renders the Trading Licence revocable on any other grounds specified in the Act or the Rules or Regulations framed there under.

23.2 The Commission shall give notice of the proceedings for the revocation of the license to the Licensee and to such other person, authority or body as the Commission may consider necessary.

23.3 Subject to the provisions of Act, and the procedure contained therein, the inquiry by the Commission for revocation of the license, in so far it is applicable, shall be in the same manner as provided in Chapter II of the Conduct of Business Regulations.

23.4 Provided that the Licensee shall be given not less than three months notice in writing to show cause against the proposed revocation and the notice to show-cause issued to the Licensee shall clearly state the grounds on which the Commission proposes to revoke the license.

23.5 If the Commission decides to revoke the license, the Commission shall communicate the order of revocation to the Licensee stating the effective date from which such revocation shall take effect.

23.6 The Commission may instead of revoking the license pass any other order imposing such terms or conditions subject to which the Licensee shall be permitted to operate thereafter.

23.7 Where the Commission has given notice for revocation of Licence, the Licensee may, after prior approval of the Commission, sell the undertakings of the Licensee to a person who is found eligible by the Commission for grant of Licence, without prejudice to any proceeding which may be initiated or any penalty which may be imposed against the person whose Licence is revoked.

24. Dispute resolution:

24.1 The Commission shall adjudicate on the dispute or nominate person(s) as arbitrator(s) to settle disputes between the Trading Licensee and any other licensees or between the Trading Licensee and a generating company or between a Trading Licensee and an open access consumer in pursuance of clause (f) of sub-section (1) of section 86 read with Section 158 of the Act and the regulations of the Commission.

24.2 The proceedings for adjudication and settlement of disputes under clause 24.1 above may be commenced and conducted by the Commission or the disputes may be referred to the arbitration of others, as the case may be, in accordance with the Conduct of Business Regulations specified by the Commission.

CHAPTER IV – MISCELLANEOUS CONDITIONS

25. Miscellaneous conditions:

25.1 All issues arising in relation to interpretation of these General Conditions and as to the terms and conditions thereof shall be a matter for the determination of the Commission and the decision of the Commission on such issues shall be final, subject only to the right of appeal under section 111 of the Act.

25.2 The Commission may at the time of grant of Trading Licence waive or modify the application of any of the provisions of these General Conditions, if it is in the public interest to do so in the opinion of the Commission, to be recorded in writing, either in the order granting the Licence or by Special Conditions made applicable to a specific Trading Licensee.

25.3 The General conditions contained herein shall apply to all applicants for grant of Trading License after the coming into force of the Act and also to all deemed Trading Licensees under section 14 proviso first, second, third and fifth of the Act.

26. Issue of orders and practice directions:

Subject to the provisions of the Electricity Act, 2003 and these regulations, the Commission may, from time to time, issue orders and practice directions in regard to the implementation of these regulations and procedure to be followed and various matters, which the Commission has been empowered by this regulation to direct, and matters incidental or ancillary thereto.

27. 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, do or undertake or direct the Licensees to do or undertake things, which in the opinion of the Commission is necessary or expedient for the purpose of removing the difficulties.

28. Power to amend:

The Commission may, at any time add, vary, alter, modify or amend any provisions of these regulations.

APPENDIX – 1

ASSAM STATE ELECTRICITY REGULATORY COMMISSION

FORM – 1: Application Form for Intra State Trading Licence in the State of Assam

The applicant must submit the completed application in six copies to the Secretary, Assam State Electricity Regulatory Commission, along with application fee of Rupees 20,000 in form of a DD drawn in favour of Secretary, Assam State Electricity Regulatory Commission, payable at Guwahati.

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 & Address of the Authorised Person :

   d. Contact Telephone Numbers :
   Fax Number(s) :
   Email ID :

2. Nature and Details of Ownership

   a. Company/ Firm/ Co-op Society/ Individual/ Others(If not an individual, the name of Chief Executive/MD) :

   b. Details of Incorporation/ Registration
   Place of Incorporation/ Registration :
   Year of Incorporation :
   Registration Number :

   c. Names and Addresses of Directors

3. Principal Shareholders/ Partners/ Members :

4. Details of Trading Operations

   a. Maximum trading volume proposed to be undertaken by the applicant on a monthly basis for the first three years; (In Million Units and Capacity)

b. Funding arrangements (source and application) to meet the obligations :

5. Description of the Organisation giving details of:

a. Management capability

b. Financial Strength (As in section 8 in respect of own business)

c. Ability to attend to the activities in a sustainable manner

d. Description of trading systems

6. Prior Experience (Past 2 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 & Address of the related activities	
Brief description of related activities	

7. Appropriate Expertise in Trading (Personnel)

Name of Personnel	Qualification	Specialisation	Years of Experience	Status in the Firm
a.				
b.				
c.				
d.				
e.				

8. Financial Details of other business ventures of the applicant)

[*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				
Financial Indicators					
Fixed Assets Gross Fixed Assets Accumulated Depreciation Net Fixed Assets					
Equity Promoters' Government/ Financial Institutions Public Others					
Financial Indicators					
Liabilities Long Term Short Term					

Income Sale of Power Others					
Expenses Admin. & General Expense Repairs & Maintenance Employee Cost Interest & Financial Charges Long Term Short Term Others					
Overall Turnover (Rs. Lakhs)					
Profits & 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 & Credit worthiness Debt/ Networth Debt/ Equity					
Turnover Ratio Total Asset Turnover Fixed Asset Turnover					

PART – B : LIST OF DOCUMENTS TO ACCOMPANY LICENCE APPLICATION

1. Information relating to pre-existing licence (if any), of the applicant with copy of licence / sanction.

2. Copies of Company's Articles of Association, Memorandum of Association, Partnership deeds and similar constitutional documents.

3. Certification of incorporation/Registration.

4. Certification for commencement of Business.

5. Original Power of Attorney of the Signatory confirming the authorization from the Applicant or its Promoter.

6. Details of Income Tax registration.

7. 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 affirming that the Applicant is financially solvent

      ii. Most recent Annual Financial Statements (Balance Sheet)

      iii. Annual Audited Accounts for the past 3 years for the Applicant and any Holding Company, Subsidiary or affiliated company

      iv. Any accompanying notes and certifications on the above statements from reputable chartered accountant

   c. Any other document evidence to substantiate the financial capabilities, technical competence and others.

8. Data relating to the Applicant's Business proposals

   i. Three year Business Plan (with projection) for the proposed business for which the application relates
   ii. Three year annual forecasts of costs, , revenues, project financing and funding arrangements (clearly specifying the assumptions involved)

Date

Signature of the Applicant

APPENDIX – 2

ASSAM STATE ELECTRICITY REGULATORY COMMISSION

PROFORMA OF PUBLICATION OF LICENCE (UNDER REGULATION 8)

NOTICE

Notice is hereby given to all the interested persons that Messrs. ..... (name and address of the applicant) has applied to the Assam State Electricity Regulatory Commission (the Commission) for grant of licence FOR ..... (nature of the licence) in the State of Assam. The application and other documents filed by the applicant can be inspected at the office of the applicant, at ..... and the copies of the same will be available from the applicant for a price not exceeding the normal photocopy charges.

Any person interested in objecting to or otherwise making representation in regard to the grant of licence may forward the objections/representation with the Commission in two..... copies by hand delivery or by registered post and should serve a copy of the objection/representation to Messrs at the address mentioned above.

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 wish to be heard in person or through authorised representative at the time of hearing.

APPENDIX – 3

ASSAM ELECTRICITY REGULATORY COMMISSION

INTRA-STATE TRADING LICENCE

1. The Assam Electricity Regulatory Commission (hereinafter referred to as "Commission"), in exercise of the powers conferred under Section 14 of the Electricity Act, 2003 (hereinafter referred to as "Act"), hereby grants the licence to M/s ..... (hereinafter referred to as the Licensee) to conduct trading in electricity in the State of Assam, more specifically described in the schedule attached to this licence, which shall be read as a part and parcel of this licence, subject to the Act, the rules and the terms and conditions specified under the Assam Electricity Regulatory Commission (Intra-State Trading Licence) Regulations, 2005 which shall be read as part and parcel of this licence.

2. Wherever there is a contradiction between the terms and conditions contained in this licence and the Agreements, the provisions of this licence, as amended from time to time, shall apply.

3. This licence is not transferable.

4. The grant of licence to the Licensee shall not in any way manner or restrict the right of the Commission to grant a trading licence to any other person The Licensee shall not claim any exclusivity.

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

APPENDIX – 4

Proforma for submission of information for the Week of:

Name of the Trader:
License details (No & date):

Sl No.	Volume of Trade in MU	Purchased from *	Sold to *	Transmission Charges borne by Seller/Trader/Buyer **	Transmission Losses borne by Seller/Trader/Buyer **	UI Charges borne by Seller/Trader/Buyer **	Wheeling Charges borne by Seller/Trader/Buyer **

NOTE: All data should be aggregated for the week. There is no requirement to report on individual transactions on a real time basis. There is also no requirement to report on sales price, purchase price, or trading margin as this information is confidential to the parties who have entered into a voluntary agreement in a competitive market. If the Commission should require such information, it will be requested separately and will remain confidential and will not be released to the general public.

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

** Stikeout which ever is not applicable.

Examples of how to fill in the form are given below:

Sl No.	Volume of Trade in MU	Purchased from *	Sold to *	Transmission Charges borne by ~~Seller/Trader/~~Buyer **	Transmission Losses borne by ~~Seller/Trader/~~Buyer **	Unscheduled Intertchange Charges borne by ~~Seller/Trader/~~Buyer **	Wheeling Charges borne by Seller/Trader/Buyer **
1	10	Assam Generation	Discom One	XXX	XXX	XXX	N/A
2	10	NTPC	Indian Oil Company	XXX	XXX	XXX	N/A
3	10	NTPC	HT Open Access Consumer	XXX	XXX	XXX	XXX

(By the Order of the Commission)

6/4/05

Secretary
Assam Electricity Regulatory Commission

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