

KERALA STATE ELECTRICITY REGULATORY COMMISSION

NOTIFICATION

No.1/1/KSERC-2006/XIII

Dated, Thiruvananthapuram ,31st March,2006

LICENSING REGULATIONS, 2006.

STATEMENT OF OBJECTS AND REASONS

Section 14 of the Electricity Act, 2003 provides for grant of licence to any person by the Appropriate Commission to transmit, distribute and undertake trading in electricity in any area specified in the licence. First proviso to Section 14 provides that any person engaged in the business of transmission or supply of electricity under the repealed laws or any Act specified in the schedule on or before the appointed date shall be deemed to be a licensee under the Act for such period as may be stipulated in the licence or approval granted under the repealed laws. But the provisions of such repealed laws in respect of such licensee shall apply for a period of one year from the date of commencement of the Electricity Act, 2003 or such earlier periods as may be specified by the Commission at the request of the Licensee. It further provides that the Central Transmission Utility, State Transmission Utility as well as Government company or a company referred in sub section (2) of Section 131 and company or companies created in pursuance of the Act specified in the schedule shall be deemed to be a licensee under the Electricity Act, 2003.

Sub Section (2) (b) of Section 181 of the Act provides that the State Commission may by notification, make regulations regarding the form and the manner of application under sub-section (1) of Section 15 of the Act. Sub Section (2) (c) of Section 181 of the Act provides that the State Commission may by notification, make regulations for the manner and particulars of application to be published for granting licence under sub section (2) of Section 15. Section 16 of the Act provides that the Commission may specify any general or specific conditions which shall apply either to a licensee or class of licensees. The Regulations hereunder have been framed in pursuance of the above provisions of the Act.

REGULATIONS

The Kerala State Electricity Regulatory Commission hereby makes the following Regulations, namely:-

Chapter I

GENERAL

1. Short title and commencement.- (1) These Regulations may be called the **Kerala State Electricity Regulatory Commission (Licensing) Regulations, 2006.**

(2) They shall come into force from the date of publication in official Gazette.

(3) They shall apply to the State of Kerala.

2. Definitions.- (1) In these Regulations, unless the context otherwise requires,

- a. 'Act' means the Electricity Act, 2003.
- b. 'Chairperson' means the Chairperson of the Kerala State Electricity Regulatory Commission;
- c. 'Commission' means the Kerala State Electricity Regulatory Commission;
- d. 'Distribution Licensee' means a licensee authorised to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply.
- e. 'Draft licence' means the licence format as per Form II, III and IV as the case may be annexed to these Regulations, for presenting to the Commission together with such modification and variation thereto as the applicant may seek.
- f. 'Default Supply' Access to the supply of the licensee
- g. 'Electricity Trader' means a person who has been granted a licence to undertake trading in electricity under section 14 of the Act.
- h. 'Officer' means Officer of the Kerala State Electricity Regulatory Commission and shall include the Secretary;
- i. 'Regulations' means Kerala State Electricity Regulatory Commission (Licensing) Regulations, 2005;
- j. 'Secretary' means Secretary of the Kerala State Electricity Regulatory Commission;
- k. 'Supply' in relation to electricity, means the sale of electricity to a licensee or consumer.
- l. 'Trading' means purchase of electricity for resale thereof and the expression 'trade' shall be construed accordingly;
- m. 'Transmission Licensee' means a licensee authorised to establish or operate at 66 kV and above;

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

Chapter II

LICENCE

3. Eligibility Conditions of persons requiring a Licence.- (1) Any person requiring licence shall meet the respective qualifying requirements mentioned hereunder and shall

be required to submit necessary evidence in support of its claim of meeting the qualifying requirements

(2) **Distribution Licence** (a) The Area of Supply for distribution licence shall not be less than a Panchayath, Municipality or Corporation. Exemption may be granted by the Commission in the case of service providers such as Technoparks, Industrial Parks, Special Economic Zones, Export Zones, *etc.*

(b) Technical Requirement: The person requiring distribution licence shall have fifteen years experience in case of graduate electrical engineer or twenty years for diploma holders in electrical engineering in development, design, construction, operation and maintenance of distribution system. Provided that the above said technical experience shall not be insisted upon, if the applicant deploys personnel having requisite experience.

(c) Capital Adequacy: Net worth of the applicant shall not be less than the estimated annual charges of the assets in respect of which the application for grant of licence has been made.

(d) Multiple licence : Persons requiring distribution License pursuant to 6th proviso to Section 14 shall also satisfy the conditions prescribed under the Government of India Notification G.S.R.188(E).

(3) **Transmission Licence:** (a) Technical Requirement: The person requiring transmission licence shall have 15 years experience in case of graduate electrical engineer or twenty years for diploma holders in electrical engineering in development, design, construction, operation and maintenance of transmission lines. Provided that the above said technical experience shall not be insisted upon, if the applicant deploys personnel having requisite experience.

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

(4) **Trading Licence:** (a) Technical requirement: Person requiring trading licence shall have ten years experience in power system operations and commercial aspects of power supply industry. Provided that the said technical experience shall not be insisted upon, if the applicant deploys personnel having requisite experience.

(b) Capital Adequacy: Person requiring trading licence shall have net worth not be less than 5% of the total annual value of proposed business.

(c) *Creditworthiness:* Person requiring trading licence shall not be a defaulter as notified by RBI or other similar entities.

4. Application for grant of licence.-(1) Any person, who desires to undertake transmission, distribution or trading of electricity, shall make an application to the Commission for grant of licence in Form I annexed to these Regulations.

(2) The application for a licence shall be signed by applicant himself or an authorised person on behalf of the applicant for the licence (hereinafter called the "Applicant") and shall be addressed to the Secretary of the Commission. The application shall be filed in 6 sets and each set shall be accompanied by

- (i) Draft Licence as per Form II, III and IV as the case may be annexed to these regulations;
- (ii) Reasons for applying for the Licence;
- (iii) Details and background of the applicant;
- (iv) an approximate Statement of the capital proposed to be expended in the area of operation of the licence;
- (v) a copy of the Memorandum and Articles of Association of the company where the Applicant is a body corporate and similar constitutional documents in all other cases, Annual Accounts for the previous three years where applicable or other similar documents as may be required;
- (vi) application fee as prescribed by the State Government under section 15 of the Act;
- (vii) documents in support of eligibility conditions; and
- (viii) in the case of application for distribution and transmission licence:
 - a. Map of the proposed area of the licence. The map shall be on a scale of (a) not less than 10 cm to a km or (b) 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 portion of the area of licence;
 - c. an approximate Statement describing any lands which the Applicant proposes to acquire for the purpose of the licence and the means of such acquisition.

5. Affidavit .- Every application shall be verified by an affidavit and every such affidavit shall be in Form I attached hereto. Every affidavit shall be signed and notarized.

6. Receipt of application and acknowledgement.-On receipt of the application for grant of licence , the Secretary shall enter the particulars thereof in a register to be maintained for this purpose and allot a reference number to the application. An acknowledgement stating the date of receipt and the reference number of the application shall be sent to the applicant in the address stated in the application.

7. Processing of application and acceptance.-(1) The Secretary shall place the application before the Commission, after entering the details of the application in the register maintained for that purpose.

(2) Upon scrutiny of the application, the Commission may require the Applicant to furnish such additional information or particulars or documents as may be considered necessary for the purpose of dealing with the application.

(3) If application and the accompanying documents are found to be complete in all respects and the Applicant has complied with the procedure for submitting a valid application, the Secretary shall inform the Commission that the application is ready for being considered for grant of licence in accordance with the procedure provided in the Act.

8. Advertisement of application and contents thereof.-(1) (a) Within seven days of making the application, the applicant shall publish in two English dailies and two Malayalam dailies having wide circulation in the area for which the licence is sought, a notice of his application. The notice shall contain the following particulars in brief:

- i) Name of the Applicant;
- ii) Brief particulars of the proposal;
- iii) Area for which the licence has been sought;
- iv) Addresses of the offices at which copies of draft licence, maps and documents submitted by the Applicant may be inspected and the copies of draft licence available.

(b) Unless otherwise specified by the Commission, the notice shall be published in at least two successive issues of the dailies. The advertisement shall be headed by a short title corresponding to that given at the head of the draft licence. The notice shall state that every local authority, utility or person, desirous of making any representation to the Commission with reference to the application, may do so by letter addressed to the Secretary, within 30 days of the date of issue of the first advertisement.

(2) 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.

(3) A person intending to act as a transmission licensee shall, immediately on making the application forward a copy of such application to the State Transmission Utility.

(4) The Applicant shall furnish printed copies of his application along with attachments thereto, to all persons applying for such documents, at a price not exceeding the cost of photocopying per copy.

9. Objections and Suggestions.- (1) Objections to the grant of the licence shall be filed under affidavit within 30 days from the date of issue of the first advertisement along with proof of having served copy of such objections upon the Applicant. The objections shall

be addressed to the Secretary. Upon receipt of such objections, the Secretary 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 State Transmission Utility, shall, within 30 days after receipt of the copy of the application referred to in clause 8(3) above, send its recommendations, if any, to the Commission. Provided that such recommendations shall not be binding on the Commission.

10. No Objection Certificate.- In the event the area in respect of which a licence is sought includes the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Central Government for defence purposes, the Applicant shall apply for and obtain the necessary no objection certificates from the Central Government to transmit or distribute or trade electricity in that area and furnish the same to the Commission before grant of licence.

11. 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 proceed to set the application for regular hearing.

(2) The Commission shall give the notice of inquiry or 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 considers appropriate.

(3) (a) If any person objects to the grant of licence applied for under the Act the Commission may, if it considers necessary, cause a local inquiry to be held of which a notice in writing shall be given to both the Applicant and the objector.

(b) 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 Officer or person designated for the purpose and such other person as the Commission may direct.

12. Hearing of the application.-(1) The Commission may determine the manner, the place, the date and the time of the hearing on the application.

(2) The hearing on the application for grant of licence shall thereafter be conducted.

13. Approval of licence.- (1) The Commission shall, as far as practicable, within 90 days after receipt of application for grant of licence, after inquiry, if any, and the proceedings, may issue a licence subject to the provisions of the Act and the rules and regulations made there under or reject the application for reasons to be recorded in writing if such application does not conform to the provisions of the Act or the rules or the regulations made there under 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.

(2) Before granting of licence, the Commission shall publish a notice in two daily newspapers as the Commission may decide, stating name and address of the person to whom it proposes to issue licence.

(3) Where the Commission decides to grant the licence, it may do so by approving the draft licence as per Form II, III or IV as the case may be, with such modification, changes or additions and subject to such other terms and conditions as the Commission may direct.

(4) When the Commission has approved the licence, either in its original form or in a modified form, the Secretary shall inform the Applicant of such approval within fourteen days of such approval and of the form in which it is proposed to grant the licence and the conditions to be satisfied.

(5) If the Commission has decided to refuse the licence, the Secretary shall inform the Applicant of such refusal within fourteen days of such decision to refuse, enclosing a copy of the order of the Commission in support of such refusal.

14. Notification of grant of licence.- (1) On receiving an intimation in writing from the Applicant that he is willing to accept licence in the form approved by the Commission and after the Applicant satisfies the conditions specified 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 considers appropriate in two issues of the English daily and Malayalam daily.

(2) The Commission shall, immediately after issue of 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 consider necessary.

15. Date of commencement of licence.- Commission may specify the date of commencement of licence.

16. Duration.- (1) The duration of the licence shall be twenty five (25) years.

(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.

17. Deposit of maps.- When a licence has been granted, the maps as specified in Regulation 4(2)(viii)(a) shall be signed by the authorized signatory of the Commission and dated to correspond with the date of the notification of the grant of the licence. At least one set of the maps shall be deposited with the Commission and two sets shall be given to the licensee.

18. Deposit of printed copies.-(1) Every person who is granted a licence shall within thirty days of the grant thereof:

- (a) have adequate number of copies of the licence printed;
- (b) have adequate number of maps prepared showing the area of supply (if applicable) specified in the licence;
- (c) arrange to exhibit 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 supply.

(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 supply 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 photocopying charges per copy.

19. Amendment of Licence.- (1) Where in its opinion the public interest so permits, the Commission may, on the application of the licensee or otherwise, make such alterations and amendments in the terms and conditions of his licence as it thinks fit; 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 unreasonably withheld.

(2) Where a licensee has made an application proposing any alteration or modifications in his licence under Section 18 of the Act, the licensee shall, within seven days of making such application, publish a notice of such application in two English dailies and two Malayalam dailies circulating in the area where the licence sought to be amended operates, giving the following particulars:

- a) Brief details of existing licence
- b) Proposed amendments for existing licence and brief reasons for seeking the amendment.

(3) All objections to an application for amendment pursuant to publication of notice as above, received within 30 days of the date of publication of the notice, shall be considered by the Commission.

(4) Where an amendment to a licence is proposed by the Commission *suo motu*, the Commission shall publish a notice of the same in two English dailies and two Malayalam dailies circulating in the area in which the licence proposed to be amended operates, giving such particulars as the Commission deems necessary. All objections to the proposed amendment shall be considered by the Commission if received within 30 days of the publication of the notice.

(5) Provisions relating to grant of licence shall, as far as may be practicable and necessary apply to consideration and disposal of application for amendment of licence.

(6) In the case of an application proposing alterations or modifications in the area of supply 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 Central Government for Defence purposes, the Commission shall not make any alterations or modifications except with the consent of the Central Government.

Chapter III
ARBITRATION OF DISPUTES

20. Arbitration.- (1) The Commission shall itself 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 the licensees or the matters as specified in the notice should not be adjudicated.

(3) The Commission may after hearing the concerned licensees and the generating companies to whom notices have been issued and if satisfied that the matter can be settled through the proceedings of the commission, may follow the procedure as set out in Chapter III of the KSERC (Conduct of Business) Regulations, 2003 and itself adjudicate upon and settle the dispute. The Commission, if satisfied that there exists sufficient ground for referring the matter for arbitration shall pass an order directing that the dispute or the matter be referred for adjudication and settlement through arbitration by a person or persons to be nominated by the Commission.

21. Nomination of Arbitrator.-(1) If the Commission decides to refer the matter to arbitration by a person or persons the reference shall be:

- (a) to a 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 reference 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 concerned licensees or generating companies or the other concerned person 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.

22. Procedure for adjudication, settlement and passing of award.- (1) 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 specify.

(2) The Commission shall give notice of the award given by arbitrator or arbitrators appointed by the Commission to the parties concerned and shall give an

opportunity to the parties to file objection, if any, on the award within such time as the Commission may direct.

(3) The Commission shall be entitled to pass appropriate orders, as it thinks fit after giving an opportunity of hearing, to the parties.

(4) 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.

Chapter IV MISCELLANEOUS

23. Fines and Charges.- If any provision of the Act, the rules framed there under, these Regulations or any order, mandate, condition or other direction that the Commission may pass under these Regulations is violated by a licensee or any other person by any act or omission, the Commission may levy such fines or charges as the Commission may deem appropriate, subject to provisions of the Act, after complying with the principles of natural justice. Provided that such fine or charge shall be commensurate with the level of damage or other harm caused by such non-compliance or violation in each case.

24. 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 meeting the 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 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 from dealing with any matter or exercising any power under the Act for which no Regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner it deems fit.

25. 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 anything, not being inconsistent with the provisions of the Act, which appears to it to be necessary or expedient for the purpose of removing the difficulties.

26. Power to dispense with the requirement of the Regulations.- The Commission shall have the power, for reasons to be recorded in writing and with notice to the affected parties, dispense with the requirements of any of the Regulations in specific cases subject to such terms and conditions as may be specified.

27. 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.

28. Effect of non-compliance.- Failure to comply with any requirement of these Regulations shall not invalidate any proceedings merely by reason of such failure unless the Commission is of the view that such failure has resulted in miscarriage of justice.

29. Enforcement of order passed by the Commission.- The Secretary shall ensure enforcement of and compliance with the orders passed by the Commission in accordance with the provisions of the Act and Regulations and, if necessary, may seek the orders of the Commission for directions.

Form- I

Form of Application for grant of licence
[See Regulation 4(1)]

SI No	Particulars	
1	Name and address of the Applicant	
2	Nature of Licence applied for:	
3	Area the licensee proposes to operate * (Map of the area is to be attached)	
4	Persons to whom electricity is proposed to be supplied under the licence: (Details of the Licensees/ category of consumers to whom electricity is proposed to be supplied under the licence, with voltage details etc,)	
5	Details of Ownership of the Applicant: Individual/ Firm/ Co-operative/ Company/Others	
6	Details of incorporation/Registration of the Applicant: (i) Date of Registration (ii) Registration No (iii) Act under which registered	
7	Name and address of the Directors: (Enclose list)	
8	Present Principal business of the Applicant:	
9	Capability and experience in the area for which licence is applied for : (Please provide details in support)	
10	Net worth of the Applicant: (Full details should be furnished along with audited accounts, if applicable)	
11	Sources and quantum of electricity** proposed to be handled under the licence in the next three years (please attach details source wise)	
12	Details of funding arrangements for operations under the proposed licence:	

	(Please provide projected cash flow statement for the next three years)	
13	Details of licence application fee paid: (i) Amount of fee (ii) DD No/Date (iii) Bank on which drawn	
14	Other details, if any.	
15	List of documents attached: [Please see Regulation 4(2)]	

- * For distribution and transmission licence only.
- * For Trading and distribution licence only.

I,(Name)..... son of ... (Name)..... aged(age)..... residing at(Address)..... do solemnly affirm and state as follows:

Or (in case of a company)

I am a Director/Secretary/(state designation)..... of (Name of the company/institution)..... and duly authorized to make this affidavit as follows:

The information given in this application are true to my knowledge and the statements made in the application are based on the information received and I believe them to be true.

Solemnly affirmed at on this day of that the contents of the above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.

Signature of the Applicant

Identified before me (Notary)

Form II

DISTRIBUTION LICENCE

Licence granted by the Kerala State Electricity Regulatory Commission under Section 14 of the Electricity Act, 2003 (No. 36 of 2003) to _____ and having its registered office at _____, for carrying on the business of Distribution of Electricity within the Area of Supply (as defined in the Licence) and with the powers and upon the terms and conditions specified herein.

Part I

DEFINITIONS

1. Definitions:- (1) In this Licence, unless the context otherwise requires:

a) 'accounting statement' means, for each financial year, the 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 and such other details in the manner as the Commission may direct from time to time and showing the amounts of any revenue, cost, asset, liability, reserve or provision, which has been either:

(i) charged from or to any other business together with a description of the basis of that charge; or

(ii) determined by apportionment or allocation between the Distribution Business and any other business of the Licensee or together with a description of the basis of the apportionment or allocation;

b) 'Act' means the Electricity Act, 2003 ;

c) 'annual accounts' means the accounts of the distribution licensee prepared in accordance with the provisions of the Companies Act, 1956 (1 of 1956) and/or other relevant acts or the manner as may be directed by the Commission in terms of the provisions of the Act;

d) 'area of distribution' or 'area of supply' means the area of distribution stated in the distribution licence within which the distribution licensee is authorized to establish, operate and maintain the distribution system and supply electricity;

e) 'auditors' means the distribution licensee's auditors holding office ;

f) 'authorized', in relation to any person, business or activity, means authorized 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 or exemption granted under section 13 of the Act and the regulations of the Commission;

g) 'Commission' means the Kerala State Electricity Regulatory Commission;

h) '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 the Electricity Act, 2003 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;

- i) 'Distribution Business' means any Authorised business of the Licensee in or ancillary to Distribution, whether on its own account or that of third parties, through any system owned and/or operated by the Licensee;
- j) 'Distribution licensee' means a licensee authorized to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply;
- k) 'Distribution system operating standards' means the standards related to the distribution licensee's operation of the distribution system as approved by the Commission;
- l) 'Distribution System Planning and Security Standards' means the standards related to the adequacy of the Licensee's planning methods and process for its Distribution System, approved by the Commission;
- m) '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;
- n) 'Generating Company' means any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person, which owns or operates or maintains a generating station.
- o) 'grid code' means the grid code specified by the Central Commission under clause (h) of sub-section (1) of section 79 of the Act and includes the State grid code specified by the State Commission under clause (h) of sub-section (1) of section 86 of the Act;
- p) 'holding Company' shall have the same meaning as in section 4 of the Companies Act 1956;
- q) 'licensed business' means the business of distribution and supply of electricity as authorized under the distribution licence;
- r) 'Licensee' means distribution licensee;
- s) 'major incident' means an incident associated with the distribution of electricity, which results in a significant interruption of service or substantial damage to equipment, or loss of life or significant injury to human beings, or as otherwise directed by the Commission and shall also include any other incident which the Commission expressly declares to be a major incident;
- t) 'operational control' means possessing the authority to operate and/or make operational decisions;
- u) 'other business' means a business, which is not essential to, but part of, related to or reasonably incidental to the Distribution Business
- v) 'performance standards' means the standards as may be specified by the Commission pursuant to section 57 of the Act;
- w) 'specific conditions' means the conditions in addition or in variation to the general conditions which the Commission may lay down specifically for a distribution licensee;
- x) 'State' means the State of Kerala;
- y) 'State Government' means the Government of Kerala;
- z) 'subsidiary' shall have the same meaning as in section 4 of the Companies Act 1956 (1 of 1956);

aa) 'trading licensee' means an electricity trader having trading licence under section 14 of the Act;

bb) 'transfer' shall include the sale, exchange, gift, lease, license, 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;

cc) 'use of system' means use of the distribution system for the transportation or wheeling of electricity;

(2) Words or expressions occurring in this license and not defined in herein, but defined in the Act, shall bear the same meaning as in the Act.

PART II GRANT OF LICENCE

2. Grant of Licence.- (1) The Commission, in the exercise of the powers conferred on it by section 14 of the Act, hereby grants to a licence for distribution of electricity in the Area of Supply specified in condition 3, subject to the conditions set out in parts III, IV, V and VI of this licence.

(2) The conditions are subject to modification or amendment in accordance with their terms, or with the provisions of the Act.

(3) The licence shall come into force with effect from..... and unless revoked earlier in accordance with the provisions of the Act, shall remain in force for 25 years from that date.

3 Area of licence.- The area of licence shall be as under ;

North :

South :

East :

West :

Part III GENERAL CONDITIONS

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 and the provisions of all other applicable laws, for the time being, in force.

(2) The distribution licensee shall comply with the orders or directions of the National Load Despatch Centre, the Regional Load Despatch Centre and the State Load Despatch Centre and other statutory authorities, issued in the discharge of their functions under the Act.

(3) The distribution licensee shall act in accordance with conditions specified herein except where the distribution licensee is exempted from any of these conditions at the time of the grant of licence or otherwise specifically by an approval of the Commission for deviation.

(4) The Licensee must monitor its compliance with this licence and any order, code or guideline it is required to comply with under clause 4 and if the Licensee becomes aware of a material breach of this licence or any order, code or guideline by the Licensee, the Licensee must notify the Commission of the material breach, as soon as possible.

5. Duty of the Licensee .- The Licensee shall have the duty to develop and maintain an efficient, co-coordinated and economical distribution system in his area of supply for the purpose of supplying electricity

6. Obligations of the Licensee.- (1) The Licensee has the obligation to supply power to any person requiring supply of electricity within the area of supply.

(2)The Licensee shall always endeavor, subject to applicable regulations or directives or Force Majeure, to provide quality supply to its Consumers.

(3)The Licensee shall arrange for non-discriminatory open access to its Distribution System to any person as specified by the Commission. On application made by any such person, subject to the condition of availability, the Licensee shall offer to enter into an agreement with that person for the use of the Distribution System :

(a) to accept into the Distribution System electricity provided by that person,

(b) to deliver such electricity, adjusted for losses of electricity at a designated exit point as per agreed terms and conditions

(c) receive payment for the Use of System charges / wheeling charges and/or a surcharge as specified by the Commission

Provided that, after a period which appears to the Commission to be reasonable for the purpose, the Licensee has failed to enter into an agreement with any applicant pursuant to a request, the Commission may at the request of any party settle such issues of dispute between the Licensee and that person and the Licensee forthwith enter into and implement such agreement in accordance with the terms as settled by the Commission, which shall be binding on the Licensee.

(4) The Licensee shall not deny the default supply service to any consumer availing open access if demanded by such consumer, on payment of charges in accordance with the Act and as specified by the Commission.

(5) The distribution licensee shall take all reasonable steps to ensure that all consumers connected to the distribution licensee's distribution system receive a safe, economical and quality supply of electricity as provided in the performance standards, and other guidelines issued by the Commission in accordance with the provisions of the Act, rules and regulations framed there under.

(6) The licensee shall take all reasonable steps to detect and prevent:

(a) the theft or abstraction of electricity at premises which are supplied by it;

- (b) damage to any electrical plant, electric line or metering equipment through which such premises are supplied; and
- (c) interference with any metering equipment through which such premises are supplied.

7. Acts Requiring Prior Consent.-(1)The Licensee shall not do the following acts without the prior written approval of the Commission -

- (a) undertake any transaction to acquire by purchase or takeover or otherwise the utility of any other Licensee
- (b) merge his utility with the utility of other Licensee
- (c) assign the licence or transfer the utility or any part thereof, by sale, lease, exchange or otherwise

Provided that approval shall not be required if the utility referred to in clause (a) or clause (b) is situated in a State other than Kerala.

(2) Any agreement relating to any transaction specified under 7(1) unless made with the prior approval of the Commission shall be void .

(3) Licensee shall before obtaining such approval under 7(1) from the Commission, give not less than one month's notice to every other Licensee who transmits or distributes electricity in its area of operation.

(4) Where such prior approval is required, the Licensee shall file a suitable application with the Commission disclosing relevant facts in that behalf. The Commission may within 3 months of the application being filed, approve the arrangement subject to such terms and conditions or modifications as may be considered appropriate or reject the same, for reasons to be recorded in writing in support of the order passed.

8.Other Activities of the Licensee.-(1) The Licensee with prior intimation to the Commission may engage in any other Business, only so long as such activity is likely to result in the optimum utilization of the assets and infrastructure comprising the Distribution System and subject to the following conditions:

- (a) provided the Distribution Business and the conduct thereof by the Licensee is not prejudiced and / or adversely affected in any manner;
- (b) provided that a proportion of the revenues derived from such business shall, as may be specified by the Commission, be utilized for reducing the wheeling charges of the Licensee;
- (c) provided further that the Licensee shall maintain separate accounts for each such Business to ensure that Distribution Business neither subsidizes in any way such Business undertaking nor encumbers its distribution assets in any way to support such Business.
- (d) the Licensee shall always comply with such guidelines that the Commission may specify in this regard.

(2) The Licensee shall seek the approval of the Commission before contracting any loans to, or issuing any guarantee for any obligation of any person, where the same is either beyond the permissible limits imposed by the statutes, or cannot be construed as being an exception and/or exemption under the statutes. Loans to employees pursuant to their terms of service and advances to suppliers in the ordinary course of business are excluded from the requirement to seek such approval.

(3) The Licensee may authorize any person to carry out any of the functions that the Licensee is authorized to conduct or carry out under the Act and this licence. Provided always that:

- (a) any such person 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 inform the Commission of such action.
- (c) the Licensee shall also be responsible for all actions of such person.

9. Conditions of Supply of electricity.-(1)The Licensee shall within 30 days of grant of licence submit a draft 'Terms and Conditions of Supply' describing the operating practices and connection policies of the Licensee along with draft 'Agreements for supply of electricity' and manual for operation and maintenance of systems and electric supply lines consistent with Act and Code, for the approval for the Commission.

(2)The terms and Conditions of Supply and Agreement for supply of electricity shall be fair and reasonable to the consumers and shall be in accordance with the Act, other Regulations and Codes in force.

(3)The Commission shall direct the Licensee to amend the drafts specified above before the approval if it is found to be unfair and unreasonable. Upon approval of the Terms and Conditions of Supply along with Agreement for supply of electricity, the Licensee shall notify the approved documents for use.

(4) The licensee shall always keep in its office an adequate number of printed copies of the sanctioned conditions of supply of power and shall provide to any person seeking a copy of the same, at cost price.

10. Provision of subsidies to certain consumers.- The Licensee shall not, without prior permission of the Commission, give any subsidy or subvention to, or receive any subsidy or subvention from any person or any other business of the Licensee (whether or not authorized by the Commission), except a subsidy granted by the State Government pursuant to Section 65 of the Act . .

11.Accounts. - (1) Unless otherwise permitted by the Commission the financial year of the distribution licensee for the purposes of this licence 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 distribution licensee, from those of other business in which the distribution licensee may be engaged;
- (b) prepare on a consistent basis from such accounting records and deliver to the Commission
 - (i) the accounting statements
 - (ii) half yearly profit and loss account, cash flow statement and balance sheet together with such supporting documents and information as 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 the statements have been properly prepared and give a true and fair view of the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to such business to which the statements relate;

(3) 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.

(4) Where, in relation to the accounting statements in respect of a financial year, the distribution licensee has changed the basis of charge or apportionment or allocation from those adopted for the immediately preceding financial year, the distribution licensee shall, if directed by the Commission, prepare and deliver to the Commission such accounting statements on the basis of those which were applied in respect of the immediately preceding financial year.

(5) The accounting statements shall, unless otherwise directed by the Commission, -

- (a) be prepared and published with the annual accounts of the distribution licensee;
- (b) state the accounting policies adopted;
- (c) be prepared in accordance with the 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 the 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 distribution licensee shall ensure that the accounting statements in respect of each financial year prepared 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.

12. Utilisation of Surcharge.- The Licensee shall keep separate accounts of the surcharge collected under Section 39(2)(d)(ii), 40(c)(ii) and second proviso to Section 42(2) and utilize the same in the manner specified by the Commission.

13. Prohibition of undue preference.- The distribution licensee shall not show undue preference to any person in the distribution and supply of electricity or rendering of services in the area of supply:

Provided that any question as to the meaning of undue preference or unreasonable discrimination shall be decided by the Commission.

Provided that the distribution licensee shall not be deemed to have shown any such undue preference if any differentiation of the consumer occurs as a result of the implementation of any order of the Commission or of the order of the State or Central Government in regard to subsidy payment under section 65 of the Act.

14. Provision of information to the Commission.- (1) The distribution licensee shall furnish to the Commission without delay such information, documents and details related to the licensed business or any other business of the distribution licensee, as the Commission may require from time to time.

(2) The distribution licensee shall duly make available all books, registers and documents as required under subsection (3) of section 128 of the Act.

(3) The distribution licensee shall notify the Commission as soon as possible the occurrence of any major incident affecting any part of its distribution system and, in any event, by not later than two weeks from the date of such occurrence, -

(a) submit a report to the Commission giving full details of the facts within the knowledge of the distribution licensee regarding the incident and its cause;

(b) in the event the report under clause (a) is likely to take more than two weeks from the date of such incident, the distribution licensee shall, within one week from such date of the incident, submit a preliminary report with such details which the distribution licensee can reasonably furnish and state reasons as to why the distribution licensee requires more than two weeks for giving full report of such incident; and

(c) give copies of the report to all parties concerned with the major incident and to such other persons as the Commission may direct.

(4) The Commission at its discretion may require the submission of a report on the major incident to be prepared by an independent person at the expense of the distribution licensee.

(5) The distribution licensee shall also undertake such studies as the Commission may direct from time to time to avoid the occurrence of any major incident.

(6) The distribution licensee shall duly inform the Commission about any incident restricting it from meeting obligations under the licence granted including any act of omission or commission by others and steps taken by the distribution licensee to mitigate the effect of such incident.

(7) The Licensee is to provide such amount of compensation to such person who suffer substantial injury or to the heirs of those who lose their lives where a Major Incident has been caused by any act of commission, omission or negligence on the part of any of the employees or agents of the Licensee. Proper insurance coverage has to be arranged by the licensee and got approved by the Commission within one month of issuing license.

(8) The decision of the Commission as to what is a Major Incident shall be final.

(9) The Commission may at any time require the distribution licensee to comply with the provisions of sub-clause (3) to (6) relating to the incidents which the Commission may specifically direct and the distribution licensee shall be obliged to comply with the same notwithstanding that such incidents are not major incidents; provided that the time limits specified in sub-clause(3) shall commence from the date on which the Commission notifies the distribution licensee of such requirement.

(10) The distribution licensee shall submit a business plan within three months of the distribution licence coming in force for such period as the Commission may direct and shall update such plan annually. The business plan shall contain year wise load growth, year wise distribution loss reduction proposal along with specific action plan, metering plan for metering interface points, investment plan, 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.

(11) The Commission may require the distribution licensee to intimate by the end of the first quarter of each financial year the progress made in implementing the business plan of the previous financial year with the comparison of actual achievement vis-à-vis the plan as approved by the Commission.

(12) The licensee shall at all times maintain and provide to the Commission all relevant data regarding its compliance to standards of performance specified by the Commission.

15. Transfer or disposal of assets.- (1) The distribution licensee shall give to the Commission prior notice of its intention to transfer or relinquish operational control over any asset whose value exceeds the amount specified by the Commission under the special conditions in Part VI and the distribution licensee shall disclose all relevant facts in the communication to the Commission. The Licensee shall not divide or partition or split the assets or costs thereof, which would result in circumventing this condition. The Commission may, within 30 days of the receipt of the notice, seek further information in support of the transaction and shall, generally within 30 days of such further information being submitted by the distribution licensee, and where no such further information is sought by the Commission as aforesaid, within 60 days of prior notice, approve the transfer arrangement subject to such terms and conditions or modifications as is considered appropriate or reject the same, for reasons to be contained in the order issued by the Commission.

(2) The distribution licensee may transfer or relinquish operational control over any asset as is detailed in any notice given under sub-clause(1) where -

- (a) the Commission confirms in writing that it consents to such transfer or relinquishment of operational control subject to such conditions as the Commission may impose; or
- (b) the Commission does not inform the distribution licensee in writing of any objection to such transfer or relinquishment of operational control within the notice period referred to in sub-clause (1) and the transfer is effected by transparent and competitive bidding procedures.

(3) The distribution licensee may also transfer or relinquish operational control over any asset where -

- (a) the Commission has issued directions for the purposes of this clause containing a general consent (whether or not subject to conditions) to -
 - (i) the transactions of a specified description, and/or
 - (ii) the transfer or relinquishment of operational control over assets of a specified description, and/or
 - (iii) the transfer or relinquishment of operational control in accordance with any conditions to which the consent is subjected to,
- (b) the transfer or relinquishment of operational control in question is mandated under any other law; or
- (c) the asset in question was acquired and used by the distribution licensee exclusively or primarily in connection with any other business and does not constitute a legal or beneficial interest in land, or otherwise form part of the distribution system or is not otherwise an asset required for the licensed business.

(4) The distribution licensee shall be entitled to utilise the assets as a means of facilitating financing its investment requirement including collateral for debt financing, securitisation of receivables, etc, for the licensed business subject to the conditions -

- (a) that the distribution licensee will inform the Commission about such arrangements at least 15 days prior to the effective date of the relevant agreements;
- (b) the distribution licensee acts in a prudent and reasonable manner in such utilisation of assets; and
- (c) the distribution licensee retains the operational control over assets in the distribution system.

(5) Notwithstanding anything contained in this licence, in case of any emergency condition, the distribution licensee may transfer the assets subject to the condition that the distribution licensee shall, immediately after such a transaction, seek post-facto approval of the Commission giving the detailed facts about the emergency and the details of the transaction entered into. It shall be the obligation of the distribution licensee to establish to the satisfaction of the Commission of the presence of emergency condition necessitating the transfer of the assets.

16. Payment of licence fees.- (1) Within such period as the Commission may direct, the distribution licensee shall pay to the Commission the licence fees, initial and periodic, mentioned in the special conditions under Part VI in such manner as the Commission may direct in the said special conditions.

(2) Where the distribution licensee fails to pay to the Commission any of the fees due under sub-clause (1) 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 at twice the ruling bank rate 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; and

(b) in the event of continued default by the distribution licensee, the Commission may initiate action for revocation of licence.

(3) The distribution licensee shall be entitled to take into account any fee paid by it under this licence excluding however the interest for delayed payment as an expense in the determination of aggregate revenues to be charged to the tariffs

17. Dispute Resolution.- The Licensee, at any time, shall refer any or all disputes arising under the licence for determination by the Commission or such other person as the Commission may decide in this behalf.

18. Standards and procedures.- At the request of the Commission, the Licensee is required to participate and assist the Commission to the extent required by the Commission in the development, issue and review of any standards, codes, procedures proposed or notified by the Commission

19. Compliance Examiner .- The Commission shall appoint an independent examiner to conduct audit and report the results to the Commission on :

a. Licensees compliance with obligations/duties under this licence including obligations to comply with codes and guidelines and

b. The reliability and quality of information reported by the Licensee to the Commission and the consistency of that information with the Commission's specifications.

The Licensee is to afford all assistance to the examiner and provide him with all required books, records etc.

20. Default by the Licensee.- Any default to exercise authority as is granted to the Licensee by the Act, Regulations, and this licence, in a situation where it is necessary to do so, will be construed to be a breach of the conditions of licence

PART IV

TECHNICAL

21. Annual Revenue Requirements and Expected revenue from charges.-(1) The distribution licensee shall -

- (a) forecast annually the demand for power within the area of supply in each of the succeeding 10 years;
 - (b) prepare and submit such forecasts to the Commission in accordance with the guidelines issued by the Commission from time to time;
 - (c) co-operate with the transmission licensees, the State Transmission Utility and the State Load Despatch Centre and other licensees in the preparation of power demand forecasts for the State; and
 - (d) undertake load research and prepare maximum and minimum load growth scenarios for the licensee's area of supply, taking into account economic growth rates, tariff levels and price elasticity of demand for electricity.
- (2) The distribution licensee shall calculate the Annual Revenue requirements and expected revenue from charges in accordance with the provisions of the Act, the regulations, guidelines, orders and directions issued by the Commission from time to time.
- (3) The Licensee shall recover charges only in accordance with the tariffs and charges approved by the Commission from time to time.

22. Power Procurement Procedure.- (1) The Licensee shall prepare and submit to the Commission its power purchase plan consisting of plans for own generation and power purchase consistent with load forecast. The licensee while preparing the plan shall;

- i. state planning margin or margins adopted by the licensee for the purpose of preparing the power purchase plan and set out the methodology and calculations used in arriving at such margin or margins;
- ii. refer to data and assumptions for demand forecasts (including insofar as relevant to those relating to diversity of demand, own generation, arrangement for trading, demand of all consumers including open access consumers, load management, if any);

(2) The Licensee shall not purchase electrical power and/or energy without an authorization granted by the Commission except for emergent short duration purchases for less than 3 months.

(3) The Licensee shall in all circumstances purchase electrical power and/or energy in an economical and efficient manner under a transparent procurement process as approved by the Commission and following the guidelines issued by the Commission from time to time relating to preparation of load forecasts, power procurement plan and power procurement procedure.

(4) An authorization required under this condition shall be granted when the Licensee has demonstrated to the Commission's satisfaction that:

- (a) electrical power and/or energy is necessary to meet the Licensee's service obligations and is consistent with the approved load forecast and power purchase plan;

- (b) the Licensee has examined the economic, technical, system and environmental aspects of commercially viable alternatives to the proposals for purchasing electrical power and/or energy (including arrangements for reducing the level of demand) and such examination has been carried out in a manner approved by the Commission;
- (c) The Commission may within 90 days grant authorization or may reject the application of the Licensee recording its reasons in writing. If the Commission does not grant or reject the application in writing within 90 days, then such permission shall be deemed to have been granted.

(5) In all circumstances the Licensee shall purchase electrical power and/or energy in a manner

- (a) which is in compliance with the State Grid Code;
- (b) the details of contracts entered into for power/energy purchases are furnished to the Commission within one month from the conclusion of such contracts.

23. Investments.- (1) The distribution licensee shall duly comply with the regulations, guidelines, directions and orders the Commission may issue from time to time in regard to the investments to be made in the distribution business.

(2) Licensee shall within one year of grant of licence, prepare a perspective plan for 5 years anticipating growth in load in the area of supply for upgrading the distribution system and submit the same to the Commission.

(3) Based on the perspective plan , the licensee shall prepare an annual plan for executing works to meet the requirement of growth in load and for upgrading distribution system .

(4) The licensee shall submit its annual plan for executing works giving sources of its funding to the commission every year along with ARR & ERC filing for the following financial year

(5) The distribution licensee shall make the investments in a prudent manner being guided by the duty to build, maintain and operate an efficient, co-ordinated and economical distribution system.

(6) The distribution licensee shall submit to the Commission investment plans as a part of the business plan giving details of investment schemes to be undertaken during the concerned period for the approval of the Commission. The distribution licensee shall demonstrate to the satisfaction of the Commission that:

- (a) there is a need for such investments in the distribution system contained in the investment plan;
- (b) the distribution licensee has examined the economic, technical, system and environmental aspects of all viable alternatives to the proposal for investing in or acquiring new distribution system assets to meet such need.

(7) The distribution licensee shall intimate, by the end of the first quarter of each financial year -

- (a) the annual investment plan with details of investment schemes to be carried out during the financial year; and
- (b) the progress made in implementing the annual investment plan of the previous financial year with the comparison of actual achievement vis-à-vis the plan as approved by the Commission for the concerned period.

(8) The distribution licensee shall not undertake schemes involving major investments, not covered under the investment plan approved by the Commission without the prior approval of the Commission, and for such approval the distribution licensee shall demonstrate to the satisfaction of the Commission the necessity and prudence of such investment.

(9) The distribution licensee shall invite and finalise tenders for procurement of equipment, material and/or services relating to major investment, in accordance with a transparent tendering procedure as may be directed by the Commission. The distribution licensee shall, in consultation with the Commission,

- (a) ensure that material management policy and practices including calendar of various actions, approvals, tendering, purchase order, delivery schedule and payments, *etc.*, are streamlined so as to provide necessary inputs of right quality at the right time to facilitate faithful implementation and compliance of the approved standards and benchmarks.
- (b) lay down bench-mark prices and conclude rate contracts for decentralised purchases so as to bring about financial discipline and inventory control for achieving optimal financial rates in respect of such decentralised purchases.

24. Compliance with the Grid Code.- (1) The distribution licensee shall comply with the provisions of the Grid Code in so far as it is applicable to the operation of the distribution system or otherwise to any of the activities of the distribution licensee.

(2) The Commission may, after consultation with any affected generating companies, the transmission licensee, the State Transmission Utility, the State Load Despatch Centre and the electricity traders, issue directions relieving the distribution licensee of obligation under sub-regulation (1) in respect of such parts of the Grid Code and to such extent as may be ordered by the Commission.

25. Electricity supply code and distribution code.- (1) The distribution licensee shall abide by the electricity supply code as may be specified by the Commission from time to time.

(2) The Commission may, at the instance of the licensee, issue directions relieving the licensee of its obligations under the electricity supply code in respect of such parts of the licensee's distribution system and to such extent as may be directed by the Commission.

(3) The licensee shall make available to any person requesting for it, copies of the electricity supply code and conditions of supply and practices thereto in force from time to time, at a price not exceeding the reasonable cost of duplicating it.

26. Distribution system planning and security standards, distribution system operating standards, performance standards.- (1) The distribution licensee shall plan, develop and operate its distribution system in accordance with the distribution system planning and security standards as approved by the Commission;

(2) The distribution licensee shall not be in breach of its obligations if the failure to meet the distribution planning and security standards or the distribution operating standards is due to force majeure, provided that, the distribution licensee has made reasonable efforts, to comply with the distribution planning and security standards or the distribution operating standards, as the case may be.

(3) The Licensee shall comply with the Standards of Performance as approved by the Commission from time to time. If the Licensee fail to comply with any or all of the standards of performance, the Licensee shall pay a standard compensation specified by the Commission to the affected consumer on an application received from such consumer.

(4) The Licensee shall not include any compensation /penalty/fine paid due to deficient service in the ARR / cost to be recovered from the consumers

(5) The distribution licensee shall provide annually, information to the Commission as to the means by which it proposes to achieve the performance standards and other standards applicable to the distribution licensee.

PART V OTHER CONDITIONS

27. Complaint Handling Procedure.- (1) The distribution licensee shall prepare and submit before the Commission for approval its procedure to deal with the complaints of the consumers.

(2) The Licensee shall make a copy of the approved Complaints handling Procedure, revised from time to time, available for inspection by members of the public.

(3)The Licensee shall provide free of charge a copy of the Procedure revised from time to time to each new Consumer, and to any other person who requests for it at a price not exceeding the cost of duplicating it.

(4)The Licensee shall comply with the KSERC(Consumer Grievance Redressal Forum and Electricity Ombudsman)Regulations, 2004.

28. Consumer Rights Statement.-(1)The distribution licensee shall, within a reasonable period of time as may be directed by the Commission after the licence become effective or such other time as the Commission may allow, prepare and submit to the Commission for approval, a consumer rights statement, explaining to the consumers their rights as consumers serviced by the licensee.

(2) The Commission may require the distribution licensee to review or amend 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.

- (3) The distribution licensee shall:-
 - (a) draw the attention of consumers, to 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;
 - (b) 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
 - (c) provide a copy of the consumer rights statement, revised from time to time, to all new consumers to be served by it, and to any other person who requests for it at a price not exceeding the reasonable cost of duplicating it.

29. Consumer's Right to Information.-(1) A Licensee on request of the consumer, to the extent that is reasonably available to the Licensee provide with:

- (a) The information on all services provided by the Licensee including the information on the charges or alternative tariff schemes which may be available to the consumers
- (b) information on meter readings for the electricity services provided at the consumer premises by the Licensee ; and
- (c) information on the status of the consumer's ledger account with the Licensee;

(2) A Licensee may charge reasonable costs for providing such information unless the information requested is of general nature.

30. Connection and use of system.- The distribution licensee shall make such arrangements for open access to the use of his distribution system by the users subject, however, to the availability of the adequate distribution capacity. The distribution licensee shall always endeavour to provide sufficient capacity in the system.

31. Abuse of powers.- The 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

32. Penalty for Contravention of Conditions of the Licence.-The Licensee shall be liable for action under Sections 142 and 146 of the Act in appropriate cases for contravening any one or more of the provisions of this licence.

33. Terms of Revocation.- The Commission may, at any time after complying with the requirements of Section 19 of the Act, revoke this licence by 3 months notice in writing to the Licensee. For the purpose of clause (b) of Subsection (i) of Section 19 of the Act, the breach of any of the Conditions 4 to 32 of this licence are hereby declared to render the licence liable to revocation.

34. Miscellaneous.- (1) All issues arising in relation to interpretation of this license and as to the terms and conditions thereof shall be a matter for 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.

PART V
SPECIAL CONDITIONS

35. Relinquishment of Operational Control.- Value of Asset which requires prior notice for relinquishment of operational control as per clause 15 in respect of the Licensee shall be Rs.

36. Licence Fee.- Licence fee applicable to the Licensee as per clause 16 shall be

- | | |
|------------------|--|
| (1) Initial Fees | Rs. 5 lakhs |
| (2) Yearly Fees | Rs.0.03% of Revenue from sale of electricity for the previous financial year |

Format III
TRANSMISSION LICENCE

Licence granted by the Kerala State Electricity Regulatory Commission under Section 14 of the Electricity Act, 2003 tohaving its registered office atto Transmit Electricity in the area (as defined in this licence) and with powers and upon the terms and conditions specified herein.

PART I
DEFINITIONS

1. Definitions.- (1) In this Licence, unless the context otherwise require,

(a) 'accounting statement' means, for each financial year, the 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 and such other details in the manner as the Commission may direct from time to time and showing the amounts of any revenue, cost, asset, liability, reserve or provision, which has been either:

(i) charged from or to any other business together with a description of the basis of that charge; or

(ii) determined by apportionment or allocation between the transmission Business and any other business of the Licensee or together with a description of the basis of the apportionment or allocation;

(b) 'Act' means the Electricity Act, 2003;

(c). 'annual accounts' means the accounts of the transmission licensee prepared in accordance with the provisions of the Companies Act, 1956 and/or other relevant acts or the manner as may be directed by the Commission in terms of the provisions of the Act;

(d) 'Area ' means the geographic area referred to in the licence along with conditions of licence within which any activity authorized by this licence is allowed;

(e)'auditors' means the transmission licensee's auditors holding office;

(f)'authorized', in relation to any person, business or activity, means authorized 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 or exemption granted under section 13 of the Act and the regulations of the Commission;

(g) 'CERC' means the Central Electricity Regulatory Commission;

(h) 'Central Transmission Utility' means any government company which the central government may notify under sub-section (1) of section 38 of the Act;

(i)'Commission' means the Kerala State Electricity Regulatory Commission;

(j) 'Consumer' means the 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 the 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;

(k) 'Dispose of' or 'Disposal' means the sale, gift, lease, license, loan, security, mortgage, charge or the grant of any other encumbrance or permitting of any encumbrance to subsist or any other disposition to a third party;

(l) 'Force Majeure' means events beyond the reasonable control of the Licensee, including but not limited to earthquakes, cyclones, floods, storms, or other similar occurrences, that leads to or any act that involves a breach of relevant laws or regulations concerned with electrical safety.

(m) 'Generating company' means any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person, which owns or operates or maintains a generating station;

(n) 'Generator Interconnection Facilities' means any transformers, bus-bars, switch-gear, plant or apparatus utilised to enable access to a Transmission System /Distribution System by the Generating Set(s);

(o) 'State Grid Code' means the Grid Code specified by the Commission under clause (h) of sub-section (1) of Section 86 of the Act;

(p) 'Licensee' for the purpose of this licence means any person who has a licence for transmission of electricity under section 14 of the Act;

(q) 'Licence Regulations' means the Kerala State Electricity Regulatory Commission (Licensing) Regulations, 2005;

(r) 'Major Incident' means an incident associated with the Transmission System of the licensee which results in a significant interruption of service, substantial damage to equipment, or loss of life or significant injury to persons, with the technical characteristics of 'significant interruption', 'substantial damage', 'significant injury' specified in the State Grid Code or Standards of Performance approved by the Commission;

(s) 'Operation' means the operation of the Transmission System.

(t) 'Operational Control' means control of the right to operate the Transmission System;

(u) 'Regulations' means the regulations issued by the Commission under the Act,

(v) 'Standards of Performance' means such standards of performance as may be specified by the Commission by Regulations made pursuant to section 57 of the Act;

(w) 'State Government' means the Government of Kerala;

(x) 'Supply' in relation to electricity, means the sale of electricity to a licensee or consumer;

(y) 'Tariff Regulations' means the Kerala State Electricity Regulatory Commission (Tariff) Regulations – 2003 with amendments from time to time;

(z) 'Transmission Business' means the authorised business of the Licensee, in or ancillary to Transmission, whether on its own account or for that of third parties, through any system owned and/ or operated by the Licensee;

(aa) 'Transmission Licensee' means a licensee authorised to establish or operate transmission lines;

(bb) 'Transmission Operating Standards' means the standards related to the Licensee's operation of its Transmission System specified by the Commission;

(cc) 'Transmission Planning and Security Standards' means the standards related to the adequacy of Licensee's planning methods and process for its Transmission System specified by the Commission;

(dd) 'Transmission System' means the system consisting mainly of extra high voltage electric lines having design voltage of 66 kV and above and shall include all plant and equipment in connection with transmission system owned or controlled by the transmission Licensee;

(ee) 'Use of System' means use of the Transmission System for the transfer of electricity by a person.

(2) Words or expressions occurring in this license and not defined in herein, but defined in the Act, shall bear the same meaning as in the Act.

PART II GRANT OF LICENCE

2. Grant of Licence.-(1) The Commission, in the exercise of the powers conferred on it by section 14 of the Act, hereby grants a licence for transmission of electricity in the Area specified in Clause 3, subject to the conditions set out in parts III, IV V and VI of this licence.

(2) The conditions are subject to modification or amendment in accordance with their terms, or with the provisions of the Act.

(3) The licence shall come into force with effect from unless revoked earlier in accordance with the provisions of the Act, shall remain in force for 25 years from that date.

3 Area of licence.- The area of licence shall be as under :

PART III GENERAL CONDITIONS

4.Compliance with laws, rules and regulations.- (1) The 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, for the time being, inforce.

(2)The licensee shall act in accordance with these conditions except where the licensee is exempted from any provisions of these conditions at the time of grant of the licence or otherwise specifically by an approval of the Commission to any deviation there from.

(3)The licensee shall duly comply with the order and directions of the National Load Despatch Centre, the Regional Load Despatch Centre and the State Load Despatch Centre and other statutory authorities issued in the discharge of their functions under the Act.

(4) The Licensee must monitor its compliance with this licence and any order, code or guideline it is required to comply with under clause 4 and if the Licensee becomes aware of a material breach of this licence or any order, code or guideline by

the Licensee, the Licensee must notify the Commission of the material breach as soon as possible.

5. Duties of the Licensee.- (1) It shall be the duty of a transmission licensee to build, maintain and operate an efficient, coordinated and economical intra-State transmission system and to comply with the directions of the Regional Load Dispatch Centre and the State Load Dispatch Centre as the case may be;

(2) Subject to the Regulations in force, the Licensee shall arrange for the non-discriminatory open access to its transmission system to any person in accordance with KSERC(Open Access) Regulations, 2005.

(3) On application made by any such person, subject to the condition of availability, the Licensee shall offer to enter into an agreement with that person for the use of the transmission System :

- (a) to accept into the transmission System electricity provided by that person,
- (b) to deliver such electricity, adjusted for losses of electricity at a designated exit point as per agreed conditions
- (c) receive payment for the transmission charges / wheeling charges and/or a surcharge as specified by the Commission

Provided that such offer shall include among other things, modification of an existing connection if any or provision for carrying out of works necessary to make the required connection, including the installation of meters; carrying out of any necessary works to reinforce the Licensee's Transmission System; connection charges to be paid and the completion date and such other terms as are relevant to the circumstances.

Provided that, after a period which appears to the Commission to be reasonable for the purpose, the Licensee has failed to enter into an agreement with any applicant pursuant to a request, the Commission may at the request of any party settle such issues between the Licensee and that person and the Licensee shall forthwith enter into and implement such agreement in accordance with the terms as settled by the Commission, which shall be binding on the Licensee.

(4) The licensee shall take all reasonable steps to ensure that all persons connected to the licensee's system receive a safe, economical and reliable service as provided in the performance standards, and other guidelines issued by the Commission in accordance with the provisions of the Act, rules and regulations framed there under.

6.Acts Requiring Prior Consent.-(1)The Licensee shall not do the following acts without the prior written approval of the Commission -

- (a) undertake any transaction to acquire by purchase or takeover or otherwise the utility of any other Licensee
- (b) merge his utility with the utility of other Licensee
- (c) assign the licence or transfer the utility or any part thereof, by sale, lease, exchange or otherwise

Provided that approval shall not be required if the utility referred to in clause (a) or clause (b) is situated in a State other than Kerala.

(2) Any agreement relating to any transaction specified under 6(1) unless made with the prior approval of the Commission shall be void .

(3) The Licensee shall before obtaining such approval under 6(1) from the Commission, give not less than one month's notice to every other Licensee who transmits or distributes electricity in its area of operation.

(4) Where such prior approval is required, the Licensee shall file a suitable application with the Commission disclosing relevant facts in that behalf. The Commission may within 3 months of the application being filed, approve the arrangement subject to such terms and conditions or modifications as may be considered appropriate or reject the same, for reasons to be recorded in writing in support of the order passed.

7. Other Activities of the Licensee.-(1) The Licensee with prior intimation to the Commission may engage in any other Business, only so long as such activity is likely to result in the optimum utilization of the assets and infrastructure comprising the transmission System and subject to the following conditions:

- (a) provided the transmission Business and the conduct thereof by the Licensee is not prejudiced and / or adversely affected in any manner;
- (b) provided that a proportion of the revenues derived from such business shall, as may be specified by the Commission, be utilized for reducing the wheeling charges of the Licensee;
- (c) provided further that the Licensee shall maintain separate accounts for each such Business to ensure that Transmission Business neither subsidizes in any way such Business undertaking nor encumbers its transmission assets in any way to support such Business;
- (d) the Licensee shall always comply with such guidelines that the Commission may specify in this regard.

(2) The Licensee shall seek the approval of the Commission before contracting any loans to, or issuing any guarantee for any obligation of any person, where the same is either beyond the permissible limits imposed by the statutes, or cannot be construed as being an exception and/or exemption under the statutes. Loans to employees pursuant to their terms of service and advances to suppliers in the ordinary course of business are excluded from the requirement to seek such approval.

8. Provision of Subsidies.-*The licensee shall not without prior permission of the Commission, give any subsidy or subvention or receive any subsidy from any person or any other business of the Licensee.*

9. Accounts.- (1) Unless otherwise permitted by the Commission the financial year of the licensee for the purposes of these regulations shall run from the first of April to the following thirty-first of March.

(2) The 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 transmission licensee, from those of other business in which the transmission licensee may be engaged;

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

(i) the accounting statements;

(ii) half yearly as well as yearly profit and loss account, cash flow statement and balance sheet together with such supporting documents and information as 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 the statements have been properly prepared and give a true and fair view of the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to such business to which the statements relate;

(3) 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.

(4) Where, in relation to the accounting statements in respect of a financial year, the transmission licensee has changed the basis of charge or apportionment or allocation from those adopted for the immediately preceding financial year, the distribution licensee shall, if directed by the Commission, prepare and deliver to the Commission such accounting statements on the basis of those which were applied in respect of the immediately preceding financial year.

(5) The accounting statements shall, unless otherwise directed by the Commission, -

(a) be prepared and published with the annual accounts of the transmission licensee;

(b) state the accounting policies adopted;

(c) be prepared in accordance with the 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 the 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 licensee shall ensure that the accounting statements in respect of each financial year 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.

10. Prohibition of undue preference.- The transmission licensee shall not show any undue preference to any person or class of persons or discriminate against any person or class of persons while rendering his services in the area.

Provided that any question as to the meaning of undue preference or unreasonable discrimination shall be decided by the Commission.

Provided that the licensee shall not be deemed to have shown any such undue preference if any differentiation occurs as a result of the implementation of any order of the Commission.

11. Provision of information to the Commission.- (1) The licensee shall furnish to the Commission without delay such information, documents and details related to the licensed business or any other business of the licensee, as the Commission may require from time to time for its own purposes.

(2) The licensee shall duly make available all books, records, and documents as required under Sub-Section (3) of Section 128 of the Act.

(3) The licensee shall notify the Commission as soon as possible the occurrence of any major incident affecting any part of its transmission system and, in any event, by not later than two weeks 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;

(b) in the event the report under clause (a) is likely to take more than two months from the date of such incident, the licensee shall, within one month from such date of the incident, submit a preliminary report with such details which the licensee can reasonably furnish and state reasons as to why the licensee requires more than two weeks for giving full report of such incident; and

(c) give copies of the report to all parties concerned with the major incident and to such other persons as the Commission may direct.

(4) The Commission at its discretion may require the submission of a report on the major incident to be prepared by an independent person at the expense of the licensee.

(5) The licensee shall duly inform the Commission about any incident restricting it from meeting obligations 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.

(6) The Commission may by order, direct the Licensee to provide such amount of compensation as the Commission may specify to such person who suffer substantial injury or to the heirs of those who lose their lives where a Major Incident has been caused by any act of commission, omission or negligence on the part of any of the employees or agents of the Licensee.

(7) The decision of the Commission as to what is a Major Incident shall be final.

(8) The Commission may at any time require the licensee to comply with the provisions of sub-clause (3) to (6) relating to the 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 sub-clause (3) shall commence from the date on which the Commission notifies the licensee of such requirement.

(9) The licensee shall also undertake such studies as the Commission may direct from time to time for the improvement of its transmission system and any other matter concerning the transmission business that the Commission considers necessary to avoid the occurrence of any such major incident.

(10) The licensee shall submit a business plan within three months of the licence coming in force for such period as the Commission may direct and shall update such plan annually.

(11) The Commission may require the licensee to intimate by the end of the first quarter of each financial year the progress made in implementing the business plan of the previous financial year with the comparison of actual achievement *vis-à-vis* the plan as approved by the Commission.

12. Transfer or Disposal of Assets.-(1) In a single transaction, the Licensee shall not dispose of or relinquish Operational Control over any land, building or specific asset whose estimated book value at the time of the proposed disposal exceeds an amount given under the special conditions under Part VI, other than in the ordinary course of business. The Licensee shall not divide, partition or split the assets or the cost thereof, which would result in circumventing this Condition.

(2) Prior written notice of not less than one month of its intention to dispose of or relinquish Operational Control over any asset covered by condition 12 (1) shall be given to the Commission for its concurrence. Notice shall not be deemed to have been given until such time as the Licensee has provided to the Commission all such further information as the Commission may require.

(3) The Licensee may Dispose of or relinquish Operational Control over any asset as is specified in any notice given under condition (2) if the Commission confirms in writing that it consents to such Disposal or relinquishment of Operational Control subject to such conditions as the Commission may impose; or the Commission does not inform the Licensee in writing of any objection to such Disposal or relinquishment of Operational Control within the notice period referred to in condition (2) and the transfer is effected by transparent and competitive bidding Procedures.

(4) The Licensee may Dispose of or relinquish Operational Control over any asset where the Commission has issued directions for the purposes of this sub-clause containing a general consent (whether or not subject to conditions) to transactions of a specified description, and/or the disposal of or relinquishment of Operational Control over assets of a specified description. Provided that the transaction or the assets are of description to which such directions apply and the Disposal of or relinquishment of Operational Control is in accordance with any conditions to which the consent is subjected.

(5) The licensee shall be entitled to utilise the assets as a means of facilitating financing its investment requirement including collateral for debt financing, securitisation of receivables etc. for the licensed business subject to the conditions that -

- (a) the licensee will inform the Commission about such arrangements at least 15 days prior to the effective date of the relevant agreements;
- (b) the licensee acts in a prudent and reasonable manner in such utilisation of assets; and
- (c) the licensee retains the operational control over assets in the transmission system.

(6) Notwithstanding anything contained in this licence, in case of any emergency condition, the transmission licensee may transfer the assets subject to the condition that the transmission licensee shall, immediately after such a transaction, seek post-facto approval of the Commission giving the detailed facts about the emergency and the details of the transaction entered into. It shall be the obligation of the licensee to establish to the satisfaction of the Commission of the presence of emergency condition necessitating the transfer of the assets

13. Payment of licence fees.- (1) Within such period as the Commission may direct, the licensee shall pay to the Commission the licence fees, initial and periodic, mentioned in the special conditions under Part VI in such manner as the Commission may direct in the said special condition.

(2) Where the licensee fails to pay to the Commission any of the fees due under sub-clause (1) 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 at twice the ruling bank rate 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; and
- (b) in the event of continued default by the licensee, the Commission may initiate action for revocation of licence.

(3) The licensee shall be entitled to take into account any fee paid by it under this regulation excluding however the interest for delayed payment as an expense in the determination of aggregate revenues to be charged to the tariffs.

14. Dispute Resolution.- The Licensee may at any time, shall refer any or all disputes arising under the licensee for determination by the Commission or such other person as the Commission may decide in this behalf.

15. Standards and procedures.- At the request of the Commission, the Licensee is required to participate and assist the Commission to the extent required by the Commission in the development, issue and review of any standards, codes, procedures proposed or notified by the Commission

16. Compliance Examiner.- The Commission shall appoint an independent compliance examiner to conduct audit and report the results to the Commission on :

- a. Licensees compliance with obligations/duties under this licence including obligations to comply with codes and guidelines and

- b. The reliability and quality of information reported by the Licensee to the Commission and the consistency of that information with the Commission's specifications.

Provided that the appointment of the examiner shall be subject to any terms and conditions specified by the Commission. The scope of the audit shall be approved by the Commission and must meet any minimum audit requirements specified. The Licensee shall afford all assistance to the compliance examiner.

17. Default by the Licensee.- Any default to exercise authority as is granted to the Licensee by the Act, Regulations, and this licence in a situation where it is necessary to do so will be construed to be a breach of the conditions of licence

PART IV TECHNICAL CONDITIONS

18. Co-operation with STU, SLDC and other Licensees.- (1)The Licensee shall provide to SLDC, STU, and RLDC and/or to other Licensees such information that may reasonably be required to perform their functions and exercise their powers under the Act

(2) The Licensee shall comply with the directions of SLDC, RLDC and STU issued under the Act.

(3) The Licensee shall co-operate with the generating companies, other Licensees and with the SLDC and RLDC for the efficient and co-ordinate operation of the power system

19.State Grid Code.- (1) Licensee shall ensure that at all times the State Grid Code shall be implemented and complied with.

(2)The Licensee shall plan and operate the Transmission System, so as to ensure that Transmission System is capable of providing an efficient and coordinated system of Transmission, in accordance with the State Grid Code and the Performance Standards specified by the Commission.

(3) The Licensee shall meet the Power Supply Planning and Security Standards and Power Supply Operating Standards specified by the Commission

(4) The Licensee shall not be in breach of its obligations under this licence if it has failed to meet the Transmission Planning and Security Standards or the Transmission Operating Standards due to Force Majeure, provided that, the Licensee has made reasonable efforts, to comply with the Transmission Planning and Security Standards or the Transmission System Operating Standards, as the case may be. The Licensee shall not be in breach of its obligations under this licence if it has failed to meet the Transmission Planning and Security Standards or the Transmission System Operating Standards due to any direction of the Commission to it under section 23 of the Act.

(5) The Commission may issue directions requiring the Licensee to revise any of the standards in such manner as may be specified by the Commission.

(6) The Licensee shall prepare and submit to the Commission on an annual basis, a Statement showing in respect of each of the 5 succeeding financial Years forecasts of circuit capacity, power flows and loading on the Transmission System of the Licensee under standard planning criteria, together with such further information as shall be reasonably necessary to enable any person seeking Use of System to identify and evaluate the opportunities available when connecting to and seeking use of such system, and a commentary prepared by the Licensee indicating the Licensee's views as to those parts of the Licensee's Transmission System most suited to new connections and transport of further quantities of electricity.

20. Expected Revenue Calculation and Tariffs.- (1) The Licensee shall follow the methodology, procedures and other directions included in the Tariff Regulations and in other orders of the Commission as may be issued from time to time, while filing the Statement of Expected Revenue from Charges and for proposing or amending any or all of its tariffs.

(2) The licensee shall calculate the Annual Revenue requirements and expected revenue from charges in accordance with the provisions of the Act, the regulations, and other guidelines, orders and directions issued by the Commission from time to time.

(3) The Licensee shall within 3 months of the end of each financial year, submit to the Commission a report indicating the performance of the Transmission System during the previous financial year. The Licensee shall, if required by the Commission, publish the reports in a manner to be determined by the Commission. Copies of this report shall be furnished to all persons applying for the same at the cost of photocopying.

(4) The Licensee shall, upon request by the Commission, provide to the Commission such information as the Commission may require under or for the purpose of monitoring compliance with this clause.

21. Investments.-(1) Investments shall be made by the Licensee in an economical and efficient manner and in accordance with the approved investment plan.

(2) The Licensee has to submit a 5-year rolling Plan with details of investment schemes to be undertaken during the period for the approval of the Commission. In such case, the Licensee shall intimate,

(a) the annual investment plan with details of investment schemes to be carried out during the financial year and

(b) the progress made in implementing the annual investment plan of the previous financial year with the comparison of actual achievement vis-à-vis the plan as approved by the Commission.

(3) The Licensee shall invite and finalise tenders for procurement of equipment, material and/or services in accordance with the transparent tendering procedure as per existing rules and regulations.

(4) The Licensee shall comply with all the directions regarding approval for investments and capital expenditure that may be issued by the Commission from time to time.

(5) To meet any unforeseen investments required in the interest of the electricity sector or the Licensee's Authorised business, the Licensee will be entitled to reallocate and adjust the investment plan up to a limit of 10% of the overall investment plan and 25% of the approved amount in respect of each item/work of the investment plan. In case of circumstances requiring unforeseen investments/ commitments exceeding the approved investment plans for the financial year, the Licensee will be entitled to make such additional investments/commitments only with the approval of the Commission.

22. Abuse of powers .- The Licensee shall not at any time 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.

PART V OTHER CONDITIONS

23. Penalty for Contravention of Conditions of the Licence.-The Licensee shall be liable for action under Sections 142 and 146 of the Act in appropriate cases for contravening any one or more of the provisions of these conditions of licence.

24. Terms of Revocation.- The Commission may, at any time after complying with the requirements of Section 19 of the Act, revoke this licence by 3 months notice in writing to the Licensee. For the purpose of clause (b) of Subsection (i) of Section 19 of the Act, the breach of any of the Conditions 4 to 22 of this licence are hereby declared to render the licence liable to revocation

25. Miscellaneous. – (1) All issues arising in relation to interpretation of this licence 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.

(2)The Commission may at the time of grant of the transmission licence waive or modify the application of any of the provisions of this licence either in the order granting the licence or by special conditions made applicable to a specific distribution licensee.

PART VI SPECIAL CONDITIONS

26. Relinquishment of Operational Controls.-Value of Asset which requires prior notice for relinquishment of operational control as per clause 12 in respect of the Licensee shall be Rs.

27.Licence Fee.- Licence fee applicable to the Licensee as per clause 13 shall be;

- | | |
|------------------|--------------|
| (1) Initial Fees | Rs. 5 lakhs |
| (2) Yearly Fees | Rs. 50 lakhs |

Form IV

Trading License

FORM OF LICENCE

Licence granted by the Kerala State Electricity Regulatory Commission under Section 14 of the Electricity Act, 2003 (No. 36 of 2003) to _____ and having its registered office at _____, for carrying on the business of Trading in Electricity within the Area (as defined in the Licence) and with the powers and upon the terms and conditions specified herein.

PART I

DEFINITIONS

1. Definitions.- (1) In these regulations, unless the context otherwise require,

- a) 'accounting statement' means for each financial year, the 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 and such other details in the manner as the Commission may direct from time to time and showing the amounts of any revenue, cost, asset, liability, reserve or provision, which has been either:
 - (i) charged from or to any other business together with a description of the basis of that charge; or
 - (ii) determined by apportionment or allocation between the Trading Business and any other business of the Licensee or together with a description of the basis of the apportionment or allocation.
- b) 'Act' means the Electricity Act, 2003;
- c) 'annual accounts' means the accounts of the trading licensee prepared in accordance with the provisions of the Companies Act, 1956 (1 of 1956) and/or other relevant acts or the manner as may be directed by the Commission in terms of the provisions of the Act;
- d) 'area' means the area of activity stated in the trading licence within which the trading licensee is authorised to trade;
- e) 'auditors' means the trading licensee's auditors holding office;
- f) 'authorized', in relation to any person, business or activity, means authorized by licence granted under section 14 of the Act;
- g) 'Commission' means the Kerala State Electricity Regulatory Commission;

- h) '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 lead to any act that would involve a breach of relevant laws or regulations concerned with electrical safety;
- i) 'grid code' means the grid code specified by the Central Commission under clause (h) of sub-section (1) of section 79 of the Act and includes the State grid code specified by the State Commission under clause (h) of sub-section (1) of section 86 of the Act;
- j) 'holding Company' shall have the same meaning as in section 4 of the Companies Act 1956;
- k) 'licensed business' means the business of trading in electricity as authorized under the trading licence;
- l) 'Licensee' means trading licensee
- m) 'operational control' means possessing the authority to operate and/or make operational decisions;
- n) 'other business' means a business, which is not essential to, but part of, related to or reasonably incidental to the licenced Business
- o) 'performance standards' means the standards as may be specified by the Commission pursuant to section 57 of the Act;
- p) 'specific conditions' means the conditions in addition or in variation to the general conditions which the Commission may lay down specifically for a trading licensee;
- q) 'State' means the State of Kerala;
- r) 'State Government' means the Government of Kerala;
- s) 'subsidiary' shall have the same meaning as in section 4 of the Companies Act 1956 (1 of 1956);
- t) 'trading licensee' means an electricity trader having trading licence under section 14 of the Act;
- u) 'transfer' shall include the sale, exchange, gift, lease, license, 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) Words or expressions occurring in these Regulations and not defined herein but defined in the Act, shall have the same meaning as in the Act.

PART II GRANT OF LICENCE

2. Grant of Licence.- (1) The Commission, in the exercise of the powers conferred on it by section 14 of the Act, hereby grants a licence for trading in electricity to

..... in the Area specified in condition 3, subject to the conditions set out in parts III, and IV of this licence.

(2) The conditions are subject to modification or amendment in accordance with their terms, or with the provisions of the Act.

(3) The licence shall come into force with effectand unless revoked earlier in accordance with the provisions of the Act, shall remain in force for 25 years from that date.

3. Area of licence.- The area of operation of the trading licence shall be the State of Kerala.

Part III GENERAL CONDITIONS

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 and the provisions of all other applicable laws.

(2) The trading licensee shall act in accordance with this general conditions contained in this licence 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.

(3) The trading licensee shall duly comply with and undertake the activities consistent with the grid code, other codes and standards, orders and directions of the National Load Despatch Centre, the Regional Load Despatch Centre and the State Load Despatch Centre and other statutory authorities issued in the discharge of their functions under the Act.

5. Acts Requiring Prior Consent.- (1)The Licensee shall not do the following acts without the prior written approval of the Commission (a)undertake any transaction to acquire by purchase or takeover or otherwise the utility/Business of any other Licensee (b)merge his business with the business of any other Licensee

Provided that nothing contained in this condition shall apply if the utility/business of the Licensee is situated out side Kerala State.

(2) The licensee shall not at any time assign his licence or transfer his business, or any part thereof, by sale, lease, exchange or otherwise without the prior approval of the Commission.

Provided that approval shall not be required if the business referred to in sub clause (1) (a) or (b) is situated in a State other than Kerala.

(3) Any agreement relating to any transaction specified under sub clause (1) or subclause (2) above, unless made with the prior approval of the Commission, shall be void.

(4) Where such prior approval is required, the Licensee shall file a suitable application with the Commission disclosing relevant facts in that behalf. The Commission, within 3 months of the such application, shall dispose of the application.

6. Duties and Obligations of the Licensee.-(1) The Electricity Trader shall have following duties and obligations:

(a) The Electricity Trader shall comply with the requirements of laws in force and, in particular, the Act, the Rules and the Regulations, Standards, Grid Code, National Electricity Policy, State Government Policies, Orders and directions issued by the Commission from time to time.

(b) The Electricity Trader shall comply with the Kerala State Electricity Regulatory Commission (Licensing) Regulations, 2005.

(c) The trading margin, if any, fixed by the Commission, from time to time for the intra-state trading, shall be applicable to the Electricity Trader.

(d) To enable the Commission to determine trading margin, wherever necessary, the Electricity Trader shall file details as may be specified by the Commission.

(e) The Electricity Trader shall be governed by the technical requirements, capital adequacy and creditworthiness requirements specified by the Commission in the licensing regulations.

(f) Any person authorized by the Commission, shall be entitled to inspect and verify the records of the Electricity Trader and the Electricity Trader shall render all necessary assistance to such person.

(g) All trading transactions of the Licensees shall have appropriate contracts entered into between the concerned parties. 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. Notwithstanding any difference that may

arise between the parties, the continuity of supply shall not be disrupted without prior notice of at least 7 days.

- (h) Electricity Trader shall ensure that appropriate meters are in place for the purpose of energy accounting and comply with the specifications as specified by the Central Electricity Authority. The Meters shall be capable of recording necessary parameters every 15 minutes with storage facility of at least 45 days. The meters shall have remote reading and local downloading facility.
- (i) The Electricity Trader shall have requisite Agreements with Transmission Licensee/s and Distribution Licensee/s for transmission or wheeling of electricity as the case may be.
- (j) The Electricity Trader shall declare to the Commission the maximum trading volume it would handle in a month and its future plans of trading during the next 5 years.
- (k) The Commission may issue such directions as it considers appropriate to a Electricity Trader 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.
- (l) The Electricity Trader shall comply with any direction issued by State Load Dispatch Centre (SLDC), Regional Load Dispatch Centre and the National Load Dispatch Centre. SLDC shall coordinate with other agencies in this regard.
- (m) The Electricity Trader shall maintain a separate statement of accounts for the business of intra State trading as specified by the Commission.

(2) The Electricity Trader shall comply with the requirements specified by the Commission under Section 66 of the Act from time to time.

7. Providing information to Commission and others.-(1) The Electricity Trader shall always:

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

(c)The Electricity Trader shall furnish such information to SLDC in a manner as may be specified by SLDC. Any changes to the information furnished shall be intimated before 24 hours of submission of such information to SLDC.

(d)The Electricity Trader shall provide data on its business plan to the Commission and SLDC annually as well as on request.

(e)The Electricity Trader shall furnish to CEA any information as required under Section 73(i) and 74 of the Act.

8. Accounts.- (1)The financial year of the Licensee shall be from the first day of April to the following thirty first day of March.

(2) The Licensee shall always 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 trading licensee, from those of other business in which the trading licensee may be engaged;

(3) The licensee shall prepare on a consistent basis from such accounting records and deliver to the Commission:

(j) the accounting statements

(ii) half yearly profit and loss account, cash flow statement and balance sheet together with such supporting documents and information as 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 the statements have been properly prepared and give a true and fair view of the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to such business to which the statements relate;

(4) 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.

(5) 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 from those adopted for the immediately preceding financial year, the trading licensee shall, if directed by the Commission, prepare and deliver to the Commission such accounting statements on the basis of those adopted in respect of the immediately preceding financial year.

(6) The accounting statements shall, unless otherwise 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 the 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 the 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 trading licensee shall ensure that the accounting statements in respect of each financial year prepared under this licence 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. Payment of licence fees.- (1) Within such period as the Commission may direct, the trading licensee shall pay to the Commission the licence fees, as mentioned in the special conditions under Part IV.

(2) Where the trading licensee fails to pay to the Commission any of the fees due under subclause (1) by the due dates, without prejudice to other obligations, the trading licensee shall be liable to pay interest on the outstanding amount at a rate twice that of ruling bank rate.

(3) The trading licensee shall be entitled to take into account any fee paid by it under this regulation as an expense, but shall not take into account any interest paid pursuant to this regulation.

10. Terms of revocation.- (1) The trading licence may be revoked by the Commission at any time after complying with the requirements of Section 19 of the Act. The following conditions may render the licence liable to revocation:

(a) 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 .

(b) where the trading licensee has violated the general conditions 4 to 9 of this licence, failed to comply with the regulations, codes, and standards and also orders and directions of the Commission or otherwise has committed an act which renders trading licence revocable on any other grounds stated in the Act or the rules or regulations framed thereunder.

(2) Where in its opinion the public interest so requires, the Commission may, on application, or with the consent of the trading licensee, revoke his licence as to the whole or any part of his area of trading upon such terms and conditions as it deems fit.

11. Amendment of licence conditions.- (1) These general conditions of the licence may, at any time if it is in public interest, be altered or amended by the Commission in exercise of powers under section 18 of the Act, subject to the condition that -

(a) where the trading licensee has made an application under sub-section (1) of Section 18 of the Act proposing any alteration or amendment in the general conditions of the licence, the trading licensee shall publish a notice of such application with such particulars and in such manner as may be directed by the Commission;

(b) where any alterations or amendments in a licence are proposed to be made otherwise than on the application of the trading licensee, the Commission shall publish the proposed alterations or amendments with such particulars and in such manner as the Commission may consider to be appropriate;

(c) the Commission shall not make any alterations or amendments unless all suggestions or objections received within thirty days from the date of publication under (a) and (b) above have been considered by the Commission.

12. Dispute resolution.- The licensee may at any time, shall refer any or all disputes arising under the licence for determination by the Commission or such other person as the Commission may decide in this behalf.

13. Trading margin.- The trading licensee shall provide to the Commission all relevant information as directed by the Commission for determination of trading margin.

14. Powers of the Licensee.- Any default to exercise authority as is granted to the Licensee by the Act, Regulations and this licence in a situation where it is necessary to do so will be construed to be a breach of the conditions of licence

15. Penalty for Contravention of Conditions of the Licence.-The Licensee shall be liable for action under Sections 142 and 146 of the Act in appropriate cases for contravening any one or more of the provisions of this licence.

16. Miscellaneous.- All issues arising in relation to interpretation of this licence 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.

PART IV
SPECIAL CONDITIONS

17. Licence Fee .- The licensee shall pay the Licence Fee as specified below as per clause 9:

- | | |
|-----------------|--|
| (1) Initial Fee | Rs. 5 lakhs |
| (2) Yearly Fee | Rs. 0.05% of sale of electricity subject to a requirement of Rs.2 lakhs. |

By Order of the Commission

Ajitha.S
Secretary

